Social Media in Employment Relations: Issues for Labour Policies on Cyber Behaviour

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Abstract

Social networking and social media platforms are shaping and reshaping human lives at work and at home while transforming conventional labour relations. The paper discusses the conflicting tendencies among people of different gender, race or ethnicity, educational and political backgrounds working together in organisations and how this interaction is further compromised and escalated by the ambiguous nature of the current "cyber" relationship. The fact that people now interact more online than physically brings more hiccups, ambiguities, misconceptions, misunderstanding, and doubts leading labour relations to be more complex and conflict-prone than ever before. Legal implications of social media, on employee relations and cyber behaviours, as well as on employers and management functions are explained. The cyber actions and inactions of both employers and employees and as these may threaten corporate image of the latter as well as employment and unemployment of the former are discussed. The paper raises necessary concerns for establishing policy guidelines to regulate workplace cyber behaviour so that the escalating conflict-prone hiccups inherent in labour and employment relations can be mitigated and managed for hitch-free and harmonious employment relationships both offline and online. Areas of policy considerations such as definitions and clarifications of inappropriate cyber conducts, modifications and clarifications of privacy policies, recruitment exercises and issues, performance and productivity management, cyber bullying and disciplines as well as grievances procedures and punishments are discussed. The paper concludes with some benefits of establishing social media policies in workplaces.

Keywords: Social Media, Labour/Employee Relations, Cyber Behaviour, Labour Policies, Management Functions.

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Introduction

Employment relations in workplaces are influenced and limited by constraints within the socio-economic, technological and political environment. In his System Theory of Industrial Relations in 1958, Professor John T. Dunlop discussed the environment of any industrial relations as having determinant influence on the actors and their employment relationships. This environment consists of four significant variables that influence the industrial relations system. The first is technology; second, the market and budgetary constraints; third, the complex of rules; and last, the locus and distribution of power in the larger society (Dunlop, 1958; 1993; Fajana, 2006: 29). Dunlop premeditatedly placed technology to be the 'first' among the four components because, according to Fajana (2006), technology specifically determines the type and span of managerial control as well as the number of workers to be employed [p.30]. Today, technology has taken much more than the proponents ever envisaged.

With intensity, the global functioning has continued to depend on technological devices and their applications in the social world. In each household, subscription for data bundles has become one essential utility bill to settle on periodic bases usually monthly. Internet connections have become an inseparable part of peoples' social and working lives (Oludeyi, Erinsakin & Omotayo, 2018). The more pervasive and important aspect of this trend is the rate at which social media is transforming people's social lives, influencing how they organize themselves, relate with friends, colleagues and family, share thoughts and showcase themselves. Social media refers to the websites and web-based applications enabling people to post messages, pictures and videos while interacting and communicating with others who also use the social media applications (High, & Andersen, n.d; National Information Technology Development Agency, NITDA, 2016). As a subsystem of the larger society (Dunlop, 1958; 1993), the world of work (and the employment relationship therein) is also experiencing the way social media is transforming the social world. Since social media is gradually becoming an inseparable part of human social, political and economic lives, it is not out of place to begin examining its influence on employment relationships. It becomes necessary also because there has not been any labour policy, of note, promulgated to regulate employees' social media usage or cyber behaviour within and outside the framework of working lives in Nigeria.

Employee Relations, Cyber Behaviours and Social Media

Employee relations, in this paper, are the day-to-day interaction between employees individually and collectively with their co-employees as well as with their employers. It also includes the employees' personal working lives as well as employer's corporate business activities and endeavours. On collective employment relationships, social media is making a profound impact on such employees' gatherings like unionism, learning groups, among others. For instance, the representational gap that previously was wider among trade unions (Serrano & Xhafa 2010; Webster & Bischoff 2011; Purcell & Hall 2012; Oludeyi, 2014) has begun to close because social media has heightened opportunity for employees' voice to be heard in all nooks and crannies of the world. It makes it easy for workers to communicate with each other, shift power concentration from one base to another while facilitating union

movements (Smith, Holmes, & Harwood, 2011). Hardly will one find any group of employees working together as a team, a unit, a department or as a union in an organisation without a dedicated social media platform (such as WhatsApp groups, Twitter pages, Microsoft Teams, Google Hangouts, etc.), opened or designed for sharing thoughts, ideas, files, documents or other information relevant to their work or union activities both during and after working hours. Since social media interaction is a 24/7 phenomenon (running 24 hours every seven days of every week), it is becoming difficult for employees to set a clear boundary between their work and private lives (Lam, 2016).

