

Criminalisation of Specific Forms of Online Communication: A South African Legal Perspective

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Abstract: One of the key findings of the South African Social Media Landscape 2022 study is that the growth in Internet access has, in turn, spurred the use of social media, leading to an estimated 48.8% (28 million) of South Africans being active on social media platforms, such as Facebook, Twitter, Instagram, YouTube, LinkedIn and TikTok. The down side is that online communication may not only become “viral” but it may also be harmful. Initially Internet regulation focussed primarily on the criminalisation of unlawful online conduct, referred to as a cybercrime, which includes hacking, DDoS attacks, but now the focus has been extended to the criminalisation of specific forms of online communication, referred to as communication offences, which include postings on Facebook or WhatsApp. The discussion deals with the criminalisation of specific forms of online communication in South Africa, the enforcement of communication offences with reference to the investigative powers of the police, with assistance from service providers, and the manner in which a balance between free speech and security is ensured. It does not deal specifically with the protection of users against harmful content, although a possible consequence of the criminalisation of communication is protection against these forms of communication.

Keywords: communication offences; free speech; legal role of service providers pertaining to communication offences, enforcement of communication offences; policing illegal communications.

1. Introduction

The entrenchment of the Fourth Industrial Revolution in society and the growth in access to the Internet and social media have resulted in an escalation of potentially harmful content on digital platforms. Governments such as the European Union (EU) member countries and the United Kingdom (UK) are undoubtedly taking a stricter approach as to what is acceptable and legal to post on social media. It is important to note that not all unacceptable communication will result in criminal liability.

The discussion with reference to the South African legal position focusses on an overview of the specific forms of communication which may result in criminal liability and the manner in which a balance between the right to freedom of expression, the protection of society from harm and social cohesion should be achieved (Serra, 2022).

It is noted that although specific forms of communication are criminalised, such criminalisation will not result in prosecution if the police do not have the capacity to investigate communication offences. The police need the service provider’s assistance and therefore attention should be given to the obligations and legal duties of the service provider.

Globally governments face similar challenges in regulating communication on the Internet and social media. A comparative study of other countries’ regulation of communication offences is beneficial as it provides a deeper understanding of a country’s own regulation and it may highlight strengths and weaknesses in the criminalisation and enforcement of specific forms of communication. Where relevant, reference will be made to the legal position outside of South Africa.

2. Regulation of online communication

There was a time when most forms of communication taking place in cyberspace had no legal consequences. Communication in cyberspace was mostly unregulated with the emphasis on an absolute right to free speech.

Over time it became clear that in the online environment the old expression “sticks and stones may break my bones, but words will never harm me” did not hold true. The use of social media as communication tool in South Africa has grown exponentially and with it the risk of possible harmful communication (Malinga, 2022). There have been numerous examples where online communication have caused harm. Young people below the age of 18 years are emotionally vulnerable and there is content on the Internet and social media that they should not be exposed to. For example, in 2017, a 14 year old UK teenager, Molly Russell, committed suicide. It was shown that in the period prior to her self-killing, social media companies actively recommended posts about self-harm and suicide, which contributed to her tragic suicide (de Urquia, 2022). The discussion does not specifically focus on the protection of children against harmful content, but as will be illustrated hereafter, a

possible consequence of criminalisation of specific forms of communication is protection against access to such communication.

It should be noted that child pornography and related issues constituted a crime in most countries at the inception of the Internet. The Internet exacerbates the distribution of child pornography and the possible abuse and exploitation of children in the production of child pornography. The protection of children against harmful communication on the Internet with specific reference to social media constitutes a discussion of its own. For purposes of this discussion, the primary legal question revolves around which specific forms of communication should result in criminal liability inter-linked with the role of the service provider in assisting the police with the investigation of a communication offence.

The harm that social media communication can cause was highlighted in July 2021 when the South African provinces, KwaZulu Natal and, to a limited extent, Gauteng experienced some of the worst violence, looting and arson in years. Social media platforms, such as, WhatsApp, Twitter and Telegram played a considerable role in the planning, co-ordination and incitement of the violence, looting and arson (see par 5 hereafter; Nxumalo, 2022; Pijoo, 2022;).

