



(Western Cape Division, Cape Town)

Case No: EC11/2025

In the matter between:

Cape South African Jewish Board of Deputies

Complainant

and

Thomas Leyland Torr

Respondent

Judgement Delivered: 9 May 2025

Le Grange J:

[1] The central issue in this case is whether videos posted by Mr. Torr (Torr) on social media platforms amount to hate speech as contemplated in s 10 (1) of the Promotion of Equality and Prevention of Unfair Discrimination Act ('PEPUDA') which is

the primary legislation prohibiting hate speech¹. Section 10 (1) of PEPUDA provides as follows:

“Prohibition of hate speech:

(1) Subject to the proviso in section 12, no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to—

- (a) be hurtful;
- (b) be harmful or to incite harm;
- (c) promote or propagate hatred.

Section 12 reads: no person may-

- (a) disseminate or broadcast any information;
 - (b) publish or display any advertisement or notice,
- that could reasonably be construed or reasonably be understood to demonstrate a clear intention to unfairly discriminate against any person: provided that *bona fide* engagement in artistic creativity academic and scientific inquiry, fair and accurate reporting in the public interest or publication of any information, advertisement or notice in accordance with section 16 of the constitution, is not precluded by this section. any information. Advertisement or notice in accordance with section 16 of the constitution is not precluded by the section.

[2] The complainant holds the firm view that the contents of 22 videos posted by Torr during the period 2023-2024 has a clear intention to incite harm and to promote hatred against all those who have membership of the Jewish race, religion, or culture, Jewish beliefs or consciences and who hold Zionist consciences or beliefs, which amounts to hate speech as prohibited by s 10 of PEPUDA.

¹ In SAHRC v Masuku, 2022 (4) SA 1 CC at para 112, the Constitutional Court held that the principle of subsidiarity applies to section 10(1), on the basis that “*the hate-speech provisions of the Equality Act are clearly designed to give scope to s 16 of the Constitution, which at s 16(2)(c) carves out hate speech from constitutional protection*”.¹ A hate-speech dispute must therefore be adjudicated with reference to s 10(1) of PEPUDA than in direct reliance on section 16(2) of the Constitution.

[3] Torr, despite being properly informed of the direction hearing and set-down dates, elected not to answer any of the complainant's allegations against him. Instead, he responded by email to the equality court proceedings in a rather ominous manner.

[4] On 13 February 2025 my registrar addressed an email to the parties advising them of a proposed date and time for a directions hearing. Torr's response was a single sentence: *"I will kill you if I ever meet you."*

When advised by the Applicant's attorney of record that the date of the directions hearing had been moved, Torr emailed on 21 February 2025 the following: *"You are mentally retarded and it's very sad but unfortunately there is no cure for that."*

Mr Merlenn Titus from the complainant's attorneys again sent Torr a notice of set-down of the directions hearing, to which his response was:

"The Name Merlenn Titus makes me throw up in my mouth a little. You definitely do not deserve to live, and I I [sic] will enjoy watching your light be extinguished behind your dead eyes."

From the abovementioned it is obvious Torr was fully advised and aware of the hearing dates but opted not to answer any of the allegations against him.

[5] The background facts in this case are alarming. Torr posted about 22 videos from 2023 to 2024 on Tik Tok, Instagram and YouTube social media platforms. The contents of these videos published are extreme, vile and replete with expletives. Despite the latter, it will be remiss not to refer to statements in some videos to give context to this matter. I will only reference 8 different videos. The tone and context in the others are similar.

Video 1: - *'When will antisemitism die? Well, it's clear to me that antisemitism will exist as long as Judaism exists because antisemitism is Judaism, antisemitism does not*

exist without Judaism. I am just a human being, there is no label that you can apply to me. But as soon as a person who wears a hat because he thinks that God likes it when he wears a hat, as soon as a guy with long fucking ponytail, as long as a Bronze Age rapist and cultist enters my vision, suddenly I'm antisemitic because I don't like the fucking way this pedophile cannibal behaves. ...There is no Anti-Semitism without Judaism. They are pedophiles - cannibals, and they deserve to be punished to the full extent of the law.'