As social media interaction takes place virtually on the go, every individual employee is open to updates, events, and other social media activities that may or may not be relevant to his or her working life. One is poised to respond to some of the posts in social media platforms that require one's attention or response. However, posting on social media has implications for one's employment or unemployment. This is because if posts or comments on social media contained bad messages about employers or their business operations, it may put employers in legal problems and the posters (employees) in employment jeopardy (High, & Andersen, n.d). For example, if a member of management staff (with management responsibility) posted a comment of ethnic discrimination or religious insensitivity on his or her personal Facebook timeline, this post may be questioned, if not investigated by competitors or the populace, for evidence of illegal bias in management decisions. Messages, pictures, or videos posted or shared on social media stand high chances of getting into the hands of other persons that they were not intended for, including colleagues and employers (Lam, 2016), and even competitors who may use such against their own employer. This may force employers to invoke some sanctions on the employee based on his online behaviour that incriminates or indicts the organisation. The basic question however, would be from which legal framework will employers derive such sanctions? There is yet any section in the Nigeria Labour Act that specifies how employers and employees should conduct themselves online for the sake of or in furtherance of their employment relationship.

Employers, Management Functions and Social Media
Social media also has major influences on managers and management functions. Employers have been found to screen job applicants' personal profile online for employment purposes. They monitor online platforms of employees and discipline them if need be (Lam, 2016). According to Smith (2013) 65 percent of contemporary employers use social media platforms to see applicants' or new recruits' off-duty comportment or presentation of themselves professionally online. They seek information on whether or not a candidate can fit appropriately to the culture of their own company, or whether the candidate's qualifications as contained in their job Curriculum Vitae is reflected in their personal lives and behaviour.

More importantly, Smith's study revealed that half of all employers who explore social media profiles of prospective employees found most to be unemployable because applicants' posts, comments, tweets or uploads on social media platforms are either provocative or inappropriate (Smith, 2013). Other things employers look into include evidences of heavy alcoholic drinking and/or drug use, linguistic ineptitudes in writings, or

applicants speaking evil of former employers, making discriminatory comments about ethnicity, sex, or belief system or when qualifications are falsified. This means that employers have so many advantages in exploring social media profiles of current or prospective employees while those who underplay the use of social media may be at great disadvantage. However, as much as social media places employers at vantage positions on getting more out-of-office information about their employees or the prospective ones, it also places more burdens on employers. While employers use social media platforms to their own good, they are also at great risks of crossing the lines of discrimination, infringement on employees' or applicants' privacy and freedom, or interference with employees' concerted activities that are protected by law (Lam, 2016).

Areas of Policy Considerations in Employment Relationship

One of the founding fathers of the discipline known as Industrial Relations, Allan Flanders, (cited in Fajana, 2006) defined the field as "an institution of job regulations" This means that the field of employment relations is more about formulating policies that regulate and guide the affairs of actors to employment relations. This was also corroborated by Dunlop (1958) who construes industrial relations as a process which contains certain contexts and certain actors who in turn formulates the rules and regulations guiding their employment relations. As electronic communication is fast revolutionising workplace relations, parties to employment relations must continue to review workplace or labour policies to reflect the current electronic labour interactions powered by social media.

While there is presently no legal prescription for regulating social media conducts in employment relations, Section 37 of the Constitution of Federal Republic of Nigeria specifies how the privacy of citizens, their homes, correspondence, phone conversations and telegraphic communications are guaranteed and protected. This provision is only on family life and privacy. There are no social media laws in relation to employment relations. The Freedom of Information Act of 2011 only addresses personal information in the custody of public agencies and institutions in Nigeria (Adebambo, Kuti, & Iroche, 2015). As the trending usage of social media by employers and employees in workplaces gets more than pervasive, it has become more than necessary for employers and employees to jointly begin to phantom policy areas that may be necessitated by the growing influence of social media in the workplace and in employment relations. The following are areas where policy adjustments and formulations may be necessary.

Definitions and Clarifications of Inappropriate Conducts

According to Foster, Levin, Edmison, and Robibero, (2014), work is no longer a well-defined activity with sharp boundaries in terms of time, location, and tools. With regards to the paucity of labour laws in relation to what constitutes inappropriate behaviour of employees on social media platforms, employers may begin to factor into their companies' handbooks, a proper definition of these terminologies with particular reference to social networking. Social media interaction is a 24/7 activity, spanning beyond the confines of the workplaces. Office spaces are no longer demarcated by the four walls of the organization. They are demarcated by social media collaborative spaces created by workers which enable

them to get work done, whether they are physically present at the office or not. As a result, employers may need to be worried about the possibility for their workers to engage in inappropriate or unlawful cyber behaviour on the job or off duty (Levinson, 2013). There is a need to determine and set clear boundaries on what is lawful and what is unlawful in online behaviour. Employees may need to properly be educated about the aspects of their social media interaction, postings, comments or updates that may have grievous implications on their contract of employment or that may put their employers at legal or corporate risks. What constitutes acceptable and unacceptable cyber behaviour need to be defined and clarified (Smith, *et al,* 2011). What constitutes such offences as cyber bullying, or other abusive comments may need proper definition and clarifications too. Social media behaviour that are incompatible with employment role (for example, a manager in justice department posting comments of ethnic discrimination or religious insensitivity or demeaning comments on the disabled or disadvantaged members of the organisation on social media platform) may also need clear policy guidelines.

