

**DECEMBER 2019 REPORT OF A COMMISSION OF INQUIRY
INTO CENTRAL GAUTENG LIONS CRICKET BOARD
(PREVIOUSLY KNOWN AS GAUTENG CRICKET BOARD)
REGARDING TRANSFORMATION**

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CENTRAL GAUTENG LIONS CRICKET BOARD REPORT

SECTION I

Background and Context

Mandate.

1. On 23 July 2019 Cricket South Africa (CSA) asked me to look into the situation within the Central Gauteng Lions Cricket Board (CGL), formerly known as Gauteng Cricket Board (GCB). The CGL is, of course, an affiliate of CSA, the latter being the mother body and national authority governing the game of cricket in the country. In turn, CSA is an affiliate of the International Cricket Council (ICC). CSA is the only body recognized by the ICC and the South African Government as the national controlling body of the game in the country.

The Langa Report

2. Some time in 2010, a commission of inquiry chaired by the late Chief Justice Langa was set up and mandated by CSA to look into the affairs of CGL, then known as GCB. The commission subsequently produced a report, known as *“Report Of The Fact Finding Commission Relating To Various Matters In The Gauteng Cricket Board”* (Langa Report). At this stage, I do not propose to go into details of the report; it is readily available from both the CGL and CSA. I will restate its fundamental

overall objective later when considering whether or not that objective has been achieved; suffice it for now to say that the report's fundamental objective was the transformation of the game of cricket; that is, to make it reflect our society. The reason I mention the Langa Report at this stage is solely to provide context to this Inquiry as its Terms of Reference revolve around whether or not the report's fundamental objective has been achieved.

Brief History

3. The internal disagreement within the CGL has a long history, dating back to when it was still known as the Gauteng Cricket Board. Basically, the disagreement was between the so-called previously advantaged clubs and previously disadvantaged ones; central to it was the issue of transformation of the game within the CGL, or the lack thereof. The previously disadvantaged were a broad church, comprising Africans, so-called coloureds and people of Indian origin. Given the powers of the directors, whose decisions would naturally impact on transformation, there were, inevitably, disagreement on its composition and the voting rights of the clubs. The dispute was taken to arbitration, the result of which was an Arbitration Agreement, a copy of which was annexed to the Langa Report. Disputes arose in the implementation of the Arbitration

Agreement; as a result, the Langa Commission of Inquiry was established as a fact gathering mechanism and also to make recommendations on the way forward. The Report made important findings as well as recommendations on, *inter alia*, the composition of the board and voting rights. As already mentioned, the fundamental objective of the recommendations made was to bring the clubs together and to bring about transformation. The regime established in terms of the Report would be an interim one: it was to endure for a period of 6 years, after which it would lapse; however, it would only do so after the holding of an Annual General Meeting (AGM) of the Council of members. As the interim regime was expected to end during 2019, the AGM was to be held in the second half of 2019. In the meantime, a new Memorandum of Incorporation (MOI) of the CGL – referred to later in more detail -- was approved in March 2018. It was in line with the CSA's own MOI.

4. Prior to the holding of the envisaged AGM, a “*Summary of Proposed 2019 Amendments to the GCB MOI July 2019*” (Summary of the Proposed Amendments) was produced and circulated. It sets out proposals to the 2018 MOI. The proposed clauses were premised on the expectation that the Langa Report interim regime was going to come to an end in 2019. They therefore sought to remove certain clauses in the 2018 MOI governing the interim regime, and even went so far as to provide for the post Langa Report period. However, the

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proposed amendments were to be approved prior to the AGM at a Special Meeting of the Council; once approved, the AGM would be held in accordance with them. In effect, their approval would end the Langa Report era, and usher in a new one. However, those proposed amendments did not go down well with some of the clubs who held the view that the transformation envisaged by the Langa Report had not been achieved yet; therefore, its interim regime should continue. When this internal disagreement and the proposed holding of the Special Meeting reached CSA, it asked for the deferment of the meeting so that an assessment could first be made as to whether or not the Langa Report's transformation objective had been achieved.

