

ADJUDICATOR'S DETERMINATION

MR DAVID TEEGER'S PUBLIC STATEMENTS

Wim Trengove SC

5 December 2023

INTRODUCTION

- 1 Mr David Teeger is an 18-year old schoolboy. He has been raised in and practises orthodox Judaism. He says that the observance of his faith and recognition of his Jewish identity are central to who he is. He has just completed matric at King Edward VII School where he was the head boy. He is also a talented cricket player. He has been selected to play for the Central Gauteng Lions under-19 side in an upcoming tournament and has been appointed captain of the South African under-19 side for the 2024 Cricket World Cup.

- 2 Mr Teeger was invited to the Jewish Achiever Awards ceremony on 22 October 2023. It is an annual ceremony at which the Jewish community pays tribute achievers within its ranks. Mr Teeger was nominated for the “*Rising Star Award*”. He was one of 14 nominees and did not expect to win. He was however announced the winner. He had not prepared an acceptance speech. He made a brief impromptu speech. He said he hoped he could inspire other religious young sportsmen to follow their dreams and concluded as follows:

“But more importantly, yes, I’ve been awarded this award, and yes, I am now the rising star, but the true rising stars are the young soldiers in Israel... So I’d like to dedicate this award to the South African family that married off one son whilst the other is still missing. And I’d like to dedicate it to the state of Israel and to every single soldier fighting so that we can live and thrive in the diaspora.”

- 3 Mr Teeger says he did not intend or foresee that his comments would be repeated outside the awards ceremony. He was, however, quoted in the South African Jewish Report. The report in due course drew fierce criticism.

4 Cricket South Africa (CSA) and Central Gauteng Lions (*Lions*) received complaints about Mr Teeger's comments. They are concerned that his statements might have been made in breach of both the CSA and Lions Codes of Conduct. They appointed me as an independent adjudicator to:

- 4.1 determine what statements Mr Teeger made concerning Israel and the Israeli defence force at the awards ceremony on 22 October 2023;
- 4.2 determine whether Mr Teeger's statements are in breach of certain provisions of the CSA and Lions Codes of Conduct; and
- 4.3 if Mr Teeger was in breach of any of those provisions, determine the sanction that should be imposed.

THE COMPLAINTS

5 I have carefully considered the complaints made by CSA and Lions as well as the complaints they received from others. I merely mention the highlights of those complaints.

The CSA's complaints

6 The CSA's complaints are set out in an affidavit of its Chief Executive Officer, Mr Pholetsi Moseki. Their essence are captured in the following paragraphs of his affidavit:

- "5. *These comments were published at a time when the Israeli Defence Force (IDF) was taking violent and oppressive action against Palestinians in Gaza. The actions of the IDF, especially in response to the Hamas attack on 7 October 2023, have been widely condemned. This led the South African government. on 17 November 2023, to submit a joint referral of the situation in*

Palestine to the International Criminal Court, in accordance with article 14 of the Rome Statute of the International Criminal Court.¹

6. *The South African government viewed the actions of Israel as constituting war crimes, crimes against humanity and genocide. This was due to the fact that thousands of Palestinian people have been killed and hospitals, schools and other public infrastructure have been destroyed. It submitted the referral with the hope that the situation in Palestine will be prioritised by the International Criminal Court. It requested the Court to investigate the actions of Israel in order to deliver Justice to the victims of these grave crimes.²*
7. *The publication of Mr Teeger's remarks has prompted significant criticism and concern from the public. On 17 November 2023, the Palestine Solidarity Alliance lodged a formal complaint addressed to the executive board of CSA, the executive board of CGL and copying the Minister of Sports Arts & Culture, the CEO and the President of the South African Sports Confederation and Olympic Committee (SASCOC). The Gauteng Cricket Board also received numerous complaints and referral on the same subject matter.*
8. *CSA is of the view that by making these remarks, Mr Teeger has breached the Rules and Code of Conduct of CSA and the Rules and Code of Conduct of CGL.”*

