



Legal Perspectives on Using Social Media

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The Speaker




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- 3 recent cases where abuse of social media led to adverse consequences:-
 - London riots
 - Employee misconduct in Singapore
 - Employee misconduct elsewhere
 - Law of Defamation



The Situation

- London riots from 6 – 11 August 2011
- Started from London area of Tottenham
 - 4 August 2011: Local man Mark Duggan, an Afro-Caribbean resident, was shot dead by police as they tried to arrest him
 - 6 August 2011: Started from peaceful protest in the evening over the police killing by marching to Tottenham police station



The Situation

- Started from London area of Tottenham
 - First night of rioting took place
 - Then turned into nationwide rampage of firebombing and looting
 - Buildings and cars were burnt
 - Shops looted
 - Petrol bombs thrown at police



The Situation



Parallel Ongoings

- Riots and looting swept through London and moved north to cities like Bristol, Manchester, Birmingham and Liverpool
- “***Copycat violence***” – similar scenes of rampant looting and arson attacks
- Throughout the rioting, many looters did not bother to cover their faces as they raided electrical shops, sports shops etc.
- Some posed for pictures with stolen goods, **posting them on social-networking sites.**



The Aftermath

- 16,000 police officers activated to keep London calm
- 5 deaths
- 16 members of public injured
- 186 police officers injured
- 3,100 arrests made
- 1,000 people charged
- 3,443 crimes across London linked to the disorder
- Prime Minister David Cameron cut short his holiday in Italy
- Parliament recalled on 11 August 2011 to debate the situation





Why?

- Hard to pinpoint reason for the rioting but some say due to tension between local young people and the police
 - (1) Social and Economic inequality
 - (2) Weak police response – police did not crack down straight away for the first looting episode
 - (3) High rates of youth unemployment in Tottenham – frustration with lives, anger builds



Why?

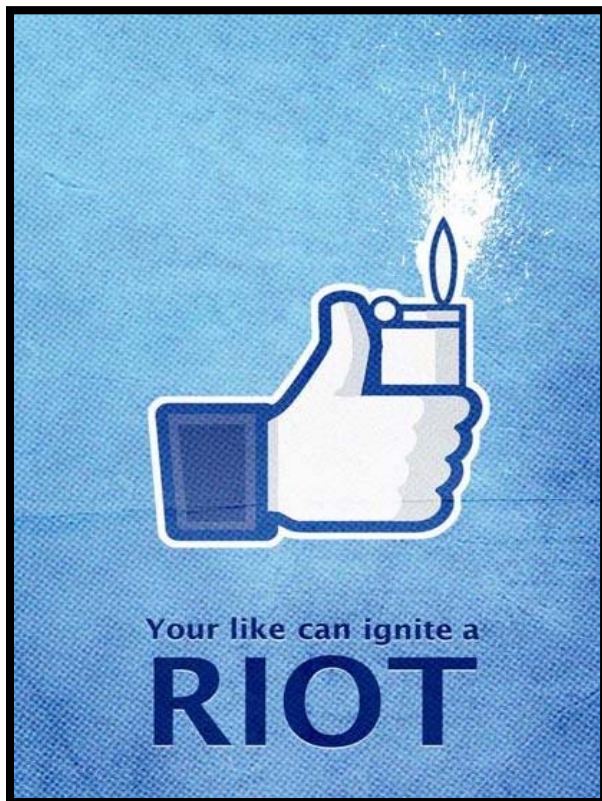
- Hard to pinpoint reason for the rioting but some say due to tension between local young people and the police
 - (4) Opportunism – outbreak of opportunists robbing their robbing their own community
 - (5) Racial profiling – Anger felt by the blacks at being stopped and searched more often
 - (6) Failure of penal system – $\frac{3}{4}$ of adults charged have criminal records

Role of social net-working sites

- Facebook
- Twitter
- Blackberry Messenger
- Amazon



Case of Jordan Blackshaw and Perry Sutcliffe-Keenan



- Brief facts
- Jordan: 20 years old
- Perry: 22 years old
- Admitted to using Facebook to try to organise riots

Jordan



→ Set up an “event” on Facebook called **Smash Down** in Northwich Town for the night of 8 August 2011.

→ No one, apart from the police who was monitoring the page, turned up at the meeting point outside a MacDonald’s restaurant.

→ Jordan was arrested on the spot.

Perry



→ Used Facebook account in early hours of 9 August 2011 to design a web page titled The Warrington Riots.