South Africa has joined a growing list of countries that are taking a legal stand on the manner in which their citizens communicate in cyberspace. Communication that causes harm must result in a legal consequence. How harm is defined is very important. Conceptualisation of terminology is important as it provides context to the communications offences. Harm is defined in the South African Films and Publications Act (see hereafter at par. 3.1.3) as “causing emotional, psychological or moral distress to a person”. Not all harmful communication will result in criminal liability but only the most serious forms of harmful communication. A crime is committed against society in general whereas civil liability concerns individuals in their capacity. For the purposes of this discussion, it is relevant to identify which forms of communication should result in criminal liability.

3. Criminalisation of specific forms of online communication

3.1 South Africa

3.1.1 Introduction

In January 2022 there were 41,19 million Internet users in South Africa. South Africa’s Internet penetration stood at 68,2 percent of the total population at the start of 2022 (<https://datareportal.com/reports/digital-2022-south-africa>).

Over the past 2 years South Africa has experienced a legal evolution regarding the criminalisation of specific forms of online communication. In December 2021, the Cybercrimes Act 19 of 2020 came into effect which provides inter alia for the criminalisation of specific forms of online communication. The Cybercrimes Act was followed by the Films and Publications Amendment Act 11 of 2019 that came into effect in March 2022 which also provides for the criminalization of specific forms of communication. The legislative criminalisation of specific forms of communication will be discussed hereafter (see par. 3.1.2. and 3.1.3). Although the criminalisation of specific forms of communication are welcomed, there are some reservations which will be discussed hereafter at par. 3.1.4 and 4.

3.1.2 Cybercrimes Act 19 of 2020

In December 2021, the Cybercrimes Act came into effect (see https://www.gov.za/sites/default/files/gcis_document/202106/44651gon324.pdf). The Act provides for the criminalization of

- unlawful conduct referred to as cybercrime; and
- malicious communications referred to as communication offences. The Cybercrimes Act uses the term, “malicious” communication. Although “malicious” is not defined, an inference is drawn that it refers to harmful communication. Harm is defined in the Films and Publications Act (see par. 2). The communication is defined as a “data message” which refers to data generated, sent, received or stored by electronic means, where any output of the data is in an intelligible form.

The following specific forms of communication are statutory offences:

1. Communication that incites damage to property or violence;

2. Communication that threatens persons with damage to property or violence;

The Cybercrimes Act defines the following terminology:

- “damage to property” as damage to any corporeal or incorporeal property;
- “group of persons” means characteristics that identify an individual as a member of a group, which includes without limitation, race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth or nationality; and
- “violence” means bodily harm.

3. The disclosure of an intimate image without the consent of that person (sometimes referred to as so-called “revenge pornography”). It is important to note that the amended Films and Publications Act also provides for the distribution of non-consensual intimate images (non-consensual adult pornography) as an offence.

In accordance with the Cybercrimes Act an “intimate image” means a depiction of a person

(i) real or simulated, and made by any means in which

(aa) B is nude, or the genital organs or anal region of B is displayed, or if B is a female person, transgender person or intersex person, their breasts, are displayed; or

(bb) the covered genital or anal region of B, or if B is a female person, transgender person or intersex person, their covered breasts, are displayed; and

(ii) in respect of which B so displayed retains a reasonable expectation of privacy at the time that the data message was made in a manner that

(aa) violates or offends the sexual integrity or dignity of B; or

(bb) amounts to sexual exploitation.

Any person who commits above-mentioned offences, is liable on conviction to a fine or to imprisonment for a period not exceeding three years or to both a fine and such imprisonment.

3.1.3 Overview of criminalised content in terms of the Films and Publications Act 65 of 1996 (as amended by the Films and Publications Amendment Act 11 of 2019)

On 1 March 2022, the Films and Publications Act 65 of 1996 was amended. The amendments as outlined in the Films and Publications Amendment Act 11 of 2019 (see https://www.gov.za/sites/default/files/gcis_document/201910/42743gon1292.pdf) were necessitated due to the manner in which the modern digital society communicate. The 1996 Act was in need of modernisation as it did not provide for communication on social media which is now predominantly user-generated and the communication may be harmful (Ellerbeck, 2022). The amended Films and Publications Act provides that social media “includes the various online technology tools and forms electronic communication via the Internet, such as websites for social networking and micro blogging through which users create online communities to share information, ideas, personal messages and other content”.