- 7 Mr Moseki emphasises the importance for CSA to ensure that cricket is the most inclusive sport:

- “16. *CSA is the custodian of cricket in South Africa, a sport played by and supported by many South Africans. It is our strategic objective to make cricket the most inclusive sport in the country. Racially charged or otherwise discriminatory comments by cricketers playing on representative teams undermines this strategic objective and brings the CSA (and the game of cricket, in general) into disrepute.”*

¹ Article 14 provides - A State Party may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to Investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes

² <https://www.dirco.gov.za/soyth-afrlca-along-wjth-like-minded-states-submlts-joint-referral-of-the-situation-in-Palestine-to-the-lcc/>. During his address to the BRICS Conference on 21 November 2023, President Ramaphosa's address stated that the South African government views Israel's actions against Palestinians as violating International laws, constituting war crimes and being tantamount to genocide. He recommended that the International Criminal Court must urgently investigate into the conduct of those who perpetrate war crimes. See <https://www.youtube.com/watch?v=07YSDUW-Mc>

8 Mr Moseki says that Mr Teeger's statements undermine the CSA's aim of promoting inclusivity and diversity in cricket for the following reasons:

8.1 Mr Teeger dedicated his award to the soldiers of the IDF *"in a context where the actions of the IDF have been widely condemned and are considered a violation of international law"*.

8.2 He says that the conduct of the IDF is reminiscent of the brutality of the former South African Defence Force under Apartheid.

8.3 He made the point that Mr Teeger did not merely condemn the Hamas attacks in Israel on 7 October 2023, but expressed support for the conduct of the IDF in Gaza since then which has drawn widespread condemnation.

The Lions' complaints

9 Dr Mohammed Moosajee, the President of the Lions Cricket Board, made an affidavit of complaint supported by an affidavit by Mr Jonathan Leaf-Wright, the Chief Executive Officer of the Lions. Dr Moosajee explains in the last paragraph of his affidavit that it should be seen as one made in his personal capacity because he has, for various reasons, not been able to convene a meeting of the Lions Board to seek its endorsement. I accordingly accept that his affidavit has not been formally endorsed by the Lions, but nonetheless believe that his views, supported by that of Mr Leaf-Wright, represent weighty and important opinions within the Lions establishment.

10 Dr Moosajee describes and attaches copies of complaints received from the following interested parties:

- 10.1 Mr Hilton van Niekerk, a concerned cricket supporter. He said he found Mr Teeger's remarks offensive and an insult to the Palestinians in Gaza.
- 10.2 The Palestinian Solidarity Alliance (PSA). I shall later deal with their complaint more fully because they were given permission to make submissions in this inquiry.
- 10.3 The Abu Asvat Institute of National Building. It is an institute set up in honour of the late Dr Asvat. They said they took strong exception to Mr Teeger's statements which were *"insensitive, unacceptable and in contradiction of the official position of the South African Government pertaining to the Apartheid state of Israel"*. They added that it was unbecoming of Mr Teeger to support *"the soldiers carrying out the genocide against unarmed men, women and innocent children in Gaza"* which is universally condemned by the civilised world as ethnic cleansing.
- 10.4 Mr Azhar Saloojee, a director of Diadora, a Lions sponsor. He said that they *"will not tolerate Mr Teeger playing in any competition sponsored by Diadora"*.
- 10.5 Marks Park Thistles Cricket Club. They expressed dismay about Mr Teeger's comments and demanded his immediate removal as captain of the South African under-19 team.
- 10.6 The Lenasia Cricket Club. They also expressed dismay about Mr Teeger's comments and demanded his removal as captain of the South African under-19 side.