Employees need to be able to distinguish between contents that are fair and unfair to the reputation of employers or his customers by having unrestricted access to a policy document where these are stated in clear terms and where appropriate disciplinary actions for each inappropriate conduct are spelt out. The risks associated with social media misconducts can be mitigated and harmonious employment relations can be further strengthened if clear boundaries between rights and wrongs online are set in black and white and are communicated to all members of the organisation by way of corporate policy.

Modifications and Further Clarification of Privacy Policies

Although there exists privacy policy in companies which may be related to a number of areas of productions or services depending on the nature and peculiarities of operations in the organisation, there is need for employers to further extend these policies to cover sensitive issues with high propensity for exposure online by carefree employees' posts, comments or uploads. This is because in the Nigerian Labour Act (as Amended in 2004), the duty to preserve sensitive or confidential information about the employer, his operations or customers is among the duties of fidelity of staff to their employer.

Therefore rules and regulations on confidentiality clauses that cover areas such as profit and loss details of company's accounts, on-going product development or its research details, customers' business or personal information, potential redundancies, personal information about co-employees or other business secrets or strategies, among others, need to be defined and clarified for social media use. Implications and punishments for unauthorised disclosure of such details need to be determined and stated in clear terms (Labour Relations Agency, 2016).

However, on second thoughts, it is worthy to note that certain social media policies may be controversial, if not unlawful, if it contradicts other employment laws. For example, where employers prohibits employees from "releasing confidential information about a guest, team member or the company" on social media may violate other employment legislations

because according to High & Andersen, such prohibition would reasonably be understood as forbidding workers from disclosing for the purpose of discussing information regarding their own conditions of employment, as well as the conditions of employment of other co-employees". This prohibition is a violation of the fundamental employment right of employees (High, & Andersen, n.d.). It therefore means that employers must design companies' social policy framework within the ambits of the law and, at best with joint authorship of the representative of the labour union.

Recruitment Exercises and Issues

As said before, employers have great advantages by exploring social media channels of prospective employees or current employees for recruitment purposes. Social media is often used to place advertisements and reach more potential recruits freely and quickly. Scouting potential skills by keeping in touch with institutions of higher learning within close localities usually help a great deal in securing skill sets (Labour Relations Agency, 2016). These advantages also come with a burden of high significance to discriminatory laws or privacy invasion of the employees. Most prospective employees, especially in the Nigerian context, are not aware that potential employers use social media networking in their screening processes prior to invitation for interview sessions. Employers who are very critical about legislations that prohibit, for instance, discrimination on ethnic, gender, religious, age, or marital grounds including disability, civil participation or partnership or sexual orientation begin to look out for these at early stage of recruitment exercise (Levinson, 2013). Some applicants with high sentiments on these issues may be denied interview and if this happens, employers may be confronted with discriminatory behaviour. Apart from that, prospective employees may sue employers on the ground of privacy invasion. Although employers may request employees approval for certain background checks of the prospective employees (Adebambo, *et al,* 2015), the fact that these aspects of employment process is still not comprehensively a subject of regulation within the ambit of Nigerian Labour laws means that they are prone to controversies that may undermine the smooth employment relations if not cripple it. Company policies on the employment process need to be put in place.

Performance and Productivity Management

In the developed world, employers have been found to express concerns about possibilities for employees not to work enough or engaging in social media interaction that takes major aspects of their working and productive hours (Levinson, 2013). Citing a report in 2010 on social media usage in the workplace Labour Relations Agency, (2016) explained that out of 1000 employees surveyed in a company in the United Kingdom 55 per cent of them admitted that they spent considerable time on social media sites during working hours. 16 percent spent more than 30 minutes while 6 percent admitted spending more than 1 hour during work hours. Another study of Dutton, Helsper and Gerber (2009) revealed that 61 per cent of employees use the internet at work, spending an average of seven hours on the job per week. Manufacturing organisations may be worried about the time spent on social media that would have been used for productive activities, and thus may contemplate regulating, if not banning social media usage in the workplace.

These worries may grow even bigger when employers consider the possible benefits of allowing employees to use social media on the job. Employers' businesses tend to benefit a lot from employees' unrestricted communication, publicity and networking courtesy of social media (Labour Relations Agency, 2016) as most social media platforms have been used to build sustainable relationships with customers and other patrons of a company's goods or services. Hence it becomes imperative for employers to come up with clear cut policy guidelines and strategies for proper monitoring and management of employee performance and productivities with particular reference to social media usage during working hours.