5. Some clubs believe that the fundamental objective of the Report, namely, transformation, has been achieved; that the Report has served its course and should no longer apply and therefore that a new regime should be ushered in. On the other hand, others argue the opposite; they say the fundamental objective has not been achieved at all and therefore that the interim regime should continue. It was as a result of this fundamental disagreement that CSA approached me to try and assist, if possible; hence this Inquiry.

Objective of the Terms of Reference for the Inquiry

6. The objective of the Inquiry's Terms of Reference (TOR) is to assess whether or not transformation as contemplated in the Langa Report has been achieved, or substantially achieved. Secondly, to deal with the issue of the composition of the board of CGL, the voting methods, the veto rights by African Clubs against African candidates for election to the board as non-independents; thirdly, to provide guidelines for the drafting of the CGL's MOI accordingly. Some issues were also raised by one or two stakeholders relating to the relationship between CGL and CSA; such as the issue of hosting rights. I indicated at the outset that I would not be drawn into such issues as they fell outside my mandate and thus the TOR.

Mediation or an Inquiry?

7. At the meeting with CSA referred to in paragraph 1 above, I was not yet fully conversant with the extent and depth of the disagreements amongst the clubs within the CGL. I therefore had an open mind as to the form the process might take: Mediation, or an Inquiry with findings and recommendations. The next meeting I had was with the directors of the CGL on 31 July 2019. A lengthy discussion ensued, part of it by way of teleconference. It became apparent that there were disagreements even amongst the directors themselves on key issues. I later had another meeting with representatives of the clubs on 18 September 2019. Here too it emerged that the clubs were far apart, and that positions had almost hardened.

In the meantime, I had formed the view that the only fruitful process to invoke would be an Inquiry. I therefore affirmed to the stakeholders accordingly. But, towards the end of the meeting, one speaker (I don't know how much representative he was) argued that the process that had been agreed upon with me was mediation. I disagreed with him there and then. After raising other issues which seemed to be more about differences between the CGL and CSA – into which I did not want to be drawn as those fell outside the ambit of my mandate -- the person stormed out of the meeting and called on everybody to follow suite. There were many attendants and, except for one other person, nobody budged; all remained in attendance to the end. I briefed them on the way forward, namely, that the process would indeed take the form of an Inquiry. This was understood and accepted by all present. A day or so after the meeting, I circulated the prior correspondence I had issued to the stakeholders, the contents of which showed beyond doubt that an Inquiry, as opposed to Mediation, had all along been indicated as the appropriate mechanism; the person's assertion that Mediation had been agreed upon with me was therefore demonstrated beyond doubt to be incorrect.

8. Shortly before the commencement of the hearing, three virtually identical lengthy letters (the first two dated 8 October 2019 and the third undated) were received. They were from the Delfos Cricket Club, Crescents Cricket Club and Roshnee

Cricket Club. There were two short others that merely aligned themselves with the three. These letters are contained in *Bundle A: Letters re Mediation*, attached hereto. The letters asked for the Inquiry to be abandoned, and that the matter be referred to Mediation. One letter even suggested the names of possible mediators. I must indicate that the above clubs are within the CCF grouping. This is important to point out because there were many other clubs from the very same grouping that were not only willing to go along with an Inquiry, but also participated fully from beginning to end. And of course, as I indicate later, participation was also from various clubs from other groupings; again, full participation from beginning to end. I therefore rest the case for an Inquiry! Nevertheless, I feel I owe it to the above letters to explain why I, with respect, differed with them, and, instead of abandoning ship, soldiered on with an Inquiry. But in so explaining, I do not intend dealing with every single issue they raised; space and time constrain me from doing so. I therefore limit myself to what appears to be, as it were, their strongest points.

8.1 As I say above, at the meeting held on 18 September 2019, one speaker said that I had all along said that Mediation would be the employed mechanism, and not an Inquiry. Again as I say above, the correspondence I had already issued prior to the meeting and which I distributed after the meeting, clearly demonstrated that I had for some time prior to the meeting been speaking

of an Inquiry, and not Mediation. In light of that, the speaker's assertion could not stand. The authors of the three letters now say that I misunderstood what the gentleman said in the meeting. They say it was the then CGL Chief Executive Officer and CSA (and thus not me) who had said that Mediation would be the way to go. I am not convinced that I misunderstood the person; he could not have been clearer. But in the very unlikely event that I misunderstood him, I do apologize; after all, such personal egos as may be there, must defer to the interests of the game.

