Marius Smit

Social Media in Schools – A Comparative Legal and Educational Perspective

Abstract

The comparative research paper explores the use and risks of social media in South African, USA and European schools. It discusses the potential challenges that schools, educators and learners may face such as cyberbullying, sexting, identity theft, fraud, catphishing, cybercrimes, excessive online presence, and addiction to social media. The paper reports on the findings of a phenomenological study and purposive survey among school principals and educators in South African schools. The paper highlights the advantages of applying social media in the classroom, and provides recommendations for schools, educators, parents and principals to manage the use of social media in the education environment.

Keywords: social media, education law, freedom of expression, right to privacy, student misconduct, school policies, cyber law

Introduction

One of the effects of the internet and advances in smartphone technology is the pervasive use of social media in modern society. The speed and immense capabilities by which text, images, videos and audio information is shared on social media has obvious pedagogical advantages. However, children are among the most active users of social media, and while it has benefits, it also has risks and challenges that pose threats to their well-being. Workplaces and educational institutions must adapt and regulate the appropriate use of social media to prevent harmful or disruptive application of social media.

Incidents of cyberbullying, defamation, hate speech and fraud with social media have serious deleterious repercussions in the school environment (Russo, Osborne & Arndt, 2011, pp. 427-430). News events, court cases and academic literature in the United States of America, Canada and European countries confirm that inappropriate communication by means of social media can give rise to legal liability of teachers, learners, and other role players in education (Ireton & Posetti, 2018, p. 55).

In this paper, we will explore the uses and abuses of social media by school-going children in the USA, European countries, and South Africa, regarding the risks and challenges. This paper reports on research conducted at South African schools about the management of social media. The aim of this paper is to compare the legal, pedagogical, and managerial measures to deal with social media at schools in South Africa and other countries.

Defining social media

Social media is electronic digital communication by means of web-based technology and mobile applications that allow individuals and organisations to create, engage and share new or existing user-generated content in digital environments, in a multi-directional communication. Electronic digital communication includes text messages, audio communication, photos, images, videos, and other forms of visual communication as well as coding and programming of software related to social media. Social media platforms enable individuals and organizations create profiles to exchange information about various activities and interests. Examples of social media platforms on the internet and mobile applications include Facebook, Twitter, YouTube, WhatsApp, Instagram, TikTok, 'blogs' and emails.

Pedagogical advantages of applying social media in the classroom

Social media can be an effective tool for teachers to engage students in meaningful discussions, collaborative projects, and real-time feedback. Social media can also provide an alternative to traditional teaching methods, allowing for a more dynamic and interactive learning experience. Social media enables communication with friends and family, sharing of information, and accessing educational resources. Moreover, social media platforms can offer students an opportunity to connect with peers from around the world, creating an authentic global learning experience. Social media can also be used to develop social and technical skills, and to teach digital citizenship skills, such as online safety, cyber etiquette, and responsible social media usage, preparing students for the digital world they will inevitably encounter.

Risks of social media for school-going children in the USA

Schools face major challenges to ensure that the physical and digital spaces in which learning takes place are secure and that distractions and disruptions to their educational mission are minimized (Ballard, 2020, p. 468). Cyberbullying is a growing concern among school-going children, and social media platforms provide a platform for this behavior. According to Patchin and Hiduja (2012, pp. 13-36) the Cyberbullying Research Center in the USA found that approximately 34% of students had experienced cyberbullying.

Sexting is the practice of sending or receiving sexually explicit messages or images, and it poses a significant risk to school-going children. According to a study conducted by the National Campaign to Prevent Teen and Unplanned Pregnancy (2008) in the USA, 22% of teenage girls and 18% of teenage boys of the survey had sent or received a sexually explicit images.

Identity theft and fraud is another significant risk associated with social media use among school-going children. According to a report by Pascual and Marchini (2018), approximately 1 million children in the USA had their identities stolen in 2017.

Catphishing is the act of creating a fake social media profile to deceive others. School-going children are especially vulnerable to this type of fraud, and it can lead to emotional and financial harm. Catphishing was the top scam reported by students in 2020. Excessive social media use can lead to various negative effects, including sleep deprivation, reduced physical activity, and impaired academic performance. According to a study conducted by Miller (2020), 50% of teens feel addicted to their mobile

devices. The fear of missing out (FOMO) is another growing concern among school-going children, and it can lead to anxiety, depression, and other negative effects. According to this study, 42% of teens feel that they have to respond immediately to social media notifications. Cybercrime is a growing concern, and social media platforms provide a platform for various criminal activities. According to a report by the FBI, cybercrime losses in the USA totaled approximately $4.2 billion in 2020.

