



Liberty Fighters Network

Est. 2016 - A voluntary association without gain (*Universitas*)

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Date: 12 March 2021

VERY URGENT

ATTENTION: JUDICIAL SERVICE COMMISSION

c/o Mr. Sello Chiloane (Secretary)

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[BY EMAIL]

Dear Sir

DISCRIMINATION AGAINST RELIGION BY THE JUDICIAL SERVICES COMMISSION

1. Liberty Fighters Network (LFN) is a well-known social justice organisation representing, *inter alia*, people of various religious faiths.
2. We have studied the content of the decision by Mojapelo J in the complaint between Africa 4 Palestine, SA BDS Coalition, and the Women's Cultural Group against the Chief Justice of South Africa, Mogoeng Mogoeng CJ, which was published on Thursday, 4 March 2021.
3. On 18 January 2021, LFN had raised initial concerns regarding the way by which the JSC operates. In another complaint against the CJ, the JSC had permitted that a complaint had

been lodged which was based on a flawed affidavit. Further, the JSC refused to provide LFN with follow-up information. Our correspondence in that regard was received by the JSC on 27 January 2021.

4. Perusal of the decision by Mojapelo J in this matter makes it clear that the learned judge has confused the functionality of his office as a presiding officer with his responsibility to act as an administration officer for the JCC in this complaint.
5. The approach followed by Mojapelo J in formulating his decision was to simulate a judgment. In doing so, the learned judge was not mindful that hardly any member of the public, as laypersons, would be able follow the legal jargon contained in his decision. It follows that the reasonable man would, in consequence, interpret the JCC's administrative decision as being a judgment when, in fact, it is not.
6. We have observed that for our followers this decision by Mojapelo J, on behalf of the JCC, is perceived as discriminatory against freedom of religion, not only against writer's own Christian belief but also against Muslims, Jewish people and any other faith based group.
7. It further appears that the JCC decision, while referring at lengths to the principle of separation of powers, has lost touch entirely with the separation between religion and State. Mojapelo J clearly misinterprets the, in our view constitutionally protected, *forum externum* with “[involvement] in political controversy or activity”.
8. The judge not only opted, in our view weirdly, to politicise the Christian scriptures referred to by the CJ; he completely ignored that the expression of religious beliefs very often carry political connotations. While some may be sometimes unfortunate, incorrect or controversial, they remain expressions of belief. Any spoken word may evoke criticism, rightly or wrongly, yet it cannot become the “involvement” as envisaged in the *Code of Judicial Conduct*. In this context, we note that the learned judge omitted to provide his definition or interpretation of the term “involvement.”

9. While the learned judge spends almost two full pages on his interpretations of the terms “political” and “controversy”, he does not lose a single word on the “involvement”, which is, therefore, absent from his decision for the JCC.
10. This is important insofar as it is the “*involvement*” which is sanctioned under Article 12(1)(b) of the *Code*, and not the “*political controversy*” itself, without context. In other words, it would be such activity which should have been investigated and possibly sanctioned under the *Code*, and not the perceived “*controversy*”.
11. Further, Mojapelo J acted in a discriminatory way by assuming that the SA Council of Churches (SACC) would be the “authority” amongst the Christian religion. Same is not only derogatory to the Trinity Divinity of writer’s religion but also contradicts the very content of the Bible as the Holy Scriptures in Christian belief.
12. If the administration officer of the JCC in fact took time to read the references in the Bible as quoted by the CJ, he would undoubtedly have ascertained that those references were reaching out to both the Palestinian and the Jewish people alike who had been trapped within the politicising of a religious dispute.
13. From what appears to be the transcript of the quote in question, it is clear to any reasonable person that the CJ did not promote or engage in any animosity towards any Abrahamic religion. Encouraging peace for all cannot be politicising, interfering with the separation of powers or engagement in controversy of any kind.
14. What stands written in Genesis 12 verses 1 to 3 in the Bible is a reference to the Promised Land which in Biblical future would be called Israel. The “State of Israel” today is not the Israel referred to in the quoted texts by the CJ. That is an assumption which Mojapelo J made in submitting to the complaints lodged. However, apparently none of the complainants understood the meaning of “Israel” in the context of the Bible either.
15. If it was the intention of the JCC to conduct an inquiry into the CJ’s alleged breach of the *Code*, such inquiry should never have concluded that the stated religious principles could

be in contravention of the *Doctrine of Separation of Powers*. Compelling a “guilty party” to apologise for his or her religious beliefs is not only discriminatory towards, in this case, the Christian religion but also encourages animosities between religions, and specifically, religions of the Abrahamic faith.

16. If the intention of the JCC was to penalise the CJ for contravening certain codes of conduct, the JCC has failed in its duties by alleging that aural religious expression, however controversial, could possibly be interpreted as an involvement in political controversy or activity.
17. In light of the afore-mentioned, we further believe that the judge’s decision of 4 March 2021 also contravenes Section 15 of our Constitution and that it is irreconcilable with our Bill of Rights.
16. The JSC, and/or its JCC, are herewith given the opportunity to, **by no later than Wednesday, 17 March 2021**, remove all references to any religion from its decision and to unconditionally publicly apologise for having discriminated against religion and other faith based groups.
17. In the event that the JSC, and/or the JCC, should opt to not comply with this reasonable request, we shall immediately approach the Equality Court for suitable relief.

Yours Faithfully,

Reyno D. De Beer

President: Liberty Fighters Network

[ELECTRONICALLY SUBMITTED WITHOUT A SIGNATURE]