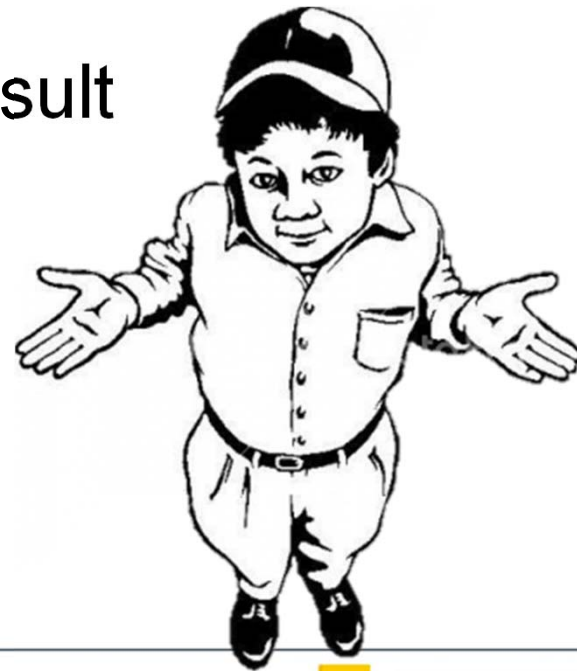
→ Apparently caused a wave of panic in the town.

→ Woke up from hangover the next morning and removed the page and apologised, **saying it was a joke**.

→ But message already distributed to **400** Facebook contacts.

The Consequences

- **No trouble** resulted from their actions
- **No rioting** broke out as a result
- **No one** turned up





The Sentences

- Jordan and Perry sentenced at Chester crown court
- Admitted to using social networking site **to try** to organise riots
- Both sentenced to **four (4) years imprisonment**
- Both appealed to Court of Appeal (Criminal Division), together with 8 others





The Appeal

- Ruling by three (3) judges
- Sets clear benchmark for future appeals against riot sentences
- For those who handled stolen goods during the disturbances, their prison terms were halved
- For Jordan and Perry...



The Appeal

- Their four (4) year sentences **confirmed by the Court of Appeal**
- And they meant it as a joke...
- PM David Cameron: *“I think it’s right that we should allow the courts to make decisions about sentencing. They decided in that court ... to send a tough message and I think it’s very good that courts are able to do that.”*



The Rationale



- “*abuse of modern technology*”
- “*Modern technology has done away with the need for such direct personal communication ... abuse of modern technology for criminal purposes extends to and includes incitement of very many people **by a single step**”*



The Rationale

- *“level of lawlessness was shocking and wholly inexcusable. The imposition of severe sentences, intended to provide **both punishment and deterrence**, must follow”*
- *“The context hugely aggravates the seriousness of each individual offence...”*
- *“the sheer number involved may have led some of the offenders to believe that they were untouchable and would escape detection”*

The Rationale

“participation in a riot ... was a severely aggravating factor ... and sentences **should be beyond the range** in the guidelines for conventional offending ...”



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- At home, in other news...

Police warn Singaporeans not to spread rumors about suspected 'abduction' case by PRC couple in Ang Mo Kio Hub

I was in Ang mo kio hub fiesta today and they having a magic show in b1. When I finish feeding him the food he was following me to throwing the rubbish suddenly I turn back I can't find him

59 minutes ago · Like

Michelle Leong

Lost and found.? Luckily not in msia. Good to hear he is fine

58 minutes ago · Like

Lam Meiling

Do take care, hope he's fine too.

57 minutes ago · Like

Allison Goon

Nope when I turn back I saw a lady holding my son hand and my son follow her



Allison Goon

I shouted my son name and asking her y u hold my son hand ? The lady saying opps I holding a wrong child .. I oso saw her with a man 2 of them just pretending nothing and walk away

47 minutes ago · Like



Ameline Fong

Omg!! How could this happen? You should report to the police

39 minutes ago · Like



Allison Goon

I did asking my son y u follow the lady when u don't know her at all, he reply me saying: jeh jeh saying u follow me and I will bring u home

36 minutes ago · Like



Ameline Fong



- Question:-

- Does it matter who sent the message via Facebook, Twitter etc?



- **Case 2**

- Misconduct

- Does it matter if misconduct took place outside of office/ after office hours?



- **Case 2**

- Misconduct

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Misconduct of Employee

- Section 14(1) of the Employment Act
- “*An employer may after due inquiry dismiss without notice an employee employed by him on the **grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of his service...**”*

