



EFFECTS OF ARTIFICIAL INTELLIGENCE ON CAPITALIST SOCIETIES: THE USE OF SOCIAL MEDIA

Artificial Intelligence, Social Media and their Relationship with Stakeholder

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ABSTRACT

The use of social media has been the subject of research in recent years, but there is still a lack of conceptual, legal and ethical consensus. A preliminary study was published in COMRED several years ago, and this paper now presents its latest developments. It is argued that companies influence the behaviour of their employees on social media platforms. However, the evolution of social changes within our legal frameworks and the emergence of Artificial Intelligence have accelerated the need for a regulatory framework in this area. These developments have outpaced the evolution of legislation concerning the right to privacy and image rights. The present study adopts a qualitative approach to analyse the implications of these developments, thus providing a guide to the legislative response to the infringed right.

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1. Introduction

The present research work emerges from the irruption of phenomena exogenous to the relations between companies and workers, insofar as they do not depend on the will of either party. This phenomenon marks the first time in the history of so-called labour relations (Makridakis, 2017). If there is one distinctive feature of human beings, it is their will, and it is only humans who also run companies. However, the advent of Artificial Intelligence (AI) has rendered obsolete our previous research, which focused precisely on human will aimed at protecting their right to privacy and self-image, whether as a natural or legal person.

Consequently, the objective at present is to analyse the hypothetical and yet unknown influence of AI on social media activity of the company and that of its employees, and in what way their right to privacy and/or self-image could be violated in both cases. As previously articulated:

It is also a question of analysing the degree of concern that people management models and specialised literature reflect regarding the particular use of social media in order to mitigate and prevent, if necessary, a possible infringement of more or less veiled rights (Paredes et al., 2021).

It is all the more relevant to take up the thread of the aforementioned, perhaps outdated, previous work in order to strengthen it with the necessary protection against the new impetus of AI that is approaching us.

We continue to operate within a pre-existing set of principles that endeavour to construct an economic model capable of objectifying, planning and progressing in accordance with variables that are ostensibly predictable. Technology was the primary instrument utilised to attempt to subjugate reality through the utilisation of infallible data. However, it is precisely this same technology that engenders a disorientation of the future, rendering it both enigmatic and unpredictable, particularly in the face of the ominous prospect of an AI that even its own creators cannot fully comprehend. The present concern pertains to the aforementioned assertions:

It is also undoubtedly an ethical challenge, which can and should contribute to the improvement of the health of society, all with the intention of returning the right to one's own image and the privacy of people who are affected by situations of mental exhaustion and who cause suffering (Paredes et al., 2021; Seligmann-Silva, 2014).

Evidence suggests that employees and companies are increasingly exposed to social media, which may infringe upon, or even jeopardise, their private sphere (Rikkie & Zuleta, 2020). This private aspect is the focus of our concern as we seek to establish protective measures. The present study aims to analyse whether AI can influence the actions of individuals in the public and private spheres on social media, and whether these individuals may be becoming unwitting subjects to the capricious influence of unregulated messages, unless the safeguarding of their right to privacy and personal image can protect them.

There are few who doubt that technology is evolving at such a pace that the pace of regulatory development itself should be so challenging as to be almost unattainable for the legislator at present. Indeed, the fundamental purpose of legislative power is to generate the legal mechanisms necessary to implement measures that are both effective and fair, and which ensure the protection of fundamental rights, most notably the rights to privacy and the right to one's own image. These rights were originally set out in Article 18.1 of the Magna Carta and subsequent iterations of the document.

It should also be noted that, precisely because of the dynamism of the media networks themselves, in addition to the incessant efforts of the legislator, we must not forget the important role played by jurisprudence, through the teleological interpretation of many legal texts, with the ultimate aim of being able to respond to novel and atypical conflicts that generate unprecedented problems. It is therefore evident that there is a clear limitation in the pace of development of legal texts by the legislator in order to be able to adapt to the aforementioned vertiginous technological evolution, leaving both companies and workers unprotected in terms of the right to privacy and to one's own image, together with other rights that are beyond the scope of this research. In light of these concerns, the primary objective of this research endeavour is to alleviate the identified challenges, as the researchers recognise the need to

address a pressing social reality that merits protection. This is an ambitious but achievable goal. (Trujillo Cabrera, 2024).

