

# South Africa Digital Rights Landscape Report

Tanja Bosch and Tony Roberts

---

---

This is an Open Access report distributed under the terms of the **Creative Commons Attribution 4.0 International licence** (CC BY), which permits unrestricted use, distribution, and reproduction in any medium, provided the original authors and source are credited and any modifications or adaptations are indicated.

This report is part of 'Digital Rights in Closing Civic Space: Lessons from Ten African Countries'; the Introduction is also recommended reading.

# 1. Introduction

This report provides an overview of the political, and civic space and technological context that have shaped digital rights in South Africa since 2000. The term 'digital rights' here refers to the right to access the internet as a means to ensure freedom of information, freedom of expression and association (UN 2011).

The report begins with an overview of the political landscape in South Africa as it influences the availability of digital rights. This is followed by a discussion of the main contours in the country's civic space landscape, where the term civic space refers to the amount of room available for citizens, organisations and the government to freely and safely discuss opinions and influence policy and governance processes.<sup>1</sup> The third section describes the technology landscape and explores citizens' use of mobile phones and social media platforms to mount influential advocacy campaigns using hashtags including #RhodesMustFall, #FeesMustFall and #ZumaMustFall. These are given as examples of citizens' digital technology use to open civic space discussion of issues neglected by mainstream media and politicians.

The technology landscape section also discusses technology use by the government and private companies to close civic space, using examples including internet shutdowns, surveillance technologies, and the use of automated disinformation campaigns. The report then provides an analysis of how these political, civic and technological factors affect the digital rights of South African citizens. It identifies what existing capabilities and gaps exist to monitor and effectively respond to these developments; and makes a number of recommendations for policy, practice and further research, which are designed to strengthen citizens' abilities to more effectively exercise, defend and expand their digital rights.

---

1 Definition adapted from CIVICUS (2020).

## 2. Political landscape

The most dramatic feature of South Africa's modern political landscape was the end of apartheid policies that outlawed freedom of political opinion, expression and association for the majority black population. However, the struggle to translate political freedoms and rights into social and economic justice continues to be contested.

The 1994 elections were the first in which all South Africans could vote irrespective of race. They marked the end of apartheid and the extension of political and human rights in South Africa, concluding four years of negotiations. The negotiations had begun in 1990 with the unbanning of liberation movements and the creation of a new constitution and bill of rights under the country's first black president, Nelson Mandela, as leader of the African National Congress (ANC), in partnership with the South African Communist Party and Congress of South African Trade Unions.

Since 1994, the ANC has consistently won at least 60 per cent of the vote, although its popularity declined by several percentage points between 2004 and 2014. The ANC's main rivals are the Democratic Alliance and the Economic Freedom Fighters (EFF), although a total of 48 political parties registered candidates for the 2019 parliamentary elections. Despite enjoying a multiparty political system, South Africa is often considered a weak or transitional democracy because of the dominance of the ANC in the absence of an effective opposition. This highlights the generally accepted notion that formal freedoms often do not necessarily translate into meaningful political participation, if one party monopolises power.

A prevailing feature of political discourse in South Africa has been the idea that opposition parties might be able to recruit the growing constituency of unemployed youth and discontented citizens. However, despite being politically active in other ways, young people have remained largely disengaged from mainstream party politics, though politically active in other ways, including the influential hashtag social media campaigns of #RhodesMustFall and #FeesMustFall, discussed in detail below. In 2019, only 16 per cent of 18–19-year-olds were registered to vote. Roberts (2019: 39) argues that this does not reflect political apathy, but rather that young people 'are highly critical of political leaders and parties who they feel have ignored their needs and fail to engage with them in a meaningful manner'.

From 2005 onwards, during the presidency of Thabo Mbeki (1999–2008), there was an upswing in community-led protests tackling poor access to water and electricity, housing, corruption and nepotism in local councils, and the lack of meaningful participation in local decision-making despite policy requiring it (Akinboade, Mokwena and Kinck 2013; Alexander 2010; Atkinson 2007; Ballard, Habib and Valodia 2006; Booysen 2007; Burger 2009). These protests were initially united under regional banners, such as the Anti-Privatisation Forum in Gauteng and the Anti-Eviction Campaign in the Western Cape (Madlingozi 2007).

These protests reflect the co-existence of formally declared *openings* that in practice are *closures* of civic space. Howell (2019) argues that contemporary legislation in South Africa allows for the opening of civic space, along with a vibrant network of civil society organisations (CSOs) in the post-apartheid era. Citizens and CSOs can generally organise and communicate without hindrance, but the state often reneges on its duty to protect civil society, and South Africa remains politically fractured and the most unequal society on earth (World Bank 2019).

South Africa experienced two waves of extreme violence in 2008 and 2015. These waves of violence articulated responses to ongoing poverty and inequality, with foreign nationals being accused of competing for low-paying jobs (Dodson 2010). At the same time, the violence could also be seen as defining who is truly South African; and who has the right to access public services and who is excluded. In parallel with local-level forms of contestation, at the national level various accusations of corruption rocked the ANC, spurring the growth of a new political party, the EFF, which managed to secure seats in the country's parliament (Schulz-Herzenberg 2014). One key corruption scandal was around the exorbitant upgrades to President Zuma's home (Beresford 2015), leading the EFF to disrupt the 2015 state of the nation address with demands that the president 'pay back the money'.