- 10.7 The Sopranos Cricket Club. They expressed dismay with Mr Teeger's conduct and asked that appropriate action be taken against him.
- 10.8 The Khosa Sports Club. They said that one of their players had declined to play in a club match against an Old Eds team which included Mr Teeger. The player who withdrew apparently did so in good spirit, supported his team and indeed acted as water boy for the day. The club adds that the incident *"is not a reflection of the Khosa Sports Club position on this matter"* as it *"is not a platform or vehicle to perpetuate personal beliefs on any matter whatsoever"*.
- 11 Dr Moosajee goes on to describe in some detail the history of Israel's occupation of Palestine, the position of the South African government on the Gaza conflict, two reports of Amnesty International condemning Israel's conduct and that of the IDF in the Occupied Territories and more recently in Gaza. He again emphasises the fact that the South African government referred Israel's conduct in Gaza to the International Criminal Court to investigate accusations of war crimes.

The PSA's complaint

- 12 The PSA's complaint is set out in a letter to the CSA dated 17 November 2023 and in a later submission. Mr Naazim Adam is the author of both. His criticism of Mr Teeger is fierce. The following paragraphs of his letter encapsulate the essence of his complaint:

"This is clearly a provocative and inflammatory political statement, worsened by the fact that he made it at a time when thousands of innocent Palestinian people, men, women, children and babies were being killed by the Israeli army."

It is alarming that David Teeger, the selected captain of the South African under-nineteen cricket team, can see it fit to honour those partaking in the genocidal war against the Palestinian people. His unambiguous blind support for war and the bellicose side at that, demonstrates an indifference to the suffering of innocent civilians of Gaza who have lost their homes, livelihood, family members and lives as a direct result of the actions of those soldiers that he admires. It is atrocious that someone chosen to lead a national sports team can be so callous and prejudiced, especially given our history of struggle against racism and inequality in all aspects of our lives, including sport.

More than this, we are concerned that his comments are subversive as he openly contradicts the position of the South African government, which has sided with justice and in turn the victims of this decades-long colonial occupation of Palestine by the Jewish Zionist state.

That David Teeger can so brazenly heroize soldiers that are liable for gross war crimes is disturbing especially coming from someone assigned to captain the South African national under-nineteen cricket team.”

MR TEEGER’S RESPONSE

13 Mr Teeger explains that his impromptu comments were well meant albeit that they might not have been sufficiently considered:

- “24. *My comments made on 22 October 2023 were an expression of appreciation for the efforts of soldiers who were mobilised to protect the citizens of Israel and to secure the release of the hostages taken by Hamas.*
- 25. *Further, the comments I made on acceptance of the award were intended to be a personal reflection and not representative of the position of CSA, the Lions or any of the teams in which I participate. Having considered the matter further, I appreciate I may have been naive in thinking that this personal reflection would be received as such. I regret not giving more consideration to whether my impromptu comments would be scrutinised given my growing prominence in sport or that these comments may be repeated in the media - although I maintain that my comments cannot reasonably be interpreted to be representative of the position of CSA, the Lions or any of the teams in which I participate, and at the time I did not intend or foresee that anyone would interpret the comments in this way.”*

- 14 Mr Teeger also filed a replying affidavit in which he responded to complaints made against him. He explained that he did not express any support for genocide or condonation of hatred based on race, ethnicity or religion:

- “8. *It was therefore hurtful to read that my personal reflection on 22 October 2023 of Israel’s response to the Hamas attack has been equated to supporting genocide or condoning hatred based on race, ethnicity or religion.*
- 9. *Judging the conduct of the different sides during this war is a highly contested and complex matter with strongly held views on both sides. My personal and honestly held view is that Israel and its soldiers have not committed genocide, war crimes or crimes against humanity. In addition, this view is held by many people and democratic governments around the world, like the governments of the United States, United Kingdom, India, Australia and many countries in the European Union. Thus, my statements were not in support of genocide, war crimes or crimes against humanity because in my view Israel is innocent of all these allegations.*
- 10. *On the other hand, I accept, that many people and governments, including the South African government, hold an opposing view. Disagreeing in a respectful manner on a contested and emotionally charged matter is a fundamental pillar of our democracy and Constitution. I respect the right of others to disagree with my view on Israel.”*

- 15 Mr Teeger made the point that he was a schoolboy with no media or public relations training:

“I was given no orientation, guidance nor was there any creating awareness of the types of off-field comments relating to contentious socio-political issues that CSA or the Lions would consider damaging to their reputations or the game of cricket.”