Video 2: - *'when will anti-Semitism die? Well, that's a pretty obvious question to me because antisemitism will be around as long as Judaism is around.... Because throughout history antisemitism has existed wherever Jewish people are, because of the way that their culture functions Judaism, the religion, is based on violence and brutality; they are paedophiles, it's in their culture. I'm not saying that Jewish people are paedophiles, I'm saying that their culture is a pedophilic violent, brutal Bronze Age cult that causes antisemitism to exist, so antisemitism will only die when Judaism is completely exterminated from the world.'*

Video 3:- *'if you don't know by now Jewish people murder, rape and eat children let me prove it to you. So you know the story of Abraham, God tells him to take his son up to the mountain to kill him, to sacrifice him what do people use it to sacrifice? Food, obviously the only thing that's weird about this is that he's telling Abraham to sacrifice his own son and that's why he hesitates. But he only hesitates. He's still going to kill his son. Why? Because he's completely used to killing children for food. If God had asked him to sacrifice somebody else's child, he would have done it immediately. Fact number 2: manna is what kept the Jews alive in the desert. A mysterious source of food. Eric von Däniken thinks that this was some sort of bacteria that was created by the Ark of the Covenant. I've got news for you: it was other people's children. They would capture, kill, rape and eat other people children and that's how they survived in the desert.'*

Video 4:- *'By far the biggest drawback to being Jewish is the lack of creativity. Because, most humans (beings) are born with the ability to create new things with their*

minds.But Jewish kids are just expected to follow a 2000 -year - old book and have no creative, original thoughts of their own. It's like they have no brains, they have no souls, they have no thoughts. And they don't have the ability to even think for themselves or create anything new. They have to resort to this 2000 -year- old book that outlines in detail how to rape and eat children. And lie, hard to be a fucking cunt. Like they sit there and think oh, this is how to be a fucking cunt, I didn't realize because I don't have a soul or a mind and I can't think for myself at all so I have to follow a 2000 year old book because my people are fucking retarded.'

Video 9:- *“ Israel and Israeli supporters are heartless monsters that deserve nothing but disrespect, they don't deserve human rights, they should have their human rights stripped from them and they when justice runs its course. I'm completely disgusted by the actions and words of the Israeli animals and I'm going to dedicate the rest of my life to ensure that the disgusting, inhumane culture of the Israelis cannot hurt anyone else.'*

Video 12:- *'we all have the right to be extremely fucking angry with Jewish people. We all have the right to condemn them and be fucking mad with them, and punish them. Because this is 2024 now and they're fucking acting as if it's like the 12th century or something. They acting like Barbarians, they're acting like savages, they're literally killing women and children. It's 2024, get with a fucking program you're retards. I fucking hate your people, I hate you I fucking hate you, and everybody around the world hates you too, and we have that right. And you will fucking face the consequence of your disgusting actions.'*

Video 21:- *'... I only met my first Jewish people in Cape Town, and let me tell you, every single one of them that I've met is completely psychopathic. They're completely psychopathic, it's built into their religion. There's a great episode of High Maintenance where it's the Sabbath and the protagonist is tricked into holding a fan for a family of Jewish people, but that trickery that deception that manipulation is part of their religion. In the words of the South African Jewish comedian Nathan Levinrad: tell*

your story, make sure that everybody knows you are a victim. Tell your story of the Holocaust over and over again so everybody thinks that you are a victim.'

Video 22: - *'the reason why the IDF has such unresolved issues, and they take it out on the Palestinians is mainly because their mothers are whores. And I'm not saying that as an insult: the IDF, their mothers are literally whores in that the Israeli government forces Israeli women to breed until they have ten children. And in those ten children have ten children each, so they each have 100 grandchildren. They have no relationship with their mother, except for the fact that they know that their mother is a dirty war who sucks and fucks s until her pussy spits out little bitch-ass soldiers like the people who work for the IDF. You know, the immoral fucking psychopathic homosexual soldiers of the IDF whose mothers are all cock-sucking fucking whores.'*

[6] The complainant called Ms. Mary Bloch, a media coordinator at the Jewish Board of Deputies, Cape Town and Professor Milton Shain, an emeritus professor of historical studies at the University of Cape Town. He has written, co-authored and Co-edited books on South African Jewish history, South African politics and the history of antisemitism, including the roots of antisemitism in South Africa (1994); Antisemitism (1998); The Jews in South Africa. Professor Shain testified about the origins of blood libel against Jews in the Middle Ages, and its reoccurrence as a theme in the history of anti-Semitism ever since.