## 3. Civic space landscape

Opening civic space for inclusive deliberation of social issues is foundational to democratic governance (Civic Space Watch 2020). Civic space is the room available to citizens and civil society organisation to engage with government to represent their perspectives on and interests to influence policy and governance issues. Such participatory governance is guaranteed in the South African Constitution and Bill of Rights, and the government has committed to its defence and extension in international conventions including the Sustainable Development Goals (UN 2015). According to Freedom House (2019), South Africa is relatively 'free' when compared to other countries in the African Digital Rights Network (see Figure 3.1). Civil society is usually conceptualised as a network of both citizen associations and CSOs that influence democratic governance via their ability to mobilise citizens on behalf of public causes (Foley and Edwards 1996). The link between civil society and democracy sees the former as providing an impetus for establishing elections, and therefore a key element of democracy (Bosch *et al.* 2019).

**Figure 3.1 Freedom House ranking for ADRN countries, 2000–19<sup>2</sup>**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	
Zimbabwe	Partially free	Partially free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	N/A	Not free	N/A	Not free	Not free	Not free	Partially free	Partially free	Partially free	Partially free	
Zambia	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	N/A	Partially free	N/A	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	
Uganda	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	N/A	Partially free	N/A	Partially free	Partially free	Not free	Not free	Not free	Not free	Partially free	Not free
Sudan	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	N/A	Not free	N/A	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free
South Africa	Free	Free	Free	Free	Free	Free	Free	Free	Free	Free	N/A	Free	N/A	Free	Free	Free	Free	Free	Free	Free	Free
Nigeria	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	N/A	Partially free	N/A	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free
Kenya	Not free	Not free	Not free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	N/A	Partially free	N/A	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free
Ethiopia	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	Partially free	N/A	Not free	N/A	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free
Egypt	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	N/A	Not free	N/A	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free
Cameroon	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free	N/A	Not free	N/A	Not free	Not free	Not free	Not free	Not free	Not free	Not free	Not free

■ Free   
 ■ Partially free   
 ■ Not free

Note: ADRN – African Digital Rights Network.

Source: Adapted from Freedom House (2019)

<sup>2</sup> Data not available for 2010 and 2012.

Many of the key civic struggles in South Africa's recent history have been around public service delivery. The Treatment Action Campaign (TAC) was founded in December 1998 to campaign for access to AIDS treatment and came to prominence during the presidency of Thabo Mbeki due to the AIDS denialism of Mbeki and his minister of health, Manto Tshabalala-Msimang. The TAC is widely acknowledged as one of the most important CSOs on AIDS in the developing world. One of its most significant victories was the 2002 Constitutional Court ruling in which the South African government was ordered to provide antiretroviral drugs to prevent transmission of HIV from mothers to their babies during birth. Despite this judgement from the highest court in the country, along with continued public pressure, the HIV treatment programme only gained significant momentum once Mbeki and Tshabalala-Msimang had been removed from office in 2008.

Two independent studies estimate that delays in making antiretroviral treatment available in the public sector in South Africa resulted in more than 300,000 avoidable deaths (TAC 2016). The TAC campaign was instrumental in securing a universal government-provided AIDS treatment programme, which has since become the world's largest (TAC 2020). With leadership from TAC, South Africa's AIDS response united civil society and international support in a way not seen since the opposition to apartheid (Simelela and Venter 2014). The TAC campaign is highlighted here as a reflection of the existence of an open civic space in which activists were able to improve access to antiretroviral treatment and expand access to HIV treatment.

Under Zuma's presidency (2009–18), those exercising the right to peaceful protest experienced increasing police violence. The most dramatic example of this was the so-called 'Marikana massacre' at the Marikana platinum mine, where 34 striking miners were killed and 78 injured when police opened fire on them. This has been described as the most lethal use of force by South African security forces against civilians since 176 people were killed in the Soweto uprising of 1976. Dominant media narratives at first supported official claims that the police had acted in self-defence at Marikana and portrayed the miners as predisposed to violence. Only much later did the reporting shift to include the voices of mineworkers and providing alternative accounts to the police version of events (Duncan 2014). The current president, Cyril Ramaphosa, was at that time a non-executive director of Lonmin, the company running the Marikana mine. He was heavily criticised for an email in which he recommended heavy-handed action against the striking miners (for which he subsequently apologised). The strike is considered a key event in South Africa's recent history and was followed by a series of similar strikes at other mines in 2012. Events such as Marikana highlight that while the state allows individuals and CSOs formal rights, violations of these rights also take place.

The 2011 Protection of State Information Bill increased government efforts to impose a 'culture of secrecy' around investigations of government fraud and state information by attempting to control critical or inconvenient information. Otherwise known as the Secrecy Bill, it allowed for the withholding of information from the public. Discussions around the proposed bill took place alongside a government push for a media appeals tribunal in 2017, arguing against freedom of the press as an absolute right, and instead that it should be balanced against government officials' right to privacy. The ruling ANC argued that the press ombudsman was biased towards the media, and that a tribunal, appointed by Parliament, would hold the media accountable. This was dismissed as political interference, and the resolution to establish the tribunal was not tabled in Parliament. These events suggest that in instances where government has attempted to shut down civic space, there has been push back from civil society against such repressive legislation, leading to further criticism from the government.

Government departments periodically make statements alleging that local CSOs are colluding with external powers to undermine the state's authority. In March 2016, CSOs condemned the military-style armed robbery of documents and computers from the offices of the Helen Suzman Foundation at a time when the organisation was seeking to interdict the head of South Africa's corruption and crime fighting investigative unit, the Hawks (Kode 2018). In the same month, anti-mining activist Sikhosiphi 'Bazooka' Rhadebe, was brutally murdered in his home after campaigning against the mining interests of Australian mining company Mineral Commodities Ltd (*ibid.*). Taken together, such actions create a climate of fear and uncertainty among citizens who feel they do not have access to a safe and enabling civic space (CIVICUS 2016).