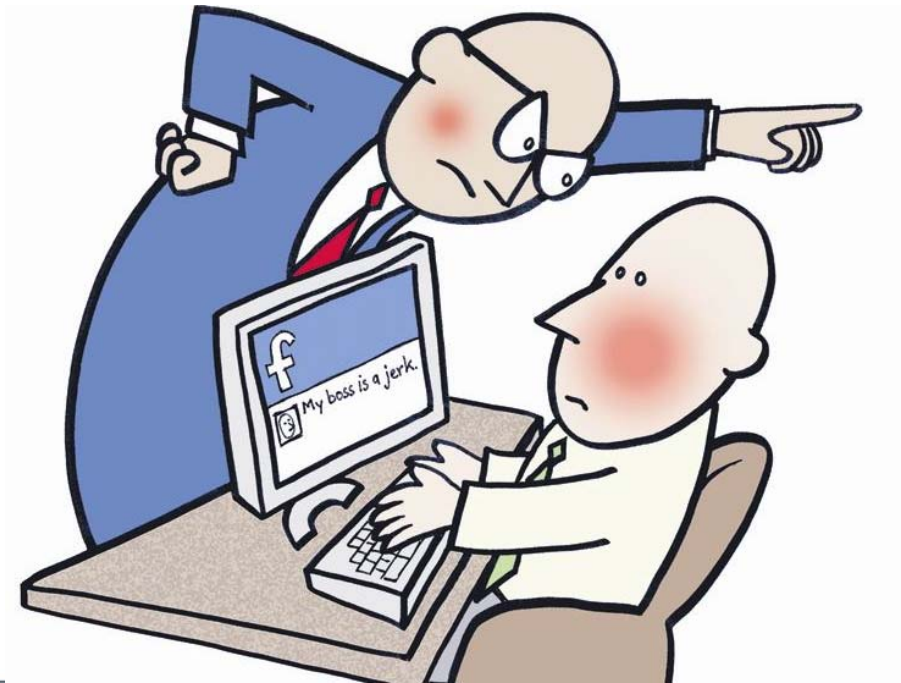


Express Clause

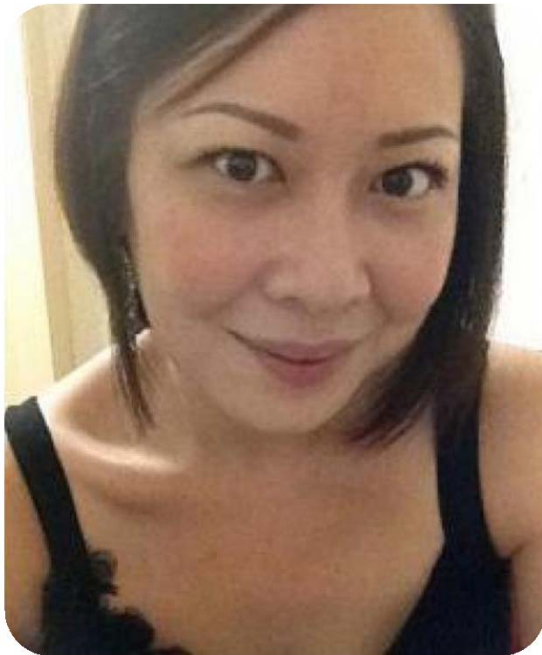
- Restricting disclosure of confidential information
- May also specifically restrict disclosure of non-confidential information, such as disclosure to the public through social media
- Reference to policies or guidelines stating grounds for disciplinary action or termination

Implied Clause

- Duty of good faith or fidelity covers a wide range of acts, such as:
 - Not to act in a manner that is detrimental to employer
 - Not to disclose confidential information



Case of Amy Cheong



- Brief facts
- Assistant Director of NTUC
- Posted profanity-laced Facebook status on 7 October 2012 (Sunday), criticising Malay custom weddings held at void decks



The Consequences

- Caused an uproar in the online community
- NTUC's UMembers Facebook page was filled with demands for a response towards Amy Cheong's post
- Amy Cheong posted apologies over Facebook and Twitter
- Also apologised in NTUC's UMembers Facebook page



The Consequences

- Netizens hunted for her particulars online
- Facebook page called “*Fire Amy Cheong*” sprung up just before 9am on Monday, capturing some 1,725 Facebook “*likes*” on it within about two and a half hours.





The Consequences

- Writing on his Facebook page, PM Lee said he was “*shocked to hear about this.*”
- “*The comments were just wrong and totally unacceptable*” he said



The Consequences

- Next day on 8 October 2012 (Monday): sacked by NTUC
- On 25 March 2013, the police issued a stern warning to her.

The Rationale

“There is no such thing as a private space in the social media. In fact, social media is public. Therefore, it is important that whatever we say and express in the social media should be done knowing that it would become public.”



The Rationale

“...it is important that the Labour Movement uphold the core values and beliefs that we have in terms of inclusiveness and racial harmony.”





- **Case 3**

- Misconduct

- Does it matter if it was a personal post/
photograph?

Case of Ashley Payne



- Brief facts
- Teacher of a public high school in Georgia
- Posted photographs of herself on her Facebook page, holding glasses of alcohol with title containing profanity
- Facebook page set to the highest privacy levels



The Consequences

- Anonymous e-mail sent to the school to complain about her Facebook page
- Principal of school told her to resign, or else be suspended by the school
- Also threatened to refer her case to the Professional Standards Commission and she would possibly lose her teaching license
- Engaged in a bitter legal battle with the school to get her job back.

The Rationale

- Court documents revealed that officials had warned teachers about “*unacceptable online activities*”.



- They also claimed that her page had “*promoted alcohol use*” and “*contained profanity*”.

Misconduct of Employee

- Need not be directly related to scope of work
- Includes acts done during personal time





Lessons Learnt?

