

THE EMPLOYEE'S USE OF SOCIAL NETWORKS: ABUSIVE FREEDOM OF EXPRESSION AND JOB LOSS

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**EMPLOYEE'S FREEDOM OF EXPRESSION USING SOCIAL NETWORKS.
COMPARISONS BETWEEN COMMON LAW COUNTRIES
(SOUTH AFRICA, UNITED KINGDOM, CANADA, UNITED STATES, NEW ZEALAND)**

Little Brothers are watching you”,¹ “Facebook laid me off”,² “Users of the world, unite”,³ “a country named Facebook”⁴... Doctrine, French as well as the international one, seems to be mad about corrosive titles when it writes articles relating to the social networks 'case law. As if the originality of the questions asked to the judge was to find an echo in the title. Actually what is often original is not the legal problems as well as the adaptation of a traditional jurisprudence to the engineering problems raised by new technologies.

The case law, patiently built during the years 1990,⁵ clarified the separation between the personal life of the employee and working environment. It is in the name of the respect of the personal life, and a certain raising the moral standard of the evidentiary law, that both the employer and the employee are forbidden from using certain evidences. The problems which the new technologies 'law poses are not new. More particularly when it is requested from the judge to make fairness prevail between the intimacy of the employee and the interests of the company. As the judge was confronted with new technologies, it had to adapt its traditional jurisprudential solutions to the evolutions.

¹ J. E. Ray, « *Little Brothers are watching you* », *Sem.soc.Lamy* 2010, n°1470, p. 10.

² G. Singer, « Facebook m'a licencié !-Questions à Maître Grégory Saint Michel, avocat au Barreau de Paris », *Lexbase Hebdo - Edition Sociale*, 25/11/2010, n°418.

³ A.M. Kaplan, M. Haenlein, « *Users of the world, unite! The challenges and opportunities of Social Media* », *Business Horizons*, 2010, n° 1, pp. 59-68

⁴ G. Criqui, « Un pays nommé Facebook », *La lettre du Centre d'Etudes Juridiques et Economiques du Multimédia*, 2009, n°41, pp. 12-15.

⁵ A. Lyon-Caen, « Libertés et contrôle dans l'entreprise 20 ans après », *RDT Dalloz* 2014 p. 386 ; F. Champeaux, A. Marcon, « Philippe Waquet, un magistrat, défenseur de l'Homme », *Sem.soc.Lamy* 2011, n° 1508, p. 258P. Waquet, « la vie personnelle du salarié », in *Droit syndical et droits de l'homme à l'aube du XXIe siècle. Mélanges en l'honneur de Jean Maurice Verdier*, Dalloz, 2001, p. 513 ; L.Pecaut-Rivolier, Y. Struillou, P. Waquet, *Pouvoirs du chef d'entreprise et libertés du salarié. Du salarié-citoyen au citoyen-salarié*, Editions Liaisons, 2014.