

Analysis of Social Media Practices Used in Hiring Practices and the Ethical Questions Raised

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### Abstract

Society relies heavily upon technology and social media to stay connected. The growth of the Internet has enabled the popularity of using social media in the workplace for professional purposes such as recruitment and hiring. There are some ethical and legal concerns when using social media in such practices. This project examined the role of social media in recruitment of employees. A survey was sent out to e-recruiters inquiring how recruiters and hiring managers feel about the lack of regulation in using social media for recruitment practices. Society and employers use social media for cybervetting and gathering supplemental information on candidates. This is dangerous because of legal and maybe even unethical implications as it invades a candidate's personal space. This project sought to determine how recruiters are using social media. The results demonstrate that majority of respondents refrain from using social media as the sole factor in hiring or not hiring potential candidates. The results also showed there is a difference between the way various age groups look to social media for hiring practices; some seemed to think social media is a valid source to see if candidates are reliable whereas others did not. This research will help recruiters make sure they are following proper protocol in hiring.

Keywords: social media, recruiting, hiring practices, discrimination, cybervetting.

## Analysis of Social Media Practices Used in Hiring Practices and the Ethical Questions Raised

### Chapter 1: Introduction

There is an abundance of social media platforms all over the Internet. As time goes on, social media use in the workplace has become increasingly utilized for professional purposes. An example of such social media use in the workplace is the website LinkedIn. This site was created for the use of employees and employers to post about hiring opportunities, recent accomplishments, applying to jobs – the list goes on (LaBay, 2020). Although the use of social media has both positives and negatives effects, what are the legal and ethical implications of using social media for recruitment and hiring processes? The use of social media in recruitment and hiring practices can lead to discrimination in the hiring process. The discrimination that can take place are age, pregnancy, disability, and many other kinds that can deter a recruiter or hiring manager from moving forward with a candidate. The purpose of this project is to provide insight and bring attention to the problem of discrimination via social media screening of candidates and the lack of regulation to keep candidates safe from such practices. Exploring this issue will raise awareness to applicants of discriminatory practices and to e-recruiters to be careful if screening social media to recruit.

### Chapter 2: Literature Review

**Implications of E-Recruitment.** According to Zhang (2020), the ethical implications of using social media to recruit or do further research about candidates are discussed in regard to discrimination which results from its use. Specifically, Zhang points out the key differences in e-recruiting and traditional interviews – e-recruiting allows key individuals to be targeted for jobs whereas traditional recruitment casts a wide net to all people via newspapers, journal articles, professional publications, and magazine advertisements (2020). In fact, social media use in

recruitment can lead to discrimination because, as opposed to traditional interviewing methods, the social media platform of an individual can include protected classes. What is done with this information is up to the recruiter, but it is often “impossible to unlearn” the information that was seen (Zhang, 2014, p. 68). This, specifically, can lead to bias and discrimination in the hiring process because, as studies from the Pew Research Center in 2008 show, 90% of social media users are in the age range of 18 to 49 years of age and 10% were 50 years of age or older (Zhang, 2014). With that being said, older people can be discriminated against as opportunities that are strictly posted online are not available to them (Zhang, 2014). Further, the legal implications of using social media for recruitment are age, racial and ethnic discrimination. Zhang goes on to say:

In terms of race and ethnicity, only 10% of the people on social media networks are African Americans and that number is only 2 percent on LinkedIn. As one can easily conclude based on the above information that (1) minority is underrepresented on social media sites, (2) people older than 50 are underrepresented, and (3) there are disparities between male and female on different social media sites. Therefore, recruiting via social media networks, especially from sites such as LinkedIn, subjects underrepresented groups to discrimination in the form of disparate treatment and does not ensure that everyone, regardless of race, age, and gender, has equal employment opportunities (Zhang, 2014, p. 69-70).

After analyzing several organizations’ recruitment strategies, researched discovered that recruiters often use Facebook as a place that enforces candidates’ characteristic of reliability (Ashuri & Bar-Ilan, 2016). Knowing recruiters base reliability of a candidate solely on their social media emphasizes the idea that individuals who are “worthy” of a job will take the time

out to create a social media platform such as Facebook to showcase their interests and reliability (Ashuri & Bar-Ilan, 2016). This specifically is a form of discrimination as recruiters are saying if people don't have social media, they are less likely to be hired. That also raises the question of if they have social media, are they automatically qualified or are they now going to be cybervetted even more?

Other scholars bring to attention to the legal concerns of using social media in recruitment. In regard to the multitude of social media platforms in the world, Elefante states, "while social media does not affect the content of employment ads, what it does change is the scope of information about job applicants that is accessible by employers, which in turn raises novel legal questions" (2011, p. 13). This reflects that employers can easily acquire answers to questions they are not permitted to ask in interviews by a simple search of social media platforms. As mentioned earlier, it is impossible to unsee information that has been processed.