[7] Ms. Bloch testified that during the period 2023-2024 she came across videos posted by Torr on various social platforms. According to her the videos and its contents were stereotyping, propagating falsehood of Jews and were so upsetting and vulgar that some administrators took the videos off their platforms. Videos 4, 5, 6, 9, 10, 11, 12, 17 and 22 which were published on TikTok were apparently removed from the website from mid- January 2024.

[8] According to professor Shain these anti-Jewish myths and fantasies are persistently and deeply embedded in folklore and certain societies, despite the Christian

Church in a series of medieval Papal pronouncements deemed these charges as myth and nonsensical.

[9] Counsel on behalf of the complainant contended that Torr's statements had a clear intention to be harmful, to incite, promote or propagate hatred to Jews or all those who have membership with the Jewish race, religion, culture or ethnic or social origins and Jewish beliefs or consciences.

[10] It is trite that freedom of expression lies at the heart of a democracy and is guaranteed in our Constitution². The rights implicitly recognise the importance, both for a democratic society and for individuals personally to form and express opinions, whether individually or collectively, even where those views are controversial³.

[11] However, freedom of speech is not absolute and does not enjoy superior status⁴. Speech that is intended to hurt, harm or promote hatred is prohibited in terms of s10 of PEPUDA. The reason is obvious. Speech of an unduly hatred, abusive and inflammatory nature can pose a real and substantial threat to our democratic order and constitutional values. Hate speech is probably one of the most devastating methods of subverting the dignity and self-worth of human beings.

[12] The question in casu, is whether Torr's statements and words constitute prohibited hate speech as contemplated in s 10 of PEPUDA.

² Section 16 of the Constitution provides as follows:

"(1) Everyone has the right to freedom of expression, which includes -

- (a) freedom of the press and other media;
- (b) freedom to receive or impart information or ideas;
- (c) freedom of artistic creativity; and
- (d) academic freedom and freedom of scientific research.

(2) The right in subsection (1) does not extend to -

- (a) propaganda for war;
- (b) incitement of imminent violence; or
- (c) advocacy of hatred that is based on race, ethnicity, gender, or religion, and that constitutes incitement to cause harm."

³ South African National Defence Force v Minister of Defence and Another 1999 (4) SA CC at para 8.

⁴ Islamic Unity Convention v Independent Broadcasting Authority 2002 (4) SA 294 CC at para 30 and the cases referred to therein

[13] The contents of the 22 videos posted viewed contextually can be characterised in four main themes. In the first, the essence of the accusation is one of ritual murder and cannibalism, of Christian children or other victims. Torr is thus propagating on social media that Jewish people are cannibals; they murder and eat children; and they eat babies and drink their blood. According to professor Shain, this is nothing else than blood libel which is an antisemitic myth falsely accusing Jews of murdering Christians to use their blood in the performance of religious rituals.

[14] Secondly, Torr is accusing Jewish people of being paedophiles; raping children, including babies; and are generally rapists. He is thus openly promoting the narrative that Jewish people commit acts of sexual violence against women and children.

[15] Thirdly, Torr promotes the idea that Judaism is based on violence and brutality. And, Jewish people act like barbarians, kill men, women, animals for no apparent reason and are completely psychopathic.

[16] Fourthly, according to Torr Jewish people, lack creativity, have no brains, no souls, and no thoughts, and are retarded; that Israeli Jews are animals with a disgusting, inhumane culture; they are unhappy and Israeli Jewish mothers are whores.