He added that he would welcome guidance on this score:

“I would welcome guidance on communication so that participants, particularly those youth players like me, are aware of the organisations’ expectations on them when navigating sensitive, topical issues.”

THE MEANING OF MR TEEGER'S STATEMENT

- 16 It is clear that Mr Teeger, perhaps naively, stirred a hornet's nest of fierce and passionate contestation and debate. As the complaints against him make plain, many people, across the globe, passionately and fiercely condemn the conduct of the state of Israel and its soldiers in Gaza as being in breach of the rules of war and even as genocide. Condemnation of their conduct cuts across religious and cultural lines. This was recently vividly illustrated by the publication of a public letter signed by 700 South African Jews calling for a ceasefire in Gaza. They condemned the attack by Hamas on civilians in Southern Israel on 7 October and continued as follows:

"We insist, however, that one heinous crime does not justify another. The experience of persecution and genocide is woven into our collective memory. We are therefore called upon to prevent it from happening again, anywhere, to anyone. Moreover, we have a particular obligation to oppose such atrocities when perpetrated in our name.

For this reason, we call for an immediate cease to Israel's bombardment and blockade of Gaza. We condemn the denial of basic resources such as water, food, electricity, internet and medical supplies to Palestinian civilians. As of Wednesday 15 November, Israel's campaign in Gaza had exacted a toll of at least 11,078 Palestinian lives, including 4,506 children. We abhor the use of collective punishment and see Israel's response as dramatically disproportionate. We are distressed at the fact that this has taken place alongside state and settler-led violence against Palestinians in the West Bank."

- 17 But the condemnation of Israel's conduct is by no means universal. There are many across the globe who support Israel in its conduct in Gaza as being in legitimate self-defence. They include, for instance, the governments of the United States, United Kingdom, India, Australia and others in the European Union. It of course does not mean that they condone every aspect of the conduct of the IDF but such criticism as they might have raised goes to the operational tactics and

not the principle of the Israeli invasion of Gaza. They do not subscribe to the accusation that Israel's conduct constitutes genocide or any other international crime.

- 18 The purpose of this determination is of course not to choose sides or even comment on the debate at all. The description of the debate is relevant to this inquiry for two reasons.
- 19 The first is that it is clear that it is a multifaceted debate in which reasonable people hold opposing views with passionate conviction. It cannot be said of any of the serious protagonists that their views are not sincerely held. That is the stuff of democratic public discourse. It is important that nobody be excluded from it.
- 20 It is also clear that Mr Teeger did not condone or promote genocide or any other international crime. He clearly belongs to the school who do not believe that Israel or the IDF has been guilty of any such crime. His tribute to them cannot be understood to imply his approval or even condonation of genocide or any other crime. He sided with Israel and its soldiers because he believes that their cause is just and their conduct justified. Many will vehemently disagree with him but those are clearly his sincerely held views.
- 21 CSA submits, in paragraph 14.4 of its submissions, that Mr Teeger's comments "*were perceived as being based on race and national and ethnic origin*". It says that this is evident from some of the complaints it received. I accept that Mr Teeger's complaints may have been so perceived by some. I also accept that their perception is honestly and sincerely held. But the test is objective. The question is whether Mr Teeger in fact based his comments on race and national

and ethnic origin. Clearly not. He expressed support for and paid tribute to the state of Israel and its soldiers. He did so because he believed their cause to be just. It was not a function of the race or national or ethnic origin of anybody else.