2. Design and Method

The present study investigates the manner in which business organisations and employees address their mutual relationship in social media, as far as the convergence of professional and private activities is concerned, as well as their management solutions and the possible approach based on existing legislation and jurisprudence in relation to privacy and image rights, with the aim of re-evaluating this study using Artificial Intelligence (Paredes et al., 2021). The contribution of this paper is as follows:

- a) An analysis of the concept of AI in relation to activity in social media with regard to workers and business organisations, together with a legal analysis to seek the necessary protection of the right to privacy and self-image of both parties.
- b) A study of how the management of social media and their influence has evolved with the integration of AI, enabling responses to behaviours beyond the control of individuals, who have shifted from active participants to passive subjects.

This research, which is derived from the examination of an emerging social phenomenon, namely the advent of AI in human interactions, is presented through the utilisation of the documentary analysis method. The objective is to examine, from the perspective of the social sciences, the potential reversal of the burden of proof in the relationship between companies and workers in the domain of social media with the assistance of AI. This is undertaken from the standpoint of the inseparable complexity of the approach to any end of the social sciences, a standpoint that is further accentuated in the situation of novelty and speed that is characteristic of AI. The study is therefore influenced by the documentary analysis of an incipient social experience that clearly merits urgent analysis.

The question of the extent to which a documentary analysis can shed light on scientific aspects of human behaviour and human relations, which are characterised by great difficulty and the impossibility of quantification (Galeano, 2018), remains unresolved. Consequently, we reiterate a positive response predicated on the prerogative of science to investigate any domain, including that of human relations. A contrary solution would entail the abandonment and neglect of areas of study that are of concern to society, to which science owes its existence. Furthermore, this would be achieved from the perspective of the impossibility of quantifying the results obtained, which is a rather limited viewpoint. However, it is important to acknowledge that the paradigm of study must evolve to align with the contemporary context. In this instance, the field of analysis and research has been superseded by new circumstances that require the aforementioned adaptation. Consequently, measurement will be superseded by the interpretation of facts in the context of scientific knowledge. Hermeneutics is an unavoidable part of science, and to it the present work is entrusted.

In accordance with the utilisation of qualitative research techniques, as is customary in the interpretation of facts inherent to the social sciences, expressions and behaviours will be observed and interpreted subjectively, as is unavoidable in such cases. However, endeavours will be made to provide tools that to a certain extent allow for objectification. As previously stated, from an epistemological perspective, this research is situated within the framework of hermeneutics, with the objective of analysing a complex world that is characterised by its social nature, its novelty, and its disruptive nature. It is imperative to recognise the social context in which we seek to discern proposals that transcend the limitations of abstraction, ensuring that our endeavours remain aligned with the objectives of this study (Galeano, 2018).

Documentary analysis is understood as the observation of social media activity and the analysis of the phenomenon of AI from the point of view of its manifestation in the so-called online environment. This work does not refer so much to written texts, but rather to the study of the manifestations created by AI and their investigation as possible usurpers of the will of the subject, natural or legal person, to whom they refer. The diverse array of documents, encompassing icons, sounds, speeches, graphics, and writings, will be examined, with a particular focus on written texts and video images. The image has become a significant vehicle for knowledge dissemination in contemporary society, which is less inclined towards reading and more focused on the contemplation of information through images.

Consequently, this study focuses on the study of images and written texts in a wide sample of media among those considered social networks, and not just one. A comprehensive comparison of situations is facilitated by the utilisation of diverse sources.

3. Fieldwork and Data Analysis

It is an established fact that most of the global population engages with social media on a regular basis. The world's largest communication, advertising and marketing association, present in fifty countries. Of these countries, more than half are also experiencing an increase in employment of workers who are beginning to hear that a new phenomenon called AI is emerging. Previously, these employees had the option to post negative comments about their companies. However, it is important to note that negative comments can now appear on their networks without them having been the creators. This phenomenon is equally applicable in the reverse scenario.