South African media have played a significant role in the opening and closing of civic space, particularly in terms of building negative perceptions of community protests, and criminalising and delegitimising protesters. The media affect the parameters of civic space partly due to their role in setting the frame of the Overton window (Robertson 2018): which topics it is acceptable to speak of, what it is permissible to demand and what is off the table. In South Africa, the media have arguably been complicit in encouraging xenophobic discourse. Even when the media do well in relating xenophobic conflicts, they often fail to cover the causal factors underpinning such violence (Hickel 2014). The media were at the centre of the 2015 state of the nation address conflict, when government operatives jammed communication within Parliament to suppress media coverage.

In conclusion, there is a history of contention of civic space in South Africa. In the late twentieth century, political activists successfully campaigned for an end to the racist segregation of the apartheid era and its replacement with democratic government. In post-apartheid South Africa, a range of citizen-

led social movements emerged, many expressing widespread dissatisfaction with the continued inequality and inadequate service delivery. These grassroots concerns included struggles over housing, land, health, education and service provision. The new social movements are part of the marginalised subaltern urban class in the developing world that emerged as a result of rapid global economic restructuring in the 1990s (Chiumbu 2015), intensified by the adoption of neoliberal macroeconomic policies. These movements are increasingly combining traditional mobilisation methods with new media technologies to mobilise, create networks and lobby for social justice.

Unlike other African countries, South Africa has not experienced laws designed to deregister or cut funding to civil society registration, but there has been an upward trend in restrictions and various forms of harassment (Smidt 2018). Although freedom of expression and peaceful assembly are protected in the South African Constitution, the ability to exercise these rights is often limited by restrictive and violent measures by the state to curb peaceful demonstrations (CIVICUS 2016).

### Table 3.1 Civic space timeline

Year	Shift	Implication
1994	End of apartheid; first democratic government.	Opening of civic space follows lifting of apartheid restrictions.
2002	TAC secures ARTs for people living with HIV/AIDS (PLHIV).	Civil disobedience campaign opens civic space for PLHIV.
2005	Shack dwellers revolt and boycott local government elections, and other service delivery campaigns.	CIVICUS reports repression by police, destruction of shacks and threats to leaders.
2008	First wave of xenophobic violence.	Closing of civic space for immigrants.
2009	Zuma's term as president (2009–18) marked by corruption and repression.	Civil society vocal but not enabled or protected.
2012	Marikana massacre of striking miners.	Strikes expand and general volumes of protests increases.
2016	Helen Suzman Foundation robbery and Sikhosiphi 'Bazooka' Rhadebe murdered.	State repression limits civic space.
2019	After Zuma leaves office, service delivery protests escalate.	Citizen-led, non-partisan campaigning opens civic space across race/class/gender divides.
2020	Covid-19 lockdown enforcement kills citizens; C19 campaign launched.	The government awards itself new surveillance and policing powers, and limits digital rights.

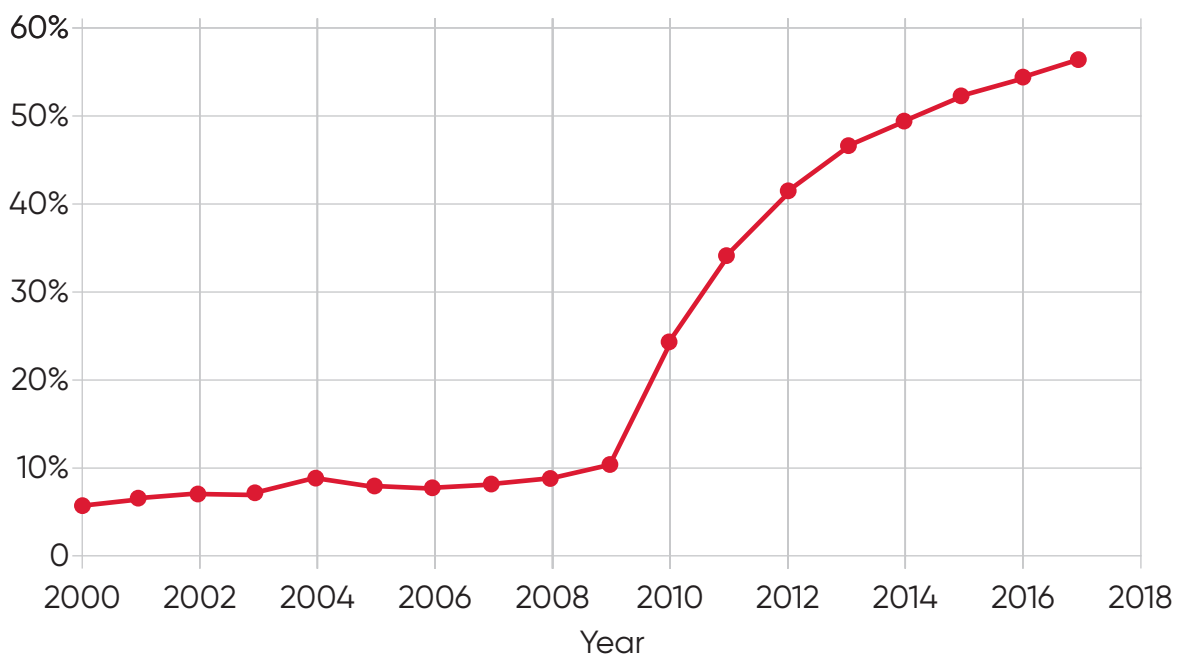
Source: Authors' own.