In accordance with the Films and Publications Act, a Film and Publications Board (referred to as the Board) acts as a regulator of content (Wrench, 2022). The Films and Publications Act considers everyone a distributor once they post content on online mediums. A distinction is drawn between two categories of distributors, namely

- a non-commercial online distributor who posts content intended for private or personal use; and
- a commercial online distributor who distributes via the internet for commercial purposes.

The emphasis in this discussion is on the non-commercial distributor who does not have to register as a distributor with the Board nor have their content classified (Wrench, 2022). However, the non-commercial distributor is not exempted from liability and may incur liability if:

- a private individual posts a communication that falls within the realms of prohibited content, and
- a member of the public reports this communication to the Board.

'Prohibited content' means content which amounts to propaganda for war, incitement of imminent violence, advocacy of hatred that is based on an identifiable group characteristic, and that constitutes incitement to cause harm. How harm and harmful are defined is also very important. Harm and harmful are defined as "causing emotional, psychological or moral distress to a person".

The Films and Publications Act provides for the following communication offences:

1. Any person who knowingly distributes private sexual photographs and films in any medium including the internet and social media, without prior consent of the individual or individuals in the said sexual photographs and films with the intention to cause the said individual harm shall be guilty of an offence and liable upon conviction to a fine not exceeding R150 000 or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

The Films and Publications Act specifies that a photograph or film is 'private' if, judging from the context in which the photograph or film is taken or made, it was not intended by any individual in the photograph or film to be seen by others. Furthermore, a photograph or film is 'sexual' if such photograph or film:

- (a) it shows all or part of an individual's exposed female breasts, anus, genitals or pubic area;
 - (b) it shows something that a reasonable person would consider to be sexual because of its nature; or
 - (c) its content, taken as a whole, is such that a reasonable person would consider it to be sexual.
2. Any person who knowingly creates, produces or in any way contributes to or assists in any film or photograph which contains depictions, descriptions or scenes of sexual assault and violence against children, shall be guilty of an offence and liable upon conviction, to a fine not exceeding R150 000 or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.
 3. Any person who knowingly distributes in any medium, including the internet and social media, any film, game or publication which amounts to propaganda for war, incites imminent violence, or advocates hate speech, shall be guilty of an offence and liable upon conviction, to a fine not exceeding R150 000 or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

The Films and Publications Amendment Act defines "hate speech" as "any speech, gesture, conduct, writing, display or publication, made using the internet, which is prohibited in terms of section 16(2) of the Constitution of the Republic of South Africa, 1996, which propagates, advocates or communicates words against any person or identifiable group, which words could reasonably be construed to demonstrate a clear intention to be harmful, to incite harm and promote or propagate hatred against the said person or identifiable group."

Prior to 1 March 2022 the perpetrator of hate speech could be held civilly liable in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (referred to as the Equality Act) or criminally liable for the common law crime, *crimen iniuria* which is defined as the unlawful and intentional violation of dignity or privacy (Watney, 2021). The legal position since 1 March 2022 is that a person may be held civilly liable in terms of the Equity Act or criminally liable for the common law crime, *crimen iniuria*, or the statutory crime, hate speech. In the instances in which a perpetrator is prosecuted and convicted, it will result in a criminal record for such a perpetrator (Watney, 2021).

Much has been written on this specific form of communication (Watney, 2021). In November 2022 a white South African woman made the following voice note on a WhatsApp group: "...ban the black man. They rape, they steal, they kill, worse than any pit bull could, and they get away with it. Ban those who are making the laws, ban Ekurhuleni, ban the black man. Get all the black women and cut out their uteruses and their ovaries [so] that they can't procreate, because they will all turn out the same because they are all the same" (Tshkalanga, 2022). This may constitute an example of hate speech and she may be prosecuted either in terms of the common law crime, *crimen iniuria*, or the statutory crime, hate speech, in terms of the Films and Publications Act.

3.1.4 General observations

A piecemeal approach to criminalisation must be avoided. Against this proviso, it is not clear why the legislator decided to provide for specific forms of criminalisation in the Films and Publications Act. The offence of distribution of non-consensual images, already exist in other legislation, namely the Cybercrimes Act. The other specific forms could have been incorporated in existing legislation. The sentencing provision for the crime of non-consensual sexual images in the Cybercrimes Act provides for a 3 year imprisonment and/or fine upon conviction whereas in terms of the Films and Publications Act it provides for a 2 year imprisonment and/or fine

upon conviction. The latter sentencing provision for the same crime in different legislations causes legal uncertainty.