Therefore, we must pay attention to a new dimension of labour law as a guarantor, which must protect the rights of employees and employers from improper, inadmissible, illegal or abusive use of social media by their employees and/or companies, but now perhaps not voluntarily (Presno Linera, 2023). In the following classification, risks are addressed from three perspectives:

- a) Those that refer to negligent or illicit use of personal social media that have the potential to damage the company's image.
- b) Risks arising from the monitoring of content published, when the mechanisms used by the company have not been sufficient.
- c) And finally, the problems arising from the improper, impermissible or abusive use of corporate social media for personal purposes.

Firstly, with regard to the risks associated with the negligent or unlawful use of personal social media, with possible negative consequences for the company, we find two constitutional principles, on the one hand, article 20. Article 20.1 of the Spanish Constitution acknowledges the right to freely express and disseminate thoughts, ideas and opinions through speech, writing or any other means of reproduction, subject to limitations, as outlined in Section 4 of the aforementioned article. This section expressly states that these freedoms are constrained by respect for the rights recognised in the aforementioned Title, in the precepts of the laws that develop it and, most notably, in the right to honour, to privacy and to one's own image.

Conversely, Article 18.1 of the Spanish Constitution guarantees the right to honour, personal and family privacy, and one's own image, subject again to limitations under section 4, which specifies that the law will restrict the use of information technology to safeguard the honour and personal and family privacy of citizens, as well as the full exercise of their rights.

It is evident that the constitutional regulation is intended to guarantee the right to freedom of thought and expression for all citizens (art. 20 of the Spanish Constitution), and by extension, to users of social media, provided that such expression does not infringe upon the right to dignity and honour (art. 18 of the Spanish Constitution), nor does it protect insults, disparaging remarks, or any statement aimed at discrediting both natural and legal persons. (Núñez. I, 2020).

Consequently, any offensive expression published by workers on social media that consciously or unconsciously contravenes the contractual good faith placed in the worker by the company must be subject to assessment by the company, transcending the objective reality of the comment itself. This assessment should determine whether the opinions or expressions published by the worker could genuinely be offensive, prior to the imposition of a disciplinary sanction. According to the prevailing case law, only those expressions that are sufficiently serious and culpable for being defamatory and offensive to the dignity or reputation of the company or its employees will be liable to sanction. In this sense, the following outstanding sentences are identified: TSJ Cataluña 30-1-2017, TSJ Castilla La Mancha 8-4-2016, TSJ Andalucía 30-1-2013, TSJ de Madrid 23-1-2012, TSJ de Andalucía 10-11-2011.

Once the seriousness and culpability of the worker's behaviour has been positively assessed, the evidentiary part deserves special importance in the sense that the burden of proof will fall on the company, and it must obtain the corresponding electronic evidence of the comment in question, so that not only its authenticity but also the identity of the worker who made it is proven (in this sense, TSJ Galicia 28-1-16, TSJ Madrid 10-6-15).

Secondly, the risks associated with what might be termed poor, irregular or unlawful corporate control of work-related use of corporate networks. In order to ensure that corporate control is both legitimate and does not entail infringement of fundamental rights such as privacy or the secrecy of employee communications, it is necessary to draw up and communicate corporate policies on the use of technological media to all employees. Such policies must expressly include the use of corporate social media networks, so that they are accepted and accepted by all those to whom they are addressed. The reason for this is that, otherwise, any actions carried out by the company to obtain evidence of a specific breach of labour law could be declared null and void. In this regard, our case law stipulates that either the media must be of common use with open channels of communication, or that there must be prior and express communication of the specific rules of use of the computer media made available to the employee, by means of partial or total prohibitions on their private use or use for purposes other than professional purposes (Llamas Pombo, E., 2010).

The Supreme Court, in its rulings of SSTs 6-10-2011 and 26-9-2007, has established the legal limits to the exercise of the company's powers of management and control over the use made by employees of the technological means owned by the company and made available to them. This decision established the legal precedent of the employee's "reasonable expectation of privacy," which arises from the absence of explicit communication from employers regarding the rules for the use of these technologies. This failure prevents employees from developing a reasonable expectation of privacy regarding the usage of these media, particularly social media networks that have been created and made available to them.