## 4. Technology landscape

Internet access in South Africa has increased rapidly, with much of the growth occurring in the last 12 years (see Figure 4.1). Between 2001 and 2011, South African national census reports showed that the proportion of households owning mobile phones had increased from 32 per cent to 89 per cent. By 2020, of South Africa's 59 million citizens 36.54 million were internet users, of which 34.93 million were mobile internet users (Clement 2019). The growth of the mobile internet has resulted in greater access in the absence of widespread broadband; but data costs are still a prohibitive factor to internet access and the opening up of civic space by digital means. Moreover, price discrimination has meant that poorer consumers are usually forced to purchase lower-priced bundles, which are valid for a shorter time and do not provide as much data as more expensive bundles, and with much higher costs per megabyte (Masweneng 2019). A further barrier to access is the impact of English literacy on wider adoption – the dominance of English limits access to those who are not proficient in the language.

**Figure 4.1 Percentage of the population with internet access in South Africa**



Source: Based on data from ITU (2020)

In 2014, there was an increase in civic tech organisations in South Africa with the establishment of organisations including Amandla.mobi, Grassroot, and later GovChat and Vulekamali. These civic tech organisations use the affordances of digital technologies for connective action (Bennett and Segerberg 2013), opening civic space to talk about issues not well covered by mainstream media or political parties. The organisations focus on issues including transparency and accountability, education, citizen participation, open data, governance and journalism (Civic Tech 2020).

South Africa has experienced growing digital citizenship, facilitated by the use of social media applications such as Facebook and Twitter to create new online civic spaces to advocate for change. South African youth have also increasingly used social networking sites to develop a new biography of citizenship, characterised by more individualised forms of activism (Bosch 2017). This can be understood with reference to three influential hashtag campaigns in 2015: #RhodesMustFall, #FeesMustFall and #ZumaMustFall.

The Rhodes Must Fall movement began on the campus of the University of Cape Town in October 2015 with a student activist flinging human waste at the statue of colonialist Cecil John Rhodes, which was prominently located on the campus. Students' initially demanded the removal of the statue of Rhodes, but protests developed into a broader movement for the decolonisation of education across the country. The movement used the hashtag #RMF to set the agenda for public debate in online and offline spaces, as well as in mainstream media, with the Twitter discourse playing a key role in creating a space for debate and discussion (Bosch 2017). Many of the same activists then took part in the #FeesMustFall (#FMF) protests to reduce the prohibitive cost of university tuition. The #FMF hashtag generated nearly 1.3 million tweets during the last two weeks of October 2015, with Twitter being the most used social media platform for the campaign.

While Twitter served as a choreography of assembly (i.e. to alert users to offline protest gatherings and call them to action), Facebook was also used for widespread debate and discussion (Bosch 2016), and WhatsApp and Google Docs for internal communication and debate. The 'MustFall' narrative was then re-directed towards the president in the #ZumaMustFall (#ZMF) campaign, which had gone viral by the end of 2015. The movements shared similarities in that they challenged establishment authority from outside party politics or formal civil society, and made productive use of the affordances of social media to amplify demands inexpensively, and instantly across any geography.

In the South African context, there is also evidence that the campaign built alliances across barriers of race, gender and class.<sup>3</sup> This was one of the largest instances of protest action in South Africa, with thousands of people taking to the streets in public marches across the country. What was particularly striking about both #FeesMustFall and #ZumaMustFall is that they represented protest across class and racial divides, as a means to express solidarity without physical or social proximity; as well as the use of digital technologies for the opening of civic space.

While most community protests in South Africa take place in the impoverished black townships, #FeesMustFall took place on university campuses in urban centres, including at former white universities; and anti-Zuma marches took place in urban centres, uniting citizens across race and class, with unusually large numbers of white protesters. While South Africans have a range of protest repertoires from the anti-apartheid era, the emergence of social media tools and hashtag activism holds the potential to amplify citizen discontent through building horizontal connections between citizens across demographic divides.

For its part, the South African state has also accumulated a range of technologies and mechanisms for influencing civic space that impact on digital rights. The rest of this section examines the use of legal, digital and violent responses to citizen expressions of the right to freedom of opinion, freedom of expression, freedom of assembly, and the rights to privacy and freedom of information.

The Regulation of Interception of Communications and Provision of Communication-Related Information Act – better known as RICA – came into effect in 2005. It regulates when the government can surveil citizens through the interception of their communications (Omarjee 2020). RICA allows state surveillance of mobile and internet communications, but following a legal challenge from South African civil society organisation amaBhungane, the High Court ruled that some provisions of the legislation were unconstitutional (Staff Writer 2019). There is also evidence that South Africa has procured artificial intelligence surveillance technologies from Chinese telecommunications company Huawei as part of China's Safe City programme (Carnegie Endowment for International Peace 2019; Hillman and McCalpin 2019). Another instance highlighting the threat to privacy from mass surveillance was the disclosure that the South African and UK governments were tapping undersea fibre-optic cables via bulk interception of internet traffic (Farrell 2019).

---

3 This is not a claim that social media disappears race, gender or class; it fully recognises that the demographics of social media users are not equal to those of the wider population (Boyd and Crawford 2012; Tufekci 2014).

'Guptabots' made headlines in 2016 as South Africa had its first experience of a concerted digital disinformation campaign. Guptabots were automated Twitter accounts that promoted the agenda of the influential Gupta family – financial backers of President Zuma. The bots were programmed to talk about 'white monopoly capital' in order to deflect attention from corruption scandals (Child 2017). This orchestrated campaign of 'computational propaganda' (Howard 2020) followed the appointment of UK political PR company Bell Pottinger as spin doctors for the Gupta empire (Fraser 2017).