3.2 United Kingdom (UK)

3.2.1 Online Safety Act

The final version of the Online Safety Act has not yet been finalised (see <https://www.gov.uk/government/news/new-protections-for-children-and-free-speech-added-to-internet-laws> and <https://publications.parliament.uk/pa/bills/cbill/58-03/0209/220209.pdf>). One of the main aims of the Online Safety Act is to provide strong protection for children against harmful content.

In its November 2022 report, the Law Commission recommended the following new or reformed criminal offences to protect victims against online abuse and safeguard freedom of expression (see <https://www.lawcom.gov.uk/law-commission-recommendation-targeting-the-encouragement-of-serious-self-harm-to-be-included-in-online-safety-bill/>):

- a “harm-based” communications offence to replace the offences within section 127(1) of the Communications Act 2003 (“CA 2003”) and the Malicious Communications Act 1988 (“MCA 1988”);
- an offence of encouraging or assisting serious self-harm;
- an offence of cyberflashing *which involves sending obscene pictures to strangers online*;
- an offence of sending knowingly false communications, threatening communications, and making hoax calls to the emergency services, to replace aspects of the MCA 1988 and section 127(2) of the CA 2003; and
- an offence of epilepsy trolling which refers to intentionally sending flashing images to a person with epilepsy with the intention of inducing a seizure;

Since 2015, it has been an offence in England and Wales for someone to share a private sexual image or video (online or offline) of someone without their consent and with the intention of causing them distress. Under Section 33 of the Criminal Justice and Court Act 2015, this offence is punishable by up to two years in prison (see <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/threats-to-disclose-private-sexual-photographs-and-films>). Hate crimes are covered by legislation, namely the Crime and Disorder Act 1998 and section 66 of the Sentencing Act 2020. The police and the Crown Prosecution System have agreed on the following definition for identifying and flagging hate crimes: "Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity." Since there is no legal definition of hostility, the everyday understanding of the word is used which includes ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment and dislike (see <https://www.cps.gov.uk/crime-info/hate-crime>; also see <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2021-to-2022/hate-crime-england-and-wales-2021-to-2022>).

3.2.2 General observations

Providing for specific communication offences in different legislation makes for legal uncertainty. In my opinion, the South African reference to harm in the criminalisation of hate speech is preferable to the use of hostility. South Africa may take note of the proposed offences relating to cyberflashing, false communications and epilepsy trolling.

4. Role of service provider in assisting the police in the investigation of communications offences

4.1 South Africa

In terms of the Electronic Communications and Transactions Act 25 of 2001 the service provider does not have a general monitoring obligation. The Films and Publications Act provides that if an Internet access provider has knowledge that its services are being used for the hosting or distribution of child pornography, propaganda for war, incitement of imminent violence or advocating hatred based on an identifiable group characteristic, it must take all steps to report the presence of this content to the police. The Internet access provider must report the

particulars of the person maintaining, hosting, distributing or contributing to the internet address, to a police official, and take all reasonable steps to preserve evidence for purposes of investigation and prosecution by the relevant authorities. The Board has issued a legal notice to Internet service providers demanding that ISPs register and provide information on how they are preventing the use of their services for hosting prohibited material (Vermeulen, 2022).

Pertaining to the communication offences in the Cybercrimes Act, a complainant must lay a charge with the police and may apply to a magistrate's court for

- a protection order to prohibit any person to disclose or further disclose the data message; or
- an order that an electronic communications service provider whose electronic communication service is used to host or disclose the data message, remove or disable access to the data message.

A court may also order the service provider to furnish further particulars to the court in respect of the communication offence.

Although legislation provides for assistance by the service provider, this assistance can only be provided if it is aware that a communications offence has been committed or a complaint has been lodged with the police. In March 2021 a South African mother of five children was arrested after allegedly selling naked pictures of her 4-year-old daughter on the dark web. The FBI agent tracked the mother to Cape Town after she was allegedly paid through PayPal (Serra, 2022). In 2021 the United States (US) Homeland Security dispatched an agent to pretend to be a buyer in the transaction. The minister of police, Cele, indicated in 2022 that the South African police did not have the capacity to probe crimes committed through social media apps such as WhatsApp and Facebook, as these were "managed" in the US (Maliti, 2022). The latter submission is not correct. If a communication offence on social media is reported to the police, it can be investigated but the police is not capable of policing crimes committed on the Internet or dark web which is done in secret and does not result in a complaint. Unfortunately, the police may not have the expertise to investigate cybercrimes, let alone communication offense. The South African police will have to set up a dedicated cybercrime and communication offences unit to investigate online crimes (Vermeulen, 2022).