THE CONSTITUTIONAL CONTEXT

The importance of the Constitution

- 22 CSA argues that the Codes must be interpreted in the context of the Constitution and particularly its protection of the rights to freedom of expression, dignity and freedom of association. It highlights its role in promoting inclusiveness in cricket as follows:

“CSA is a Non-Profit Company and is the custodian cricket activities in South Africa. Its role includes promoting inclusiveness in cricket, both for players and spectators. This entails ensuring that cricket is welcoming to all, by (inter alia) preventing representatives of the sport from making comments that are deeply offensive and alienate players and members of the public. The CSA Rules and Code impose upon players (being representatives of the sport) a duty to avoid making public remarks of this kinds.”

- 23 Mr Teeger agrees that the Codes must be interpreted in their constitutional context. His submissions however go further in that they attribute decisive significance to the Constitution by a two-step argument. He argues, in the first place, that his comments constitute protected speech under section 16 of the Constitution. He argues, in the second place, that the Codes must be interpreted so as not to prohibit protected speech. It follows, he says, that his comments do not contravene the Codes.

- 24 I do not agree. The governing structures of most sports bodies, including cricket, are founded in contract.³ Players are bound in contract by the Constitution and rules of the governing bodies. Those rules may impose restrictions on players' freedom of expression. They may by contract do so in particular whenever appropriate in the interests of the sport, its players and the public.
- 25 I accordingly accept, as both parties submit, that I must interpret the Codes in the context of the Constitution and the values it espouses. I do not agree, however, that Mr Teeger's statements inevitably fall beyond the scope of the Codes merely because they might constitute constitutionally protected speech. The question remains one that turns on the proper interpretation of the Codes.

Freedom of expression

- 26 Our courts have frequently lavishly commented on the importance of the constitutional right to freedom of expression.⁴
- 27 The Constitutional Court said in *Qwelane* that "*the historical stains of our colonial and apartheid past reenforce the point that freedom of expression has a particularly important role to play in our constitutional democracy*".⁵ It repeated the Chief Justice's emphasis of the importance of freedom of expression in our post-apartheid democracy:

"Expression of thought or belief and own worldview or ideology was for many years extensively and severely circumscribed in this country. It

³ Natal Rugby Union v Gould 1999 (1) SA 432 (SCA) at 440; Ndoro v SAFA 2018 (5) SA 630 (GJ) para 29

⁴ South African National Defence Union v Minister of Defence 1999 (4) SA 469 (CC) paras 7 and 8; Islamic Unity Convention v Independent Broadcasting Authority 2002 (4) SA 294 (CC) para 26; Democratic Alliance v ANC 2015 (2) SA 232 (CC) paras 122 to 123; *Qwelane v South African Human Rights Commission* 2021 (6) SA 579 (CC) paras 68 and 71 to 73; *Reddell v Mineral Sands Resources* 2023 (2) SA 404 (CC) paras 102 to 103

⁵ *Qwelane v South African Human Rights Commission* 2021 (6) SA 579 (CC) para 75

was visited, institutionally and otherwise, with the worst conceivable punishment or dehumanising consequences. The tragic and untimely death of Steve Biko as a result of his bold decision to talk frankly and write as he liked, about the unjust system and its laws, underscores the point. This right thus has to be treasured, celebrated, promoted and even restrained with a deeper sense of purpose and appreciation of what it represents in a genuine constitutional democracy, considering our highly intolerant and suppressive past.”⁶

- 28 An important and necessary corollary of freedom of expression is its requirement of tolerance. The Constitutional Court recognised in *Islamic Unity* that right to freedom of expression is not limited to statements that are moderate and inoffensive but also extends to those that offend, shock or disturb.⁷ The Constitutional Court has since then frequently reiterated the importance of this corollary.⁸ It for instance did so in the *Democratic Alliance* case.⁹ The court again emphasised the importance of freedom of expression and continued as follows:

“The corollary is tolerance. We have to put up with views we don’t like. That does not require approval. It means the public airing of disagreements. And it means refusing to silence unpopular views. As Mogoeng CJ has recently explained:

“Ours is a constitutional democracy that is designed to ensure that the voiceless are heard, and that even those of us who would, given a choice, have preferred not to entertain the views of the marginalised or the powerless minorities, listen.”¹⁰