The Gupta bot network (botnet) was first identified in November 2016 when the former public protector's 'State Capture' Report into the Guptas was criticised by citizens for being incorrect and biased. An analyst, Jean le Roux, identified around 100 accounts that were tweeting about the report (Van Zyl 2016). He demonstrated that many of the accounts were fake automated accounts – tweeting identical content within seconds of each other – and identified certain 'control' or seeding accounts that were supplying the content for retweets (*ibid.*).

Independent social media researcher Kyle Findlay was also seeing similar activity and highlighted a strange convergence between tweets from Andile Mngxitama, president of the Black First Land First political party and those of The New Age and ANN7 media companies (Superlinear 2016). Independently of one another, le Roux and Findlay had isolated a similar phenomenon of what appeared to be a botnet of pro-Zuma and pro-Gupta fake Twitter accounts, apparently coordinated in part by political marketing companies. The EFF also used disinformation to attack both the Commission of Inquiry into Tax Administration and Governance, and the Commission of Inquiry into Allegations of State Capture, in effect creating alternative narratives about the commissions in the public mind. The effectiveness of these campaigns ushered in an era of disinformation in South Africa, where social media was weaponised to spread campaigns built on falsehoods (Haffajee 2018). The work done by these local researchers highlights the beginnings of local capacity to identify and analyse government and non-state actors' use of digital disinformation.

The Government of South Africa has on occasion used 'democratic listening' processes to tap into the political concerns of the population. Democratic listening is often employed by governments as a rhetorical exercise undertaken for instrumental reasons to boost popularity when it is at a low ebb. But Sorensen *et al.* (2019) argue that such disingenuous claims risk dismissal and derision by increasingly cynical publics who are repeatedly subjected to governments' misleading gestures.

In 2015, the South African presidency embarked on a social media listening exercise in the weeks leading up to the state of the nation

address in response to accusations of corruption and lack of government responsiveness. The presidency invited contributions from the public on Twitter, asking users to make suggestions for what President Zuma should address in his speech. The public responded with more than a thousand messages directed at the presidency, disrupting the tightly controlled listening exercise, as citizens used the opportunity to conduct their own forum for public debate and commentary. Meanwhile, the president remained silent, giving no sign of having heard the public outcry.

### Table 4.1 Technology timeline

Year	Shift	Implication
2001	32% mobile ownership increases to 89% by 2011; a digital divide causes asymmetric access to the internet along race/class/gender lines.	SMS (text messaging) and social media open new civic spaces online.
2005	RICA legislation grants state power to intercept email and mobile communications.	Right to privacy reduced; chilling effect.
2014	Civic tech expansion; Amandla.mobi and Grassroot launched.	New mobile internet tools added to repertoire for opening civic space.
2015	Cynical 'democratic listening' by government highjacked by citizen advocacy.	New technique for opening space for voice and debate.
	#RhodesMustFall; #FeesMustFall; #ZumaMustFall	Citizen-led campaigns use social media to open new civic space.
2016	PR company Bell Pottinger's campaign for Zuma funds the Guptas stokes racial tension and deploys Guptabots on social media.	Coordinated disinformation closes space for authentic dialogue in digital space.
2018	EFF launches disinformation campaigns online.	Disinformation increasingly drowns out deliberation.
2019	Ruling on legal challenge brought by media group amaBhungane finds that parts of RICA legislation are unconstitutional.	Opens civic space.
2020	Covid-19 powers are introduced that re-enable state surveillance.	Closing civic space.
2020	#NotInMyName campaign C19 Coalition resists police violence.	Defending civic space.

Source: Authors' own.

## 5. Digital rights landscape

The political landscape in South Africa provides positive benefits for digital rights in the form of a rights-based constitution, and an established culture of civic activism and strategic litigation, to robustly contest breaches of human rights. South Africa also enjoys a relatively strong technical infrastructure capable of providing digital platforms for public deliberation and online democracy initiatives. Unlike in many other countries in the region, the Government of South Africa has not generally sought to limit civic space with laws or regulations, and has not resorted to internet shutdowns, or to arresting citizens, bloggers or journalists for expressing dissenting views online.

However, access to the internet, smartphone ownership and affordable mobile data are not evenly distributed throughout the population. Therefore, the right to online freedom of opinion and expression, and to freedom of information, are also unequal. The government's increased use of surveillance and intercept technology brings into question citizens' right to privacy. There is currently a low level of civic literacy and civil society capability to effectively monitor and counter these measures, which shrink effective civic space and curtail digital rights.

Given the rapid expansion and proliferation of digital technologies to open and close civic space, current levels of digital literacy about disinformation, access to technology, and social media analytics capabilities are insufficient. Many CSOs operate with restricted technology and although mobile phone ownership has become affordable, data are still prohibitively expensive. Many CSOs are reliant on donated or entry-level computers and devices, and have very limited capacity when it comes to monitoring the online space. Despite the increase in the use of tech for civil society campaigns, and the rise of hashtag activism capacity for monitoring, the ability to analyse online activity and to respond strategically remains limited. For the most part, CSOs use digital technologies and social media in instrumental ways, without having the capability to effectively monitor and analyse digital activity and act strategically.

## 6. Digital rights in times of Covid-19

In March 2020, President Ramaphosa announced a state of disaster and national lockdown to curb the spread of coronavirus (Covid-19). The majority of citizens, excluding essential workers, were confined to their homes, with all non-essential travel banned. The global Covid-19 pandemic highlighted existing digital inequalities in South Africa. Those with access to digital technologies have, for example, been able to arrange virtual and telephone medical consultations, or use online shopping, to avoid crowded waiting rooms and grocery stores (Ahmed 2020). Digital inequalities in e-learning have also become starkly apparent, with the closure of schools and subsequent move to homeschooling and online learning. Many teachers and students have been unable to afford the data – and sometimes lack the digital skills – required to sustain online learning activities. Data costs in South Africa are among the highest in the world, and are the most expensive in Africa (Business Insider SA 2020b).