4.2 The UK Online Safety Act

The aim of the Act is to protect Internet and social media users against harmful content (see par. 3.2). In accordance with the Online Safety Act social media firms need to have a clear, easy to understand and consistently enforced terms of service. The Online Safety Act introduces what amounts to a general monitoring requirement and the mere conduit and liability shield provisions are not applicable (Horton, 2022). Service providers will be legally required to remove illegal content, take down material in breach of their own terms of service, and provide adults with greater choice over the content they see and engage with. The Act explicitly prohibits the service provider from removing or restricting user-generated content, or suspending or banning users in instances in which the users did not breach their terms of service or the law. The Act also introduce imprisonment of up to two years for directors of service provider companies who fail in their duty to protect children or who allow terrorist groups to exploit their platforms. The latter provides for corporate criminal liability and emphasises how serious the government is ensuring online safety.

4.3 European Union (EU) Digital Services Act

The Digital Safety Act updates the process by which digital service providers must act to rapidly delete illegal content based on national or EU law (see <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=COM:2020:825:FIN>). The Act does not define what the illegal content would be, as the EU does not have competence over criminal law in the Member States. It will be defined by the Member States who will establish the precise content to be restricted according to their national law. Online platforms will not have to make the assessment of illegality, but will be asked to act on reports or notices submitted to them, which is referred to as the "notice and action procedure" (Horton, 2022). The Digital Services Act concentrates on "illegal" content and largely steers clear of regulating "harmful" content (Horton, 2022). It also reinforces an EU-wide ban on general content monitoring, such that platforms will not be forced to systematically police their platforms to the detriment of free speech (Horton, 2022). Platforms must provide affected users with detailed explanations if ever they block accounts, or else remove or demote content. Users will have new rights to challenge these decisions with the platforms and seek out-of-court settlements if necessary.

4.4 General observations regarding the role of the service provider in assisting the police

The aim of the Digital Service Act and Online Safety Act is to ensure illegal communication does not appear or is removed but the approaches differ. Horton (2022) refers to the Online Safety Act which provides for a general monitoring requirement unlike the legal position outlined in South Africa and the Digital Safety Act. Monitoring may be done by means of an upload filter. An upload filter intercepts content while the user is uploading it onto the platform, and it checks to see if there is a match for illegal content (Horton, 2022). This would occur continuously for all content. When it finds a match, it removes the content, effectively making it disappear before the user even knows what has happened. Taking into account that the amount of user-generated content has increased exponentially, such limited monitoring may be justifiable. Although a user has a right to free speech (see par.5 hereafter), such a right does not extend to illegal communication.

5. Human rights

There have always been conflicting positions on freedom of speech versus the right to dignity, privacy and security. After a few too many abuses of the “freedom of speech” defence, many of which have since been ruled as instances of hate speech, defamation, and incitement to violence, there are now legal consequences to online communication.

While users have the right to freedom of speech, they do not have the right to freedom from consequences in the form of liability. Criminal liability is the most serious form of liability and should only be applicable to the most harmful of communication. In 2022 the latter was confirmed by Media Monitoring Africa (MMA) director, William Bird, who made the following observation to the SA Human Rights Commission “any criminal sanctions for speech risk having a chilling effect on the exercise of the right to freedom of expression [and] must be approached with heightened caution” (Pijoos, 2022).

Criminal liability should not be abused for political motives. An example of such abuse is the 2022 incident in Nigeria in which a Nigerian university student, Aminu Mohammed, was arrested and detained for more than two weeks after he allegedly defamed President Muhammadu Buhari's wife in a tweet (Khalid, 2022). Defamation is not such a serious form of online communication that it should result in criminal liability and it definitely does not warrant an arrest and detention. The latter example seriously violates the constitutional rights to freedom of movement, dignity and privacy.

