

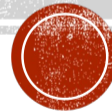
# **SOCIAL MEDIA: THE LEGAL, POLICY & REPUTATIONAL MANAGEMENT**

Presented by Lerato Ntwampe

25 October 2023

PURCO SA CONFERENCE

CENTURY CITY, CAPE TOWN



# THE IMPACT OF SOCIAL MEDIA



# EVOLUTION

- EVOLVE - TO UNDERGO BY A PROCESS OF EVOLUTION
- Technological advancements in social media find employers contending with breach of fundamental rights such as the right to freedom of expression, privacy, non-accountability for defamations and derogatory remarks and providing rational justifications for the limitation of such rights.
- The advancements in technology and increased social media usage has strained labour relations.
- The misuse of social media can have cost implications for employer and damage workplace electronic systems which fall under ambit of misconduct.



# WHAT IS SOCIAL MEDIA LAW?

- Social Media Law involves legal issues related to user generated content (UGC) on social media platforms and online websites that host content.
- It is a constantly evolving landscape and consists of both criminal and civil aspects of the law.
- For example, in our South African law – Criminal cases of crimen injuria and criminal defamation – (Penny Sparrow; Adam Catzevelos and most recently, Jackie Phamotse)
- In civil cases of defamation, infringement of privacy and interdicts (“Gag orders”)



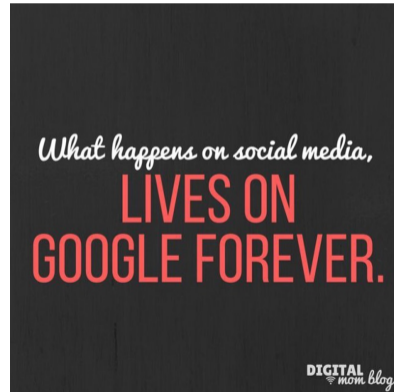


CBN  
NEWS  
.COM

STUDIO 5



# DIGITAL FOOTPRINT



- What comes up when you google yourself?
- The internet never forgets.
- Everything we post online forms part of our digital footprint.
- What does your digital CV look like?
- Why is it our digital footprint/digital CV important?



# ONE LIFETIME, ONE REPUTATION



- **Why is your online reputation important?**
  - Potential universities
  - Potential employers
  - Potential partners
  - Brands
  - Opportunities



# DIGITAL FOOTPRINT



The Joy of Tech™

by Nitrozac & Snaggy



Signs of the social networking times.





# THE LEGAL FRAMEWORK IN SOUTH AFRICA

- The Constitution of the Republic of South Africa Act 108 of 1996
- Labour Relations Act 66 of 1995
- Basic Conditions of Employment of South Africa 11 of 2002
- Employment Equity Act 55 of 1998
- The Cybercrimes Act 19 of 2020
- The Protection from Personal Information Act 4 of 2013
- The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
- Regulations of Interception of Communications & Provisions of Communications Related Information Act 70 of 2000
- The Electronic Communications and Transactions Act 25 of 2002
- The Film and Publication Amendment Act 11 of 2019



# FREEDOM OF EXPRESSION



# FREEDOM OF EXPRESSION

- Section 16(1) of the Constitution of the Republic of South Africa:

Everyone has the right to freedom of expression, which includes—

- (a) freedom of the press and other media;
  - (b) freedom to receive or impart information or ideas;
  - (c) freedom of artistic creativity; and
  - (d) academic freedom and freedom of scientific research.
- (2) The right in subsection (1) does not extend to—
    - (a) propaganda for war;
    - (b) incitement of imminent violence; or
    - (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.



# THE IMPACT OF OUR ONLINE PRESCENCE



Poor Judgement +  
Social Media =

**HEAVY**  
**CONSEQUENCES**  
**eagle**



# SOCIAL MEDIA MISCONDUCT THAT WILL GET YOU FIRED

- Social media posts containing incitement of violence
- Advocacy of hatred (Hate Speech)
- Discriminatory or offensive social media posts
- Anti-competitive comments
- Disclosure of privileged and confidential information
- Harassment or cyberbullying of fellow employees online which may potentially bring the good name and reputation of employer into disrepute
- Other social media posts that may bring the employer's name into disrepute
- Using company property for inappropriate conduct – watching pornography at work.



# CONSEQUENCES OF MISCONDUCT FOR THE EMPLOYER

- Making unjustifiable and irresponsible remarks about an employer online may cause the employer potential harm and have far-reaching consequences for an employer such as:
  - Loss of profits
  - Vicarious liability
    - Where an employer is liable for the wrongful acts of an employee committed in the execution and during the course of employment
  - Reputational harm
    - The damage that can be done to a business as a result of publicized reports relating to the business such as negative posts on social media, data breaches, unfair workplace and culture; product recalls; bad customer service, etc.



# PENNY SPARROW



**Penny Sparrow**

These monkeys that are allowed to be released on New years Eve And new years day on to public beaches towns etc obviously have no education what so ever so to allow them loose is inviting huge dirt and troubles and discomfort to others. I'm sorry to say I was amongst the revellers and all I saw were black on black skins what a shame. I do know some wonderful thoughtful black people. This lot of monkeys just don't want to even try. But think they can voice opinions about statute and get their way dear oh dear . from now I. Shall address the blacks of south Africa as monkeys as I see the cute little wild monkeys do the same pick drop and litter.😄



**Penny Sparrow**  
ESTATE AGENT



TEL: 039 [SHOW NUMBER](#)

CELL: [082 082 1428](#)



# EDCON V CANTANNESS AND OTHERS [2020]

## 2 BLLR 186 (LC)

<b>About</b>	Work
Overview	<a href="#">+ Add a workplace</a>
<b>Work and education</b>	University
Places lived	<a href="#">+ Add university</a>
Contact and basic info	High School
Family and relationships	<a href="#">+ Add secondary school</a>
Details about you	
Life events	





# DISCLAIMERS ON SOCIAL MEDIA PLATFORMS

“

The views expressed in my  
post represent my own  
opinions and not  
those of my employer

”

HumanRisk



# SARS V CCMA AND OTHERS JR 2243/21



# MITIGATE THE RISKS

- **Social Media Policies**
  - Social media policy for employees
  - Social media policy for employer's official social media accounts
- **Code of Conduct**
  - Employment contracts
  - Cybersecurity
  - Company property
- **Training and Workshops**



**THANK YOU**



# FOLLOW ME

- LinkedIn - Lerato Mampho Ntwampe
- Instagram - @leratontwampe
- Facebook – Lerato Ntwampe
- Email: [Lerato@leratontwampe.com](mailto:Lerato@leratontwampe.com)