The Government of South Africa has used the national state of disaster to grant itself broad powers to do what it considers necessary to save lives. This potentially includes the powers of surveillance it awarded itself with RICA, but which were ruled unconstitutional (outside of a state of disaster) by the High Court. The emergency regulations compel mobile cellular providers to disclose the locations of possible contacts who may be infected with coronavirus. When these regulations were first published in April, civil society contested central provisions of the legislation, and the government issued amendments to ease concerns around people's constitutional right to privacy. They included locating the database within the health agency to reduce the ability of police or state security officials to access data for spying or political reasons (Wild 2020).

The government also used the opportunity to pass regulations that criminalised disinformation about the Covid-19 pandemic. The new regulations criminalise statements intended to deceive any person about Covid-19 or the government's response to the pandemic. They carry penalties including fines, imprisonment or both (CPJ 2020).

The Covid-19 emergency legislation also extended new powers to the army, which was mobilised to enforce lockdown rules, resulting in a wide range of human rights abuses. Social media, including Facebook and Twitter, was used by citizen journalists to document police and soldiers kicking, slapping, whipping and shooting citizens, as well as forcing people into humiliating positions as 'punishment' for alleged lockdown violations. Three citizens died at the hands of the police in the first week of lockdown (Knoetze 2020).

South Africa's independent media and civil society responded swiftly in an effort to defend rights and hold abusers accountable during lockdown (Faul 2020). Civil society organisation #NotInMyName held several protests against police brutality, linking events in South Africa to the killing in the United States (US) of US citizen George Floyd, which took place around the same time and mobilised #BlackLivesMatter campaigning internationally.

The C19 People's Coalition has been at the forefront of efforts to defend people's rights during the Covid-19 response, and has led calls for human rights abusers – the police, army and the state – to be held accountable during the lockdown. The coalition is an alliance of more than 310 social movements, trade unions, community organisations and NGOs rooted in social justice and democratic principles. C19 relies primarily on digital tools to create civic space to highlight abuse and demand justice; and provide legal advice and support to victims including a digital legal guide, *The Law During a State of Disaster and Human Rights Risks*, under its Legal Activism working group (C19 2020).

Technology is a major part of South Africa's Covid-19 strategy, further raising key issues with respect to surveillance. The Council for Scientific and Industrial Research uses a system that combines data from mobile phones, health records and government data sets. If an individual has been infected, health authorities receive an alert with the individual's contact information and an address, and begin tracing those who have recently been in close contact with the person (Wild 2020). In South Africa, a partnership between telecoms companies Telkom and Samsung resulted in the donation of 1,500 handsets (and free data) to allow trackers to identify infected people around the country (Chaturvedi 2020).

The government has also used the messaging platform WhatsApp to deliver information about the pandemic to millions of citizens in five languages; and created a WhatsApp helpline, which is updated with information from the latest World Health Organization briefings, and local and international news outlets, to provide real-time updates. It uses artificial intelligence to provide information as well as dispel misinformation (South African Government News Agency 2020). In September 2020, the government introduced a Covid-19 tracing app, which was zero rated (i.e. free to use) by mobile networks. The app uses Bluetooth technology to alert users if they have been in contact with any other users who subscribe to the app who have tested positive for Covid-19 within the past 14 days (Business Insider SA 2020a).



## 7. Conclusion and recommendations

South Africa has existing strengths in rights-based and digital campaigning, and has experience of researching digital disinformation by non-state actors. This is a stronger starting position than many of its neighbours. However, the rapid pace of technological change, and rapidly growing repertoire of state and private sector technologies being deployed to close civic space, mean that urgent action needs to be taken. On the basis of this preliminary analysis a number of recommendations arise:

- Work with citizens to raise public awareness about digital rights and emerging threats including disinformation and online manipulation.
- Work with CSOs to build the capacity of journalists, CSOs and universities to monitor, analyse and effectively respond to the use of digital technologies to close civic space and limit digital rights.
- Work with legal rights activists and policymakers to understand emerging threats and devise regulatory, legislative and strategic litigation responses.
- Work with researchers to better understand who is using which technologies to open and close civic space, and how best to enhance citizens' ability to express, defend and expand their digital rights.

A programme of engaged participatory action research with and by with citizens and CSOs would be the best way to answer these research questions and address the gaps in knowledge and capacity identified in this preliminary research.