Similarly, Ladkin and Buhadis (2016), analyze how cybervetting often takes precedent in screening job applicants, especially in the hospitality industry. Although employers are to remain unbiased when screening job applicants, evidence provided shows that the social media of individuals does influence their chances of being employed or unemployed. Social media use for recruitment and candidate selection can be ethical or unethical; it is based on how the information acquired is interpreted and used. In fact, "technology changes faster than laws" and encourages employers to be cautious of their social media use when making decisions about prospective employees (Barcroft & Dnistrian, 2015, p. 1).

**Justifications for Use of Social Media in Recruitment.** According to research conducted by Berkelaar and Buzzanell (2014), social media is often used in recruitment to observe people outside of a traditional interview or employment setting. Recruiters and hiring

employers often use online profiles to deem if a candidate is a fit to their organization or not. “Even as some participants noted that cybervetting provides only a ‘piece of the puzzle,’ most participants assumed online information accurately reflected applicant identities” (Berkelaar & Buzzanell, 2014, p. 463). Within this research, we are told why social media is used for recruitment and hiring practices. Berkelaar and Buzzanell (2014) tackle cybervetting as: risk work, reputation management, efficient, fun, and transformative. In other words, the several reasons social media is used for recruitment practices are for candidate-employer fit, culture and image fit, time, and cost efficiencies, finding out supplemental information about candidates, and authenticity. All of these factors are why social media is used in recruitment, but it does not mean they are accurate representations of good fits for an organization.

**Laws and Statutes.** Because social media is still emerging in the workplace, many states have yet to establish laws about the use of social media in hiring and recruitment practices. A few states – California, Maryland, Virginia, and Illinois –have laws restricting employers from asking their employees or prospective employees for their social media credentials (Justia, 2021). This is where the Equal Employment Opportunity Commission (EEOC) also comes into play. The EEOC enforces laws to ensure fair and equal employment opportunities for all people. The EEOC upholds the following laws: Title VII of the Civil Rights Act of 1964 (Title VII), The Pregnancy Discrimination Act and The Age Discrimination in Employment Act of 1967 (ADEA). Along with the aforementioned laws, the EEOC also ensures the protected classes are protected – race, gender, ethnicity, age, sexual orientation, color, national origin, genetic information, and disability; overall, discrimination in the workplace is illegal and the EEOC enforces the laws which correlate with discrimination (EEOC, N.D.).

**Case Law.** Case law which tackles discrimination through the use of social media for hiring practices although it is not currently very common as the use of social media in business practices is still emerging and growing. However, in the case of Nieman v. Grange Mutual Ins., 2013, Nieman stated he was discriminated against due to his age which led to retaliation from Grange Mutual Ins. The job in question was for a Vice President of Claims position which had gathered 133 candidates. Cindy Heindel had overseen the search as well as conducted all primary phone screenings; Nieman stated this was incorrect (Nieman v. Grange Mutual Ins., 2013). He went as far as saying Grange Mutual Ins had lied consistently through the entirety of the interview process. One accusation made was regarding the manner in which candidates were selected to move forward to the second round of interviews. Heindel typically asked 3 questions towards the end of her phone screens which were specifically designed for VP level candidates. One of the questions asked would be regarding corporate metric (Nieman v. Grange Mutual Ins., 2013). Heindel testified that she does not always ask all 3 questions if the candidate is not considered a good fit by the conclusion of the interview.

Although Nieman insisted he was discriminated against due to his age, the defendants stated that was false, as approximately 19 interviewees of the 133 candidates were over the age of 42. Heindel also stated that she was able to come to the decision that Neiman was not a good fit for the position within one hour of meeting him because his answers were too long and unsatisfactory for the position she needed to fill (Nieman v. Grange Mutual Ins., 2013). Nieman, nonetheless, claims he was signed off as unfit for subjective and unwarranted reasons and Heindel countered his allegation by stating that Neiman was unprofessional and was unable to pick up social cues. Nieman disputed these reasonings as he alleges Heindel not only asked all 3 of the aforementioned questions that only considered candidates are asked, but she also took



approximately 5 pages worth of notes during his screening and promised she would get back to him when wrapping up the interview (Nieman v. Grange Mutual Ins., 2013).

The lack of transparency and communicated expectations as well as the apparent intolerance of different personalities is not only unacceptable, but highly reprimanded in the recruitment process as not everyone can fit one mold. Interview questions should focus heavily on whether the candidate is capable of performing the job and performing it well. The idea behind using social media in the process is to assist recruiters in finding candidates who have the education and experience necessary to succeed in the role. Nieman claims his LinkedIn profile was viewed by the organization, however LinkedIn claims Heindel has no history of having a profile with them. Nieman also has a theory that Heindel either used a colleague's profile to view his LinkedIn, or she anonymously conducted a background check where she may have discovered his age, education, and experience to not align with what she personally was looking for. If Neiman's claims are found to be true, he would be able to gather evidence against the Defendant and prove that Title VII and The Age Discrimination in Employment Act of 1967 were violated. Although this case has not come to any decisions yet, there are many implications that have risen out of using social media for recruitment.