Thirdly and finally, the risks associated with the improper, impermissible or abusive use of corporate social media for personal purposes. In the context of employees leveraging corporate social media through the creation of corporate profiles, concerns may initially focus on the evident economic loss to the company due to diminished performance or productivity, stemming from employees' private use of technological media during working hours, colloquially termed "presenteeism". However, it is imperative to recognise that, while the aforementioned consequences may be valid, this practice could also result in substantial harm. In many cases, this could result in irreparable damage to the company's digital reputation due to negligent actions on social media or the internet. Our case law has come to consider that once a company has issued a prohibition on private use, dismissal is likely to be classified as justified precisely by the breach of employment arising from abusive use of social media during working hours. In this regard, we highlight TSJ of La Rioja 23-05-11 and TSJ of Catalonia 3-02-11.

Following a thorough analysis of the three fundamental risks, it is evident that the combination of traditional AI use, both by stakeholders and companies, primarily impacts the second risk identified in our previous research. The existence of AI has indeed been demonstrated to influence the way companies' control mechanisms have been modified to anticipate or mitigate negative reputational impacts, precisely because of the interaction of AI. To mitigate the risks associated with AI utilisation by employees, companies can implement a range of strategies and security measures. These include:

1. Policies and training: Establish clear policies on the appropriate use of AI in the workplace. Provide training and awareness to employees on the potential risks of AI, including bias, privacy and data security.
2. Data security: Implement robust security measures to protect the data used and generated by AI systems. This includes data encryption, secure access management, and data integrity monitoring.
3. Review and monitor: Regularly review the use of AI within the organisation to ensure that it complies with established policies and applicable regulations. Continuous monitoring can help quickly identify and mitigate any misuse or anomalous behaviour.
4. AI impact assessment: Conduct impact assessments that consider the ethical, legal and social implications of AI use. This can help identify potential risks and develop strategies to mitigate them before they become problems.
5. Governance and accountability: Establish an AI governance framework that clearly defines responsibilities and decision-making processes for the use of AI. This may include the creation of an AI ethics committee to oversee and guide the responsible use of the technology.
6. Transparency and explainability: Encourage the use of AI systems that are transparent and whose decisions can be explained. This is essential to maintain the trust of stakeholders and to be able to audit and correct systems if errors or biases are detected.

7. Collaboration with experts: Collaborate with experts in AI ethics, IT security and data protection to ensure that company practices keep pace with the latest developments and standards in these areas.
8. Legal compliance: Ensure that the use of AI complies with all applicable laws and regulations, including those related to data protection (such as GDPR in Europe), copyright and non-discrimination.

The implementation of these strategies has the potential to assist companies in mitigating the risks associated with their employees' utilisation of AI, while maximising the benefits that this technology can offer.

Concerns have been raised by business organisations regarding the potential repercussions of novel technologies and AI on their public image. Consequently, there is an imperative to study the potential repercussions of these technologies, which, in the contemporary era, necessitate heightened protection. The incorrect use of social networks, as previously mentioned, is not solely attributable to the actions of workers or third parties, but also to the effectiveness or ineffectiveness of machine-generated content, which, while created according to pre-defined instructions, possesses an unparalleled capacity for unregulated and uncontrolled message generation. The aforementioned reputational damage represents the most significant concern for companies, due to the increasing difficulty in controlling it. As demonstrated in a previous study, reputational damage has been identified as a predominant concern for companies, as evidenced by the Global Risk Landscape, a comprehensive study conducted by BDO, a prominent global professional services firm. This concern has only intensified in the current era, particularly in the context of technology, an area in which AI has emerged as a significant catalyst for both positive and negative impacts, the latter of which can be challenging to rectify and protect against.

The potential for AI to utilise information on data of importance to third parties, in a manner that exceeds the legitimate freedom of expression that machines inherently lack, underscores the necessity for the development of detection methods that can proactively avert such occurrences. This imperative necessitates the creation of detection and preventive systems that are designed to safeguard the reputation of both companies and their workforce (Makridakis, 2017).

This is further compounded by the fact that the dissemination of content is not constrained by geographical or subject matter boundaries.