## References

- Ahmed, A. (2020) **How Covid-19 Exposes the Defects in South Africa's Digital Economy**, Research ICT Africa blog, 26 March (accessed 16 October 2020)
- Akinboade, O.A.; Mokwena, M.P. and Kinck, E.C. (2013) 'Understanding Citizens' Participation in Service Delivery Protests in South Africa's Sedibeng District Municipality', *International Journal of Social Economics* 40.5: 458–78
- Alexander, P. (2010) 'Rebellion of the Poor: South Africa's Service Delivery Protests – a Preliminary Analysis', *Review of African Political Economy* 37.123: 25–40
- Atkinson, D. (2007) 'Taking to the Streets: Has Developmental Local Government Failed in South Africa', in S. Buhlungu, J. Daniel, R. Southall and J. Lutchman (eds), *State of the Nation: South Africa 2007*, Cape Town: HSRC Press
- Ballard, R.; Habib, A.; and Valodia, I. (2006) 'Conclusion: Making Sense of Post-Apartheid South Africa's Voices of Protest', in Ballard, R.; Habib, A. and Valodia, I. (eds), *Voices of Protest: Social Movements in Post-Apartheid South Africa*, Scottsville: University of KwaZulu-Natal Press
- Bennett, W. and Segerberg, A. (2013) *The Logic of Connective Action*, Cambridge: Cambridge University Press
- Beresford, A. (2015) 'Power, Patronage, and Gatekeeper Politics in South Africa', *African Affairs* 114.455: 226–48
- Booyesen, S. (2007) 'With the Ballot and the Brick: the Politics of Attaining Service Delivery', *Progress in Development Studies* 7.1: 21–32
- Bosch, T. (2017) 'Twitter Activism and Youth in South Africa: The Case of #RhodesMustFall', *Information, Communication & Society* 20.2: 221–32
- Bosch, T. (2016) 'Twitter and Participatory Citizenship: #FeesMustFall in South Africa', in B. Mutsivai (ed.), *Digital Activism in the Social Media Era*, London: Palgrave Macmillan
- Bosch, T. et al. (2019) Creativity and Strategy: How Civil Society Organizations Communicate and Mobilize in Egypt, Kenya, Serbia and South Africa, in K. Voltmer et al. (ed.), *Media, Communication and the Struggle for Democratic Change*, London: Palgrave Macmillan
- Boyd, D. and Crawford, K. (2012) **'Critical Questions for Big Data: Provocations for a Cultural, Technological, and Scholarly Phenomenon'**, *Information, Communication and Society* 15: 662–79, DOI: 10.1080/1369118X.2012.678878 (accessed 23 October 2020)
- Burger, J. (2009) 'The Reasons Behind Service Delivery Protests in South Africa', *Institute for Security Studies*, 29 July
- Business Insider SA (2020a) **'Ramaphosa Urges South Africans to Use the Covid-19 Tracing App – Here's How it Works'**, 16 September (accessed 23 October 2020)
- Business Insider SA (2020b) **'SA Has Some of Africa's Most Expensive Data'**, 5 May (accessed 16 October 2020)
- C19 People's Coalition (2020) **The C19 People's Coalition** (accessed 26 June 2020)
- Carnegie Endowment for International Peace (2019) **AI Global Surveillance Technology** (accessed 23 October 2020)
- Chaturvedi, A. (2020) **'How South Africa Uses Tech to Fight Covid-19'**, *GeoSpatial World*, 21 April (accessed 16 October 2020)
- Child, K. (2017) **'Twitter Finally Silences Abusive Gupta Bots'**, *Business Day*, 11 December (accessed 29 June 2020)
- Chiumbu, S. (2015) **'Social Movements, Media Practices and Radical Democracy in South Africa'**, *French Journal for Media Research* 4/2015 (accessed 23 February 2018)
- Clement, J. (2019) **Internet User Penetration in South Africa from 2017 to 2023**, Statista (accessed 26 June 2020)

- Civic Space Watch (2020) **Civic Space** (accessed 23 October 2020)
- Civic Tech (2020) **Civic Tech in South Africa** (accessed 25 June 2020)
- CIVICUS (2020) **Civic Space** (accessed 23 October 2020)
- CIVICUS (2016) **South Africa Overview** (accessed 24 June 2020)
- CPJ (2020) **'South Africa Enacts Regulations Criminalizing 'Disinformation' on Coronavirus Outbreak'**, *Committee to Protect Journalists*, 19 March (accessed 25 June 2020)
- Dodson, B. (2010) 'Locating Xenophobia: Debate, Discourse, and Everyday Experience in Cape Town, South Africa', *Africa Today* 56.3: 2–22
- Duncan, J. (2014) 'South African Journalism and the Marikana Massacre: A Case Study of an Editorial Failure', *The Political Economy of Communication* 1.2
- Farrell, N. (2019) **'UK and South African Government are Tapping Sea Cables'**, *Fudzilla*, 9 September (accessed 23 October 2020)
- Faul, A. (2020) **'State Abuses Could Match the Threat of COVID-19 Itself'**, *ReliefWeb*, 2 April (accessed 25 June 2020)
- Foley, M. and Edwards, B. (1996) 'The Paradox of Civil Society', *Journal of Democracy* 7.3: 38–52
- Fraser, A. (2017) **'We Go Inside the Guptabot Fake News Network'**, *Tech Central*, 4 September (accessed 29 June 2020)
- Freedom House (2019) **Freedom in the World** (accessed 4 December 2020)
- Haffajee, F. (2018) **'How the EFF Dominates the Disinformation Market'**, *Daily Maverick*, 12 December (accessed 29 June 2020)
- Hickel, J. (2014) "'Xenophobia" in South Africa: Order, Chaos, and the Moral Economy of Witchcraft', *Cultural Anthropology* 29.1: 103–27
- Hillman, J.E. and McCalpin, M. (2019) **'Watching Huawei's "Safe Cities"'**, *CSIS Brief*, Washington DC: Center for Strategic and International Studies (accessed 23 October 2020)
- Howard, P. (2020) *Lie Machines: How to Save Democracy from Troll Armies, Deceitful Robots, Junk News Operations and Political Operatives*, London: Yale University Press
- Howell, S. (2019) 'Description of the South African Context', in W. Heitmeyer (ed.), *The Codes of the Street in Risky Neighborhoods*, Cham: Springer
- HSRC (2014) **Enhancing Digital Citizen Engagement: Lessons from South Africa. Notes from the World Social Science Forum 2013**, Pretoria: Human Sciences Research Council (accessed 25 June 2020)
- ITU (2020) **Internet Access Statistics**, International Telecommunication Union (accessed 4 December 2020)
- Knoetze, D. (2020) **'Details of Two Additional Alleged Lockdown Killings by Police Revealed'**, *GroundUp*, 30 April (accessed 25 June 2020)
- Kode, D. (2018) **Civic Space Restrictions in Africa: How Does Civil Society Respond?**, *Conflict Trends* 2018/1, Accord (accessed 24 June 2020)
- Lindeque, M. (2020) **'This WhatsApp Chat Will Tell You Everything About Covid-19 in SA'**, *Eyewitness News*, 16 March (accessed 25 June 2020)
- Madlingozi, T. (2007) 'Post-Apartheid Social Movements and the Quest for the Elusive "New" South Africa', *Journal of Law and Society* 34.1: 77–98
- Masweneng, K. (2019) **'South Africans Pay More for Data: See By How Much Here'**, *Times Live*, 3 December (accessed 23 October 2020)
- Mbali, M. (2004) 'AIDS Discourses and the South African State: Government Denialism and Post-Apartheid AIDS Policy-Making', *Transformation: Critical Perspectives on Southern Africa* 54.1: 104–22
- Nordea (2020) **The Political Framework of South Africa** (accessed 1 July 2020)
- Omarjee, L. (2020) **'Explainer: Why You Should Care that Parts of RICA are Unlawful'**, *Fin24*, 18 September (accessed 29 June 2020)