[17] Torr, at times also sought to advance his hostility to the Jewish people by referencing the war in Gaza. He is also advocating that Jewish people, including South African Jews, apparently receive free, fresh delivery of Palestinian child meat every week and eating Palestinian children and drinking their blood. In two videos he also equates Israel with Nazi Germany.

[18] There can be nothing wrong to publicly and openly express views and debate issues relating to Gaza. Some commentators refer the situation in Gaza as a war, others as a genocide. As mentioned in paragraph [10], freedom of expression implicitly recognises the importance, for individuals to form and express opinions, whether individually or collectively, even where those views are controversial

[19] Mr Torr's videos and speech however is not limited to the Gaza situation. His publication does not engage in bona fide artistic creativity, academic and scientific inquiry, fair and accurate reporting in the public interest or publication of any information advertisement or notice in accordance with section 16 of the constitution. His speeches fall entirely into a different category. Ignoring the vulgar and crude name-calling, his videos and speech promotes horrid and dangerous consequences, including the complete annihilation of Judaism from the world, the death of Jewish children, which according to him will be better off, stripping Jewish people of their human rights and to punish them to the full extent of the law. Furthermore, he is openly promoting the narrative that Jews are rapists and committing acts of sexual violence against women and children. His hostility and prejudice against the Jewish people are palpable, dangerous and full of revulsion.

[20] Our apex court have recognised Jewishness as a religion, an ethnicity, and an identity.⁵ Moreover, in *Qwelane v SAHRC and Another*⁶, the Constitutional Court said that speech is powerful. It could build, promote and nurture, but it can also denigrate, humiliate and destroy. Furthermore, hate speech marginalizes and delegitimizes individuals based on their membership of a group. This may diminish their social standing in the broader society, outside of the group they identify with. It can ignite exclusion, hostility, discrimination and violence against them. Not only does it wound the individuals who share this group identity, but it seeks to undo the very fabric of our society as envisioned by our Constitution. The speech of Torr is no different. His publications are not only extensive, but are nasty, vicious and appalling. Its main aim is not to strive for a society built on democratic values of human dignity, equality, and the advancement of human rights but to humiliate, destroy and to ignite hatred and violence against Jewish people. There seems to be no end to his vulgarity.

⁵ See Masuku, paras 156 and 157. See also *E, R (on the application of) v Governing Body of JFS* [2009] UKSC 15 (16 December 2009) para 67 (per Lady Hale): "There is no doubt that the Jewish people are an ethnic group", and para 76 (per Lord Mance): "the word 'Jewish' may refer to a people, race or ethnic group and/or to membership of a religion".

⁶ *Qwelani v South African Human Rights Commission and Another* 2021 (6) SA 57 para 1 and the articles referred therein.

[21] The videos and speeches contextually viewed fall squarely in one or more of the prohibited grounds as contemplated in s 10 of PEPUDA. Unquestionably, any reasonable, objectively and informed person seeing the videos will understand the sting in the statements. It is blatant antisemitism speech intended to incite harm, to promote and propagate hatred against Jewish people. Moreover, Torr has shown no remorse but only disdain for the legal process. It follows the complainant had overwhelmingly established; it is entitled to the relief sought in its Notice of Motion

[22] In the result the following order is made in terms of s 21 (2) of PEPUDA,

1. The Respondent's videos published during 2023 and 2024 on TikTok, Instagram and YouTube are hereby declared to be harmful and to incite harm and propagate hatred, amounting to hate speech as envisage in s 10 of PEPUDA.
2. The Respondent is ordered to issue an unconditional written apology to the South African Jewish community within 30 days of this order, or within such other period as the parties may agree upon.
3. The Respondent is ordered to donate R 50,000 (Fifty Thousand Rand) to the Cape Town Holocaust and Genocide Centre within 30 days of this order, or within such other period as the parties may agree.
4. No order as to Costs.

Le Grange, J

Appearances:

For the Complainant: Eduard Fagan S.C with Eshed Cohen

Instructed by: Hurter Spies Inc, Pretoria
 c/o Marias Muller Hendricks Inc, Cape Town

For the Respondent: No Appearance.