The mission of the professionals responsible for managing and dynamising companies' social networks, who have already played a key role in detecting bad practices, now assumes an even more significant role in the management of potential abuses with the assistance of AI. This was the case from the point of view of detecting possible harmful behaviour in order to propose a complaint and/or sanction, but now also from the point of view of multiplying the risk of reputational damage caused by machines creating content using AI.

The responsibility of both parties in the management of social networks is becoming increasingly apparent, yet the advent of AI has introduced a complex layer of ambiguity, challenging the delineation between human rights and obligations. This is due to the complexity and unpredictability of AI, which can potentially infringe upon these rights and obligations. Moreover, and of even greater concern, these behaviours have the potential to directly impact the level of perception and trust, and consequently the credibility of the reputation of the company's brand and of the employee as a supposedly responsible subject.

The present moment marks the commencement of a new era, wherein ethical considerations and corporate social responsibility assume primacy. The increasing vulnerability of the behaviour of some and others will have to be sustained from a legal point of view, as will be proposed later. In the meantime, however, it is ethics, morality if you will, that is the only perceptible grip. The conduct of individuals and legal entities on social networks is becoming increasingly challenging, due to its growing impact and the necessity of reconciling it with the potential harmful behaviour of AI. Distinguishing between these two factors is of paramount importance, as cases may arise where the distinction between automated and virally propagated damage, with irreversible repercussions for reputation, yet perpetrated by human actors, must be determined.

While ethical considerations inform our actions, it is ultimately the legal framework that will serve as the primary bulwark for safeguarding the rights to privacy and image, not only for corporations but also for individuals, including workers. A re-evaluation of the scope of individual and machine freedom

of expression is imperative, particularly in the context of historical precedent and the evolution of algorithms that shape messages. The impunity that characterises these processes must be dismantled.

It is imperative to safeguard against any infringement of the dignity of companies and workers, including insults, humiliation, offence, lies, slander, defamation, and crimes of hate. It is evident that when these detrimental effects are propagated extensively over time and space, and when these unlawful acts are disseminated through the internet or social networks with their instantaneous virality, they can inflict incalculable damage in the future and, in many cases, irreparable damage to brand reputation. (Paredes et al., 2021).

It is evident that the application of AI exacerbates the consequences of infringing conduct, primarily due to the complexity of its prosecution and the critical nature of the issuer's ownership, which remains obscured. It is urgent to assess this new phenomenon in a comprehensive manner and before establishing the sanctions that the legislator will have to consider in a new legal framework, from the points of view already described in this research work. Moreover, as a preventative measure, business protocols aimed at encouraging the appropriate use of social networks should be revised to facilitate the establishment of standardised rules, thereby establishing a framework within which to guide the behaviours of employees and provide them with the requisite security in this regard. Moreover, the establishment of protocols to support the proper functioning of corporate online channels is imperative. The optimal implementation of these protocols of action in the free exercise of workers' freedom of expression in their personal social accounts must incorporate the consideration of the role played by AI among them.

The promotion of ethical codes, codes of conduct and internal codes of use of social networks, endorsed by protocols of action capable of distinguishing human action from that of programmes known as AI, is therefore imperative. These protocols will influence both the workplace and the private sphere (Etzoioni & Etzioni, 2017). In the interim period preceding the enactment of legislation, it is imperative to emphasise the distinction between the freedom of expression of workers and companies, with its established limitations, and that other purported freedom that is attributed to machines programmed for specific purposes and therefore seemingly exempt from responsibility.

4. Results and Conclusions

It is complex, yet crucial, that the legal system should act to protect companies and workers who, for the first time, are faced with the diatribe of being able to receive the impact of malicious content from Emotional Intelligence. While it is evident that not all machine-generated content is inherently detrimental, it is equally evident that it has the potential to be so. In this instance, the current absence of protective measures is indisputable. This is due to the immediate adverse effects that could be produced on the image of the worker, the brand image, and even on the job itself of those who misuse their online presence before and those who may receive it now. It is imperative to recognise the necessity of safeguarding the perception of trust in individuals and brands. Mechanisms must be implemented to identify the origin of disseminated content, with the overarching objective being to ensure that individuals and legal entities feel protected in terms of their honour, privacy and self-image. To conclude by sections:

1.- Technological progress seems inevitable. Jobs will change, and the media are already transforming. The creation of content has evolved from an art form to a more industrialised process. This observation underscores the need to establish a legal framework that, without infringing on the rights of individuals or companies, can protect both parties in any communication relationship. The advent of novel technologies and the purported objectification of content must be protected from the manipulation of companies and individuals in the context of their relationships (Sánchez Meca, 2010).