Another case, C. Martin Gaskell v. University of Kentucky, 2010, which resulted in a settlement agreement and ultimate dismissal, tackled the violation of Title VII of the Civil Rights Act of 1964. Mr. Gaskell was rejected from a job opportunity at the University of Kentucky for the position of Observatory Director. According to the board that conducted the interviews, Mr. Gaskell was a leading candidate for the job. He lost the job to Mr. Knauer, who came in third when the search committee was deciding upon the right person for the job. Mr. Gaskell conceded

that the University of Kentucky discriminated against him based on his religious beliefs which were posted on the Internet. The case stated:

“...during the search process, one of the committee members, Sally Shafer, conducted an internet search for information about Gaskell, and found his UNL website which linked to Gaskell's personal web site containing an article titled ‘Modern Astronomy, the Bible, and Creation.’ Shafer circulated the article to the Search Committee. Because the article referenced certain religious topics, members of the committee approached Cavagnero with concerns about whether they could consider Gaskell's statements which they believed blended religious thought with scientific theory [DE # 40, Shafer Dep. 20–29]” (C. Martin Gaskell v. University of Kentucky, 2010, p. 4).

There were several people involved in the process of hiring an Observatory Director, and some individuals participated in unethical and unfair practices when choosing a candidate. The case notes that Professor Troland, the head of the search committee, emailed the Chair of the Department of Physics & Astronomy, Professor Michael Cavagnero, complaining “Gaskell will be denied the job ‘because of his religious beliefs,’ that ‘no objective observer could possibly believe’ the decision was based on any reason other than religion, that the whole process causes him to question UK's commitment to ‘religious freedom’” (C. Martin Gaskell v. University of Kentucky, 2010). Another professor, who was not a part of the search committee but helped with some interviews, complained to the University of Kentucky about the search process being unfair and “perhaps illegal manner” after his conversations with Troland.

Although this case does not necessarily touch on the use of social media in hiring and recruitment practices, it does go to show that hiring employers or recruiters can and will look for supplemental information about candidates online via the Internet or social media platforms. The

case itself shows several professionals doubt their colleagues on the basis of information found on the Internet which perpetuates unfair biases. The case came to a settlement of the University of Kentucky paying Gaskell and his attorneys \$125,000, the University of Kentucky took no blame or fault for a faulty interview and hiring process (National Center for Science Education, 2011).

These cases touch on a lot of useful information when it comes to the gray area that is social media in the workplace. Due to the lack of laws and regulations when it comes to the use of social media when recruiting, the deciding factor cannot be proven to be subjective or objective. In situations where one party feels unfairly treated, it can be very difficult to prove what factors were considered when making a decision. Age, race, religious, and gender discrimination are things candidates are very afraid of sharing on their profiles due to the risk of being written off for simply existing. Employers can search for resumes with a bias and not get “caught” because of said lack of rules and regulations. Social media can be a wonderful thing when in the right hands, but it can make life very dark and difficult for people when in the wrong hands.

### **Chapter 3: Methodology**

***Participants.*** It was very important to involve recruiters, e-recruiters, and hiring managers in this research. The purposive sample of included 4 recruiters, 2 hiring managers, and 4 respondents categorized as “other” who were 18 years or older. The total sample size was 23 participants. Only 10 respondents fully completed the survey. All who were involved in this research were randomly selected via the World Wide Web online survey link was sent out via LinkedIn. The link was posted on LinkedIn as a post that can be shared and seen by anybody

with mutual connections. In addition to posting the link to the survey on LinkedIn, hashtags such as “#recruiter, #hiringmanager, #erecruiter” etc. were added to attract respondents to the survey.

**Measures.** A quantitative method was used to gather and collect data needed to complete this research. An original, 14-question survey with a mixture of close and open-ended questions was distributed via the World Wide Web to recruiters, hiring managers, and others in the field. A cross-sectional survey design was used in this survey due to its short-term nature. Several Likert-type response scales were included to prompt participants to provide a specific response represented by a specific number.

**Procedures.** A survey with both close and open-ended questions offered a means for better understanding and analyzing the data collected (Keyton, 2015). With Likert-type response scales included in the survey, data analysis was made to be straightforward. Using a software called SPSS, the results were found via descriptive research. The questions, overall, regarded the professional respondents’ knowledge about regulations surrounding social media use in recruitment and how they felt about the practice. Using a simple random sample probability frame, a quantitative research design was used to analyze the data and test the research question.  $N = 23$ . This research method allowed the finding of correlations within the sample statistics that provided more insights from recruiters and hiring managers. It was discovered that many of these professionals were unaware that regulations regarding the use of social media in recruitment hiring practices are extremely limited, and that malpractice occurs because of it.