Cyber Bullying and Disciplines

Workplace bullying is also important in this discourse because of its effects on the physical and mental health of targets and other co-employees, and its crippling influence on overall organisational operations and functions (West, Foster, Levin, Edmison, & Robibero, 2014). According to the Labour Relations Agency (2016), bullying and harassment can be defined as Unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment (p.14). Cyber bullying in the place of work may include employees posting embarrassing messages with the intent to shame, defame, degrade or humiliate a co-employee that are seen by a large group of co-employees. It could also mean purposely excluding co-employees from a social media group discussion, posting passive-aggressive comments about specific projects or departments or even sarcastic mentions and hashtags that offend or embarrass colleagues (Albarella, 2017). There is a need for clear policy guidelines to control social media's potentiality of being used to abuse and harass members of the organisation. This cyber behaviour often breaches a company's policy on bullying/harassment and needs to be treated as the same with those that occur in the physical workplace. This is why there is a need for policy guidelines in this area of social media behaviour in employment relations.

Grievances Procedures and Punishments

It is also pertinent to state that, in contrast to the above substantive policy areas for guiding employees cyber behaviour, there is also the need for a mechanism that determines the flow or due process of all policy areas formed, enforced and implemented. The aforementioned policy issues may fall under substantive framework establishing the rights and obligations that govern employers and employees' usages, either on the job or on personal life, and behavioural conducts on social media; they encompass general and specific policy applicability. There is always the need for a set of rules that are meant to establish the legal rules by which substantive policies are formulated, applied and enforced in labour and employment relationships and, by implication, in a court of law. Employers must ensure that a clear procedural guideline is established through which employees can file or report perceived inappropriate cyber behaviour or treatment by colleagues or superior officers. For instance, in case where an employee feels bullied on social media by a co-employee, a clear cut procedure, machineries, mechanisms or channel must be established through which victims of cyber bullying in workplace will, without hiccups, register their grievance and seek redress as well as punishment. In fact each area of policy offences must come with corresponding procedure for complaints, procedure for investigation, timelines of

investigation, procedure for acquiring digital evidence and procedure for appropriate punishment for each offence. This is important because employees' social media misconducts have led to numerous cases of unfair, constructive and summary dismissals while constituting major litigation problems for both employers and employees (Taylor, Haggerty, Pacheco, Berry & Almond, n.d).

Some Benefits of Drafting and Implementing Social Media Policy in Workplaces

In order that employees may be clear of what cyber behaviour is lawful, and what is not, and have clear understanding of disciplinary or grievance matters that may arise from their online conduct, it is important for employers to draft detailed policy guidelines and properly communicate such to them. However, the establishment of social media policies and guidelines should be solely for protecting employees and customers as well as in the best interest of the business. According to Labour Relations Agency (2016), drafting policy on 'the acceptable use of social media' at work is beneficial to organisation in the following ways:

- it helps to protect employers against liability for the cyber actions of employees;
- it helps employees to properly understand what they can and cannot say about the company on social media;
- it helps managers to effectively manage working hours, productivity and performance;
- it helps employees to draw a line and understand the interface between work and private lives
- it helps both management and employees to understand and comply with laws/policies relating to discrimination online, company's and/or employees, personal data protection as well as employees health protection;
- it helps employers to set standards for the use and storage of such online accounts as emails, employees profiles on company websites, etc;
- it helps to ensure clarity on sensitive matters on privacy, monitoring, trust, etc, and explain how disciplinary rules and sanctions will be applied.
- It helps demystify confidentiality issues relating to profit and loss details of company's accounts, on-going product development or its research details, customers' business or personal information, potential redundancies, personal information about co-employees or other business secrets or strategies, among others, on social media.

Conclusion

It is a fait *accompli*, the way social networking and social media platforms are shaping and reshaping our daily lives at work and at home. The revolutionary manner in which technological advancement is changing ways of living and doing is evident in the way in which it is transforming conventional labour relations. The word "relationship" in this regard is witnessing a paradigm shift from being "social" to being "cyber" or "online". This metamorphosis, coupled with the fact that the word "relationship" itself is, from time immemorial, conflict prone because of numerous factors (such as individual differences with regards to demographic characteristics) is further escalating workplace complexities. The conflicting tendencies of people of different gender, race or ethnicity, educational and

political backgrounds relating at work is further escalated by the ambiguous nature of the current "cyber" relationship which are far-removed. The fact that people now interact more online than physically brings more hiccups, ambiguities, misconceptions, misunderstanding, and doubts leading employment relationships to be more complex and conflict-prone than ever before. This is the concern as to why there is a need for parties to employment relations to establish policy guidelines that will regulate their cyber relationship at work so that the ever escalating conflict-prone hiccups inherent in labour and employment relations can be mitigated and managed for hitch-free and harmonious employment relationships both offline and online.

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