2.- The limits of freedom of expression can and must be urgently reconsidered. It is imperative for the legal field to decide between freedom of expression and its limits. Historically, these limits have been determined by human discretion and those individuals in positions of authority within business organisations. Today, these limits are all the more blurred the more the sender and his or her origin are unknown. Consequently, there is an increasing necessity for rigorous and agile analysis of the attitudes

that, while professing greater freedom, engender distrust that must be protected in favour of the discipline of earlier times (Han, 2014).

3.- The relationship between organisational models and the mission of individuals within them must also be reviewed. The restriction of the human subject's freedom, as previously understood, is no longer sufficient in the context of AI. However, the establishment of a reward system to incentivise the identification of information of non-human origin for the purpose of analysis and potential eradication is a potential solution. The advent of social networks has engendered a novel, perpetually evolving, and rapidly changing milieu for human relations. This has necessitated a re-evaluation of established ethical codes and codes of conduct, which continue to be revisited in order to introduce protocols that take into account the novel information consumption habits facilitated by AI.

4.- The long-standing need to establish a global model for the management and protection of companies and individuals throughout the world becomes even more relevant with the advent of AI, since for the first time both parties must be protected equally and in similar situations. The unethical and/or illegal use of data of importance to third parties, as well as the unauthorised dissemination of information on social networks, necessitates the creation of effective areas of protection for both companies and workers.

5.- The advent of AI has rendered it more necessary than ever to have the talent and skills of workers who can help companies to preserve the mutual right to privacy and self-image. The conscientious engagement of both parties in social networks will facilitate the identification of malpractices, ensuring their prompt reporting and eradication. This, in turn, requires the voluntary cooperation of individuals and their responsible participation in the online world. This necessitates the cooperation of business organisations, which must equip their employees with the appropriate and up-to-date tools to enable them to carry out a mission that must be committed to the self-image and reputation of both parties.

6.- The aforementioned talent of people in organisations becomes even more necessary with the advent of AI. The human capacity for emotion, creativity and imagination is the most precious asset, and the only factor capable of differentiating some companies from others as the key to success and profitability. It has been previously asserted that "this is still true today, although authors who consider themselves pioneers, such as Ray Kurzweil, believe that machines will be able to do even the most human things more perfectly than humans (2005)" (Paredes et al., 2021). However, subsequent years have demonstrated that this assertion is indeed valid, as evidenced by the ongoing significance of human capital in the development of corporate entities and their future prospects. While acknowledging the potential contributions of machines to enhance global welfare, this research underscores the imperative for safeguarding inalienable rights such as privacy and self-image.

7.- Legal and criminal moderation is needed. As has been previously stated, prevailing jurisprudence supports the punishment of conduct and/or expressions that are demonstrably serious and culpable for their intent to injure and defame in a manner that attacks the reputation and/or dignity of the company or other employees. It is important to note that not all expressions will be considered offensive. The tension between immediate sanction and misunderstood freedom can be resolved by acknowledging that the objective is not to preserve a good name, but rather, to justify the use of sanction, even if it involves suffering, as long as it is carried out to preserve a higher common good (Chabod, 1984).

It can thus be concluded that a comprehensive legal regulation is necessary to ensure compliance with labour regulations without infringing the basic rights of individuals but rather ensuring that these rights are channelled in such a way as to avoid harm to the corporations in which they are employed. In summary, it is proposed in this work that the legislator should become increasingly aware of the role that AI inevitably plays in order to be able to anticipate and thus avoid the risks associated with the possible harmful use of social networks, even if they are personal. Concurrently, the risks associated with the misuse of corporate control over the lives of its employees must be mitigated. Finally, as a transversal axis of the two previous ones, the abusive use of corporate social networks for personal purposes, and/or the use of information known by reason of the presence of the individual person within a business organisation, must be protected.

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