- Oxfam (2018) **'Space to Be Heard: Mobilizing the Power of People to Reshape Civic Space'**, Oxfam Briefing Note, Oxford: Oxfam International (accessed 25 June 2020)
- Pikoli, Z. (2020) **'Civil Society Health Organisations Launch Covid-19 Survey'**, *Daily Maverick*, 21 April (accessed 1 July 2020)
- Reventlow, N.J. (2017) **'Digital Rights are \*All\* Human Rights, Not Just Civil and Political'**, Berkman Klein Centre for Internet & Society blog, 27 February (accessed 23 October 2020)
- Roberts, M. (2019) **'South African Youth, Disruptive Politics, and Apathy Towards Voting'**, *Transformer* 20.1: 39–43 (accessed 25 June 2020)
- Robertson, D. (2018) **'How an Obscure Conservative Theory Became the Trump Era's Go-to Nerd Phrase'**, *Politico*, 25 February (accessed 25 February 2018)
- Sabi, S. and Rieker, M. (2017) 'The Role of Civil Society in Health Policy Making in South Africa: A Review of the Strategies Adopted by the Treatment Action Campaign', *African Journal of AIDS Research* 16.1: 57–64
- Schulz-Herzenberg, C. (2014) 'Voter Participation in the South African Elections of 2014', *Policy Brief* 61, Pretoria: Institute for Security Studies
- Simelela, N. and Venter, W. (2014) 'A Brief History of South Africa's Response to AIDS', *SAMJ: South African Medical Journal* 104.3: 249–51
- Smidt, H. (2018) **'Shrinking Civic Space in Africa: When Governments Crack Down on Civil Society'**, GIGA Focus Africa 4, Hamburg: German Institute of Global and Area Studies (accessed 29 June 2020)
- Sorensen, L.; FordWalid, H.; Al-Saqaf, W. and Bosch T. (2019) 'Dialogue of the Deaf: Listening on Twitter and Democratic Responsiveness during the 2015 South African State of the Nation Address', in K. Voltmer et al. (eds), *Media, Communication and the Struggle for Democratic Change: Case Studies on Contested Transitions*, Cham: Palgrave Macmillan
- South African Government News Agency (2020) **'Access all Covid-19 Facts via WhatsApp'**, 21 March (accessed 16 October 2020)
- Staff Writer (2019) **'High Court Finds that South Africa's Surveillance Act RICA is Inconsistent with the Constitution'**, *Business Tech*, 16 September (accessed 29 June 2020)
- Superlinear (2019) **'The Curious Case of the Short-Lived "Ayobots"'**, 4 June (accessed 29 June 2020)
- Superlinear (2016) **'Black First, Land First and #PravinMustGo'**, 4 September (accessed 29 June 2020)
- TAC (2020) **'Our History'**, Treatment Action Campaign (accessed 1 July 2020)
- TAC (2016) **'Mbeki Shows No Remorse for Role in AIDS Deaths'**, 8 March (accessed 1 July 2020)
- Tufekci, Z. (2014) 'Big Questions for Social Media Big Data: Representativeness, Validity and Other Methodological Pitfalls', in ICWSM 14: Proceedings of the 9th International AAAI Conference on Weblogs and Social Media
- UN (2015) *Sustainable Development Goals*, New York NY: United Nations
- UN (2011) *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Frank La Rue, Human Rights Council, Seventeenth Session Agenda Item 3, United Nations General Assembly
- Van Zyl, G. (2016) **'"Sockpuppet" Twitter Accounts Used in #HandsOffGuptas Information War'**, *Fin24* (accessed 25 June 2020)
- Voigt, E. (2020) **'Covid-19: Progress on Cell Phone Tracking, but Concerns Remain'**, *Spotlight*, 6 April (accessed 23 October 2020)
- Wild, S. (2020) **'Antipoaching Tech Tracks Covid-19 Flare-ups in South Africa'**, *Scientific American*, 12 May (accessed 23 October 2020)
- World Bank (2019) **'The World Bank in South Africa'** (accessed 23 October 2020)
- Yang, G. (2009) *The Power of the Internet in China: Citizen Activism Online*, New York NY: Columbia University Press