Uses and abuses of social media by school-going children in European countries

Social media use is widespread among school-going children in European countries. According to Smahel et al. (2020, p. 23) 77% of 9 to 16-year-olds in Europe use social networking sites. According to the same study, 19% of European children have experienced cyberbullying, and 12% of them have encountered negative experiences in social media. Social media is also one of the primary sources of sexting among teenagers, with more than 8% of European teenagers admitting to sending sexually explicit texts, images, or videos online. Over 30% of European teenagers experience cyberbullying or harassment on social media platforms. Teenagers who spend more time on social media tend to have lower self-esteem, increased levels of anxiety and depression, and an increased likelihood of developing problematic behaviors such as addiction and compulsive usage of social media. Excessive online presence, addiction to social media, and the fear of missing out are also issues that plague social media users, including children in European countries. According to Lad (2017), excessive exposure to social media reduces learning, and uncontrolled exposure to social networks and low quality social media sources leads to poorer academic performance.

Federal law regulating social media in the USA and Canada

While all 50 of the United States have some form of anti-bullying legislation, only 17 states had laws in 2016 that criminalises cyberbullying (Patchin & Hinduja, 2016). The federal government of the USA enacted a federal law, i.e., the Megan Meir Cyberbullying Prevention Act. Ballard (2018) found that in the USA there is a lack of clear direction from the courts, an absence of meaningful social scientific data, and limited legislation about cell phones at schools which leaves schools and school leaders in a difficult position of enacting and enforcing policy relying on information that is ambiguous and open to mixed interpretation.

The Canadian federal government enacted the Canadian Protecting Children from Internet Predators Act, and the Canadian Federal Government's Protecting Canadians from Online Crime Act, to address cyberbulling and analogous misuse of social media and the cyber space. Cartwright (2017, p. 23) is of the opinion that these statutes were ineffective to keep pace with the novel developments and harmful effects of misuse of the internet and social media.

Legislation regulating social media and electronic communication in South Africa

In South Africa there was a time lapse of more than a decade between the initial development and availability of social media technology, and the eventual statutory

regulation thereof. Currently, legislation in South Africa includes the Cybercrimes Act (SA, 2021), the Protection of Personal Information Act (POPI Act) (SA, 2013), and the Electronic Communications and Transactions Act (SA, 2002).

The fundamental rights of freedom of expression, the right to privacy, right to human dignity, right to personal security, as set out in the Constitution of South Africa (SA, 1996) are interrelated and relevant to the proper use of social media in schools. A tension exists between social media users' rights to freedom of express and another person's right to privacy and human dignity. The right to freedom of expression is limited (not absolute) in terms of section 16(2) of the Constitution and common law principles that prohibit slander, defamation and hate speech. However, in view of word count restrictions it is beyond the scope of to elaborate on this. Section 2 of the Children's Act (SA, 2008) confirms that the best interest of a child is the decisive criterion to be considered before posting anything on social media that might affect children.

The POPI Act requires of schools to deal responsibly with the processing of personal information. This Act prescribes eight minimum threshold requirements that must be met to ensure the lawful processing of personal information relating to the data subjects. Schools are allowed to collect only the minimum personal information required for a specific and legitimate purpose. The consent of the person concerned is necessary to ensure that the processing of personal information is legitimate. Educators must be very careful with the photos and information they post on social media. Educators or schools therefore cannot disclose any personal information of learners or post it on social media unless the parents have given express permission. Imprisonment or a stiff fine to a maximum of R10 million can be imposed (SA, 2013, section 107). Educators' and learners' private cell phones are private, and they are not obliged to make their personal numbers public.

Chapter 2 of the Cybercrimes Act (SA, 2021) declares the following as cybercrimes: unlawful access to hardware, software (programs and information), unlawful interception of data, unlawful interference with data or computer program, or computer data storage medium or computer systems, unlawful acquisition, possession, provision, receipt or use of password, access code or similar data or device, cyber fraud, cyber forgery, cyber extortion, aggravated offences, and theft of incorporeal property. The Cybercrimes Act inter alia sets out the powers to investigate, search, access or seize, and establishes new procedures which specifically cater for the investigation and multinational law enforcement agencies and fostering multi-agency collaboration.

These statutes regulate the risks and unlawful conduct associated with abuse of the internet, information technological systems and social media. As a result, it has become even more essential for school leaders, educators, parents, and school-going learners to be well-informed and educated with regard to the legal principles that apply to social media in schools and the education realm.

A phenomenological study of social media at purposely selected schools in South Africa

A phenomenological study was undertaken by obtaining data at purposive sample of six secondary schools and four primary schools in the Limpopo and Gauteng provinces in South Africa. Creswell (2014, p. 76) describes phenomenological studies as qualitative research about the experiences of the participants' experiences,

perceptions, and observations of issues, and their perspectives, and opinions which are obtained by means of interviews. The research design entailed that schools with purported experience in managing the use of social media were identified by means of preliminary enquiries. Ethical clearance was obtained from the North-West University to conduct semi-structured interviews with the participants which included school principals, educators, school marketers and officers that were responsible for managing the school's information technology and social media. With the written permission of the school or educational authorities and the written consent of the participants the interviews were audio recorded and then transcribed. Only adults participated and all interviewees were given the assurance of strict confidentiality their identity. After transcribing the recordings, the text was checked by each respective participant for correctness, and on confirmation of its correctness the data was analysed by way of open coding, axial coding, and selective coding processes.