- 29 The Constitutional Court has made the point that the right to freedom of expression does not protect hate speech but emphasised that the expression of

⁶ *Economic Freedom Fighters v Minister of Justice* 2021 (2) SA 1 (CC) para 2

⁷ *Islamic Unity Convention v Independent Broadcasting Authority* 2002 (4) SA 294 (CC) para 28

⁸ *Democratic Alliance v African National Congress* 2015 (2) SA 232 (CC) para 23; *Economic Freedom Fighters v Minister of Justice* 2021 (2) SA 1 (CC) para 45; *Qwelane v South African Human Rights Commission* 2021 (6) SA 579 (CC) paras 73 to 74; *SA Human Rights Commission v Masuku* 2022 (4) SA 1 (CC) para 125; *Reddell v Mineral Sands Resources* 2023 (2) SA 404 (CC) para 128

⁹ *Democratic Alliance v African National Congress* 2015 (2) SA 232 (CC) para 126

¹⁰ *Oriani-Ambrosini v Sisulu, Speaker of the National Assembly* 2012 (6) SA 588 (CC) para 43

unpopular or even offensive beliefs does not constitute hate speech. It did so again in Qwelane as follows:

- “78. *Hate speech is the antithesis of the values envisioned by the right to free speech — whereas the latter advances democracy, hate speech is destructive of democracy. As the Holocaust Foundation submitted, s 10 of the Equality Act is the primary mechanism to prevent or prohibit unfair discrimination caused by expression.*
- “79. *It bears emphasis that the expression of unpopular or even offensive beliefs does not constitute hate speech. This is because, as noted above, a healthy democracy requires a degree of tolerance towards expression or speech that shocks or offends.”*
- “81. *Thus, it would appear that hate speech travels beyond mere offensive expression and can be understood as 'extreme detestation and vilification which risks provoking discriminatory activities against that group'. Expression will constitute hate speech when it seeks to violate the rights of another person or group of persons based on group identity. Hate speech does not serve to stifle ideology, belief or views. In a democratic, open and broad-minded society like ours, disturbing or even shocking views are tolerated, as long as they do not infringe the rights of persons or groups of persons. As was recently noted, '[s]ociety must be exposed to and be tolerant of different views, and unpopular or controversial views must never be silenced'.”*

30 I now turn to the question whether Mr Teeger contravened the Codes interpreted in their constitutional setting.

DID MR TEEGER CONTRAVENE THE CODES?

Introduction

31 My terms of reference require me to consider whether Mr Teeger contravened clauses 1.5.2, 1.6.1, or 1.6.3 of the CSA's Rules and Code of Conduct or clauses 4.5.2, 4.6.1 or 4.6.3 of the Lions Rules and Code of Conduct. The material parts of the two Codes are identical. I shall accordingly confine my discussion to the

CSA Code, but it would be equally applicable to the corresponding provisions of the Lions code.

Unbecoming or detrimental conduct

32 Mr Teeger is accused of a contravention of clause 1.5.2. It must be read and understood in the context of clause 1.5 which reads as follows:

“Participants shall not engage in —

1.5.1 Acts of misconduct, or unruly behaviour or commit any criminal offence whilst participating in or about to or having participated in a regulated match and whilst within the precincts of the grounds at which the regulated match is played; or

1.5.2 Unbecoming or detrimental conduct which could bring them, CSA or the game of cricket into disrepute.”

33 I am, for the following reasons, of the view that clause 1.5.2 is confined to a prohibition of conduct and does not apply to spoken words:

33.1 The clause prohibits unbecoming or detrimental “conduct”. It is at least capable of a narrow interpretation confined to action and excluding spoken words.

33.2 This understanding is consistent with clause 1.5.1 which is explicitly confined to “*acts of misconduct, or unruly behaviour or... any criminal offence*”. It lends support to the understanding that both prohibitions in clause 1.5 are confined to actions and not words.

33.3 Clause 1.6 goes on to regulate public statements. It confirms the understanding that clause 1.5 is confined to conduct while clause 1.6 governs public statements.