The possibility of declaring a state of emergency in order to shut down specific communication towers to prevent social media communication during the 2021 South African violence, looting and arson, was mentioned but not implemented (Nxumalo 2021). Such a drastic step would have resulted in weighing the right to free speech and access to information against security. It may have been justified taking into consideration that the violence, looting and arson resulted in loss of life, huge economic damage and unemployment (Nxumalo, 2021).

6. Conclusion

Traditionally the focus was on cybercrime and the investigation of cybercrime was prioritised. The harm that communication may cause is now internationally recognised. The amount of user-generated content has increased exponentially which makes policing challenging. Service providers play a crucial role in addressing illegal communications. Not all illegal communication will result in criminal liability but only the most harmful communication.

Although the communication offences in the South African Cybercrimes Act are welcomed, enforcement presents a major challenge. In the latter regard, South Africa may take note of how other countries are dealing with the enforcement of communication offences with reference to the service provider’s legal duties and obligations in assisting with the police investigation.

Addressing illegal communication in an effective and consistent manner may be challenging, but it is commendable that countries are legislating communication offences and setting up legal structures to deal with it.

References

de Urquia, B.V. (2022) “Human rights lawyer calls for ‘total rewrite’ of Online Safety Bill”, “[online], <https://eandt.theiet.org/content/articles/2022/10/human-rights-lawyer-calls-for-total-rewrite-of-online-safety-bill/>.”

- Ellerbeck, D. (2022) "Internet censorship? A look at the Films and Publications Amendment Act's criminalisation of "hate speech", [online], <https://forsa.org.za/internet-censorship-a-look-at-the-films-and-publications-amendment-acts-criminalisation-of-hate-speech/>.
- Horton, M. (2022) "Regulating big tech platforms: Content moderation requirements in the UK Online Safety Bill and the EU Digital Services Act", [online], <https://eu.boell.org/en/regulating-big-tech-platforms>.
- Khalid, I. (2022) "Nigerian student Aminu Adamu Mohammed accused of defaming Aisha Buhari", [online], <https://www.bbc.com/news/world-africa-63805455>.
- Malinga, S. (2022) "Half of SA's population now active on social media", [online], <https://www.itweb.co.za/content/rW1xLv5nGyP7Rk6m>.
- Maliti, S. (2022) "SA cops still in the dark after FBI intercepted the 'sale' of a 4-year-old Bonteheuwel child", [online], <https://www.iol.co.za/capeargus/news/sa-cops-still-in-the-dark-after-fbi-intercepted-the-sale-of-a-4-year-old-bonteheuwel-child-6a5751e6-5d61-4020-ab7c-ecb84df27c00>.
- Nxumalo, L. (2022) "July unrest: 'Social media fuelled unrest' [online], <https://www.iol.co.za/sunday-tribune/news/july-unrest-social-media-fuelled-unrest-481bbafe-1ce1-4ca7-87c9-7da6cfc652eb>.
- Pijoo, I. (2022) "Harmful disinformation sowed anger, violence, and anarchy during July unrest - media expert <https://www.news24.com/news24/southafrica/news/harmful-disinformation-sowed-anger-violence-and-anarchy-during-july-unrest-media-expert-20220304>
- Serra, G. (2022) "Case of mom accused of selling naked pictures of her daughter delayed by power outages", [online], <https://www.iol.co.za/weekend-argus/news/case-of-mom-accused-of-selling-naked-pictures-of-her-daughter-delayed-by-power-outages-7f8d0d81-c203-4944-a8f4-78ed1a95456e>
- Tshkalanga, S. (2022) "Woman who allegedly said black men were the problem, not pit bulls, arrested", [online], <https://www.dispatchlive.co.za/news/2022-11-27-woman-who-allegedly-said-black-men-were-the-problem-not-pit-bulls-arrested/>.
- Vermeulen, J. (2022) "Proposal to amend South Africa's constitution for Cyber Commissioner", [online], <https://mybroadband.co.za/news/security/468359-proposal-to-amend-south-africas-constitution-for-cyber-commissioner.html>.
- Watney, MM. (2021) "Regulation of hate speech on social media: a legal perspective" in Karpasitis, C *Proceedings of the 8th European Conference on Social Media (ECSM-2021)*, Reading, UK, pp.244 – 251.
- Wrench, J. (2022) "Alert | The Film and Publications Amendment Act is here – now what?" [online], <https://www.michalsons.com/blog/alert-the-film-and-publications-amendment-act-is-here-now-what/56248>.