#### **Chapter 4: Results**

After running frequencies in SPSS, it was found that majority of the respondents’ professions were (recruiting, hiring managers, or others in the field). 80% of respondents indicated they were not aware of any committees or laws in place to limit social media influence

on recruitment practice. It was also found that 70% of respondents felt negatively about the laws in Maryland, Virginia, Illinois, and California; they felt that those laws should have never had to be made because conduct like that should have never had to occur. A main theme of the answers to the questions pertaining to the laws in the states aforementioned was an agreement of laws restricting access to social media. Overall, 60% of respondents felt that social media should not be the sole reason of hiring or discontinuing a potential candidate.

### How do you feel about the laws in CA, MD, VA, and IL?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	7	30.4	70.0	70.0
	2.00	2	8.7	20.0	90.0
	3.00	1	4.3	10.0	100.0
	Total	10	43.5	100.0	
Missing	System	13	56.5		
Total		23	100.0		

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### Chapter 5: Discussion

Out of the 10 fully completed surveys, 80% of the respondents were unaware of any laws pertaining to the limitation of employers' access to personal social media accounts. The following question, which was open-ended, pertained to the respondents' opinions of said laws, and resulted in several themes. The three themes were that individuals agreed with the laws being put in place, some were unsure of those laws, and others believed it did not apply. The majority of the respondents, 60%, agreed that those laws should be in place to protect candidates and employees from unfair treatment. Something to note was that the age range of respondents who agreed with the laws were between the ages of 20 to 30 years old, whereas those who were unsure of them or believed they didn't apply were in the range of 30 to 60 years old. Could there be a generational difference of opinion regarding the privacy of personal social media and jobs?

After learning about these laws in the survey, question eight, which asked respondents if social media should be used to gauge the reliability of a candidate, two themes occurred in the respondents' open-ended answers. The two major themes were that individuals agreed social media does reflect the reliability and ethics of a candidate and the other was that social media does not reflect a candidate's reliability and ethics. 70% of the respondents believe it social media is an inaccurate depiction of a candidate's characteristics as there are other methods of finding this information. Overall, the results from the survey clearly show majority of respondents believe social media does not clearly depict a candidate's reliability, and that interview processes and personality tests are ways to avoid solely focusing on social media platforms to hire employees.

*Limitations.* The biggest limitation of this research was trying to find a sample size large enough to gather reliable data. Because the target audience of the survey was minute, it proved difficult to find enough participants. As LinkedIn was the only platform used to distribute the survey for research, future researchers may want to explore other ways to increase the participant pool size. Population specification error was another limitation to research as recruiters, e-recruiters, and hiring managers were the intended target audience but this was not assured. One final limitation was attaining fully completed surveys.

*Recommendations.* Some ideas for future research would include researching how, why, and when companies strictly use social media for recruitment. Another suggestion for future research can include taking surveys of different demographics to see if results are skewed or the same. There is truly an abundance of recommendations one can make based on the research and results collected. Several more recommendations include trainings for hiring partners to teach them the laws, having a published policy about social media use, advising potential hires that

their social media accounts will be reviewed, using alternative ways to get information about candidates like surveys or character evaluations being sent to friends and family, and improved legal background checks and interviews of a candidate's references. Overall, it is very important to stay wary of using social media as a tool for recruitment and hiring practices as it can create bias and discrimination, intentional or not, when making decisions.

### **Chapter 6: Conclusion.**

Although using social media in hiring and recruitment practices is slowly being integrated into the workplace, there is an immeasurable amount of malpractice that can occur within the scope of how large a social media platform is. Discrimination can occur at any moment through e-recruitment when it comes to hiring decisions. One suggestion for future research can include researching how, why, and when companies strictly use social media for recruitment for reasons other than cost effectiveness. Another suggestion for future research can include taking surveys of different demographics to see if results are skewed or the same.

Overall, it is very important to stay wary of using social media as a tool for recruitment and hiring practices as it can create bias and discrimination, intentional or not, when making decisions. Using social media for recruitment and hiring assessments is a double-edged sword – it can result in hiring a great employee or being sued for discrimination under many of the laws the EEOC enforces. This research can be used to influence a variety of audiences due to the speed at which technology is moving forward and impacting the workforce in terms of hiring practices. Traditional recruitment practices are being pushed to the curb as more innovative and digital options are available to do the same task. The research can also provide a significant contribution to society morally, practically, and methodically. It can shed light on ways to make applicants more comfortable and to keep an eye on malpractice in recruitment. Overall, the data

from this study concluded that e-recruitment is something that needs to be highly monitored for fairness, ethics, legality, and equality.



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