Data analysis and findings

The use of social media in schools and the workplace is currently still going through a process of development and refining policies, adapting social conventions (good manners, etiquette, customs) and the introduction of additional legislation. Although certain computer and mobile applications, colloquially known as 'Apps', are already available to enable users to manage and monitor social media availability going, the regulation of online service providers, censorship of illegal communications, control over the accessibility of pornography and other controversial or harmful sites and the prosecution of cybercrimes are not yet part of the general modus operandi of members of the public. The enforcement of statutory provisions and societal measures is still largely practiced by experts in the field of information technology and cybercrime.

The data from this study showed that there are beneficial as well as detrimental aspects regarding social media in education. There is a relationship between the proper management of social media and the optimal utilisation of thereof at schools. The management measures that bore fruit and expanded the benefits of social media included drafting and instituting written, tailormade cell phone and social media policies for each respective school, proper communication by the principal, adequate training for educators about statutory and policy provisions, sufficient knowledge about the application of social media, and encouragement of learners and parents to use social media responsibly.

On the other hand, the data confirmed that in schools where there were no written school policies about cell phones and social media, where principals did not inform, train, communicate and monitor the statutory and policy provisions, where educators, learners and parents did not receive training or have sufficient knowledge about appropriate use of social media, and where parents were not encouraged to make use of parental control mechanisms and measures, more harmful or disadvantageous social media incidents occurred than schools who had taken the preventative or pro-active managerial measures.

However, in general the participants had no or superficial knowledge of the statutory provisions and legal principles that regulate social media and cybercrime. Parents and educators are by and large ignorant of the parental control features that are available for internet platforms and cell phones. Most of the participants were unaware of parental control features or cell phone applications such as Bark, Kaspersky, FYI

Play it Safe, Sonic Wall, Kahoot, Prodigy, Khan Academy, Vivi that can limit, control and monitor misuse of the internet or social media. For instance, the app known as 'Bark' enables a parent (or school) to block certain applications or websites when setting up the smartphone, schedule the time during which the smartphone may be used, place web filters on the phone, which are protected by passwords that are only known to the parents, and set alarms ('flag') by sending an SMS to the parent if certain search words or text appear on the learner's phone. The Bark app also has a time scheduling function that can be set to prevent the child from visiting the Internet during school hours and or after bedtime. Another valuable function of Bark is that the parent automatically receives an SMS or text message when a child uses certain words or text (such as crude language, words with sexual content, swear words, or even words that indicate emotional conditions such as depression, suicidal thoughts or victims of cyberbullying) used or received. It then notifies the parent without the child's mobile phone having to be searched. The parent can then ask the child or learner about certain messages that cause concern. This protects the child's privacy, but also offers the parent a mechanism to monitor the use of the smartphone remotely or unseen.

The age limit prescriptions (i.e., minimum 13 years old to subscribe) of social media platforms such as Facebook, Instagram and Twitter are intended to protect children against the risks of social media. Most schools or media officers were unaware that the settings of the Wi-Fi senders ('router') can be controlled or managed to limit the time of availability, prevent access to certain specified websites and platforms and limit the data usage if necessary.

Poor or ineffective management practices at schools contributed to the prevalence of negative conduct and incidents of abuse of social media. Incidents of misuse of social media, including cyberbullying, sexting, identity theft and fraud, catphishing, cybercrimes, excessive online presence by learners, addiction to social media, and fear of missing out, were reported by all the participants.

Conclusions and recommendations

Schools should draft written cell phone and social media policies and should update these policies annually to keep up with statutory requirements. School principal should be responsible for the planning of school policies and training opportunities, for communicating staff responsibilities and safety measures, for providing guidance and motivation and to supervise, monitor and implement the social media policies.

Educators should be trained to understand the mutual relationship between freedom of expression and the right to privacy, as well as the unlawfulness of defamation, the unlawfulness of cyberbullying through social media, and the prohibition of illegal social media activities.

It is crucial to educate children on the potential risks and challenges associated with social media use and teach them responsible social media usage.

Parents should be required to give written acknowledgement of receipt of the school's cell phone and social media policies. Parents should be informed and supported to educate their children regarding the correct use of social media and encouraged to make use of parental control measures such age limits, internet settings and cell phone applications to monitor their children's use of social media.

To address the risks and challenges associated with social media use among school-going children, we recommend that parents, educators, and schools should take

concerted steps to manage the use and application of social media in the education environment carefully.

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Prof. Dr. Marius Smit, North-West University, South Africa