34 The accusation against Mr Teeger is confined to his impromptu comments at the Jewish Achiever Awards. I find that they fell beyond the scope of clause 1.5.2.

35 I am moreover, in any event, of the view that his comments did not constitute unbecoming or detrimental conduct. Mr Teeger expressed views which are very offensive to some. But they are also views shared by others. Even if they could be said to be those of a minority, they cannot be said to be “*unbecoming or detrimental conduct*”. There is nothing unbecoming or detrimental about an opinion expressed seriously and in good faith, however offensive it might be to some.

36 I conclude that Mr Teeger did not contravene clause 1.5.2.

Statements detrimental to the game of cricket

37 Clause 1.6.1 must again be read in the context of the following provisions of clause 1.6:

“Participants shall not disclose or comment publicly or make any public announcement or media comment —

1.6.1 Which is detrimental to the game of cricket in general; or

1.6.2 Which is detrimental to a particular tournament or match in which they are involved; or

1.6.3 Which is detrimental to relations between the competing teams.”

38 Can it be said to be detrimental to the game of cricket if a player publicly expresses a controversial opinion on a matter of high public interest? It seems to me to depend on the circumstances. If a cricketer, for instance, abuses a cricket platform to propagate a controversial political or social cause, his conduct may

well be detrimental to the game of cricket. That may be so because his speech purports to associate and align the game of cricket with a divisive cause.

- 39 But Mr Teeger's speech was different. He did not make it on a cricket platform. He made it at the Jewish Achiever Awards evening, that is, at a meeting of the Jewish community. He identified with them by speaking of his experience as a religious young sportsman. He thanked his fellow Jews for the award they had bestowed upon him. He dedicated "*this award*", that is, the award bestowed upon him by the Jewish community, to the state of Israel and its soldiers. He was a young Jewish man speaking to his fellow Jews. It was clear from his comments that he did not purport to speak for cricket, cricketers generally or indeed anybody else. His audience certainly understood that his statement was a very personal tribute and not one made on behalf of anybody else.
- 40 Mr Teeger's comments were certainly not detrimental to the game of cricket in the eyes of his audience. Should he have guarded against the risk that his comments might become public and that others might find them offensive? I think not. He was entitled to assume that everybody would understand that his comments were made in a conversation with his fellow Jews. He did not purport to speak on behalf of cricket or cricketers generally. Others might find his statements offensive. But they would understand that the constitutional right to freedom of expression requires of us to be tolerant even of views that we find offensive. A minority opinion, sincerely held and honestly expressed on an issue of high public interest, but entirely unrelated to cricket, is not detrimental to the game of cricket in the eyes of those who respect Mr Teeger's right to freedom of expression.

41 I am of the view that Mr Teeger did not contravene clause 1.6.1.

Detrimental to relations between the competing teams

42 Clause 1.6.2 speaks of conduct detrimental to “*a particular tournament or match*”. Clause 1.6.3 then goes on to speak of conduct which is detrimental to relations between “*the competing teams*”. It seems reasonably clear that it is confined to teams competing in a particular tournament or match. It accordingly does not apply to Mr Teeger’s statements made entirely out of the context of any particular tournament or match.

43 I am in any event of the view, however, that Mr Teeger did not contravene clause 1.6.3. That is so for substantially the same reasons as those that persuaded me that he was not guilty of any contravention of clause 1.6.1. He spoke to the Jewish community and not to the members of other cricket teams. He spoke of matters entirely unrelated to them. They might find his statements offensive because they fundamentally disagree with him. That is entirely understandable. But it is again an occasion on which the right to freedom of expression requires them to respect his right to express his opinion however offensive they might think it to be.

Conclusions

44 I conclude that Mr Teeger did not contravene clauses 1.5.2, 1.6.1 or 1.6.3 of the CSA Code or clauses 4.5.2, 4.6.1 or 4.6.3 of the Lions Code.

Wim Trengove SC

Chambers, Sandton

5 December 2023