- 8.2 The Inquiry could not reasonably be abandoned as requested in the letters; they were written and received only a few days before the commencement of the hearing. The process was therefore already too advanced for abandonment. In any case, see paragraphs 8.9, 8.10 and 8.11 below.
- 8.3 The three letters extolled the virtues of mediation. There is no doubt that mediation can yield fruit; but the soil has to be fertile. So, long live mediation long live! What confounds with the letters though is their glaring omission that an inquiry, in the form of the Langa Inquiry, was resorted to precisely because mediation had failed; in fact, two of them. Thanks to the work of an inquiry (Langa Inquiry) that at least the clubs have

been able to work together to date, albeit with some challenges.

- 8.4 The letters say that I would not be able to exercise an independent mind: *“The Judge is on a retainer from CSA, conceded that he was briefed by CSA and indicated that he would conduct an Inquiry even if only one Club participated. Apart from concerns that some Clubs have about whether the Judge would, in the circumstances, be in a position to exercise an independent mind”*.

Firstly, regarding the issue of being on a retainer by the CSA: This is a misapplication of a well established and plausible principle, namely, that if you are say on a retainer by A, you may not adjudicate a dispute between A and B. But in the present case I am not adjudicating any dispute between CGL and CSA. My brief by CSA (the national body controlling the game) is to look into a dispute amongst clubs within CGL itself. Am I on a retainer by any of the clubs within the CGL? Definitely not! The dispute? Some clubs say the Langa Report has achieved its purpose and must go, others say no. My task is to gather the facts, consider them, make some findings and, where appropriate, make recommendation and report back to CSA. Secondly, the fact that I said the Inquiry would

proceed even if only one club participated was not a demonstration of lack of empathy, but of the determination to listen to whoever wanted to be listened to, big or small, few or many. I am a proud prisoner to the judicial dictate that whoever wants to be listened to should be given audience. As it turned out, several clubs, big and small, made representations, both written and oral which, may I add, were important, helpful and, above all, constructive. Indeed, more written submissions were received even after the hearing had concluded. Nothing demonstrated the stakeholders' confidence in the process than that; a clear vindication of my view that people needed to be, and wanted to be, listened to. With respect, I fail to see anything wrong in listening to so many people who wanted to be listened to and who wanted to give the process a chance in the interests of the game they so dearly love.

- 8.5 Another point raised: *“Unlike a judicial Commission of Inquiry, the judge in this inquiry has no powers of subpoena and cannot order any party to provide information.”* With respect, I needed no such powers and would have in any case frowned upon them, let alone exercising them to coerce anybody to appear before me. I counted on the fact that stakeholders would be driven by their sheer desire to do what was

in the best interests of the game as opposed to being obstructive; the tremendous response, co-operation and support this Inquiry received proved me right. It is worth noting, by the way, that the Langa Inquiry was not a judicial one either. Secondly, I would loath a “*judicial Commission of Inquiry*” as only a government can appoint such a commission. I would prefer nothing of the sort; I am weary of government intervention. I am a champion of self-regulation as opposed to government intervention. Yet the danger of government intervention will always loom large as long as cricket fails to put its own house in order. I accepted the task with the spirit that CGL and indeed cricket can heal itself without government intervention. That I am a champion of self-regulation is apparent from the fact that I am for years chairing two tribunals of private industry bodies which regulate themselves, and which are presently waving self-regulation in the face of the government in order to fend off the latter’s attempts to intervene and regulate.

- 8.6 There is a complaint that the hearing dates were mid-week. But what other days were available? Only Saturday and Sunday! Apart from anything else, these are the days on which some people have religious constraints. One wonders what other days in a week other than the seven would mediation have found

anyway. Surely, when so much is at stake, reasonable sacrifices are in order; good things are seldom achieved without some sacrifice. But, very importantly, I received no proposal, not even from the authors of the letters themselves, as to which days could be used.

8.7 “*The rules have not been put in place in regard to how disputes of fact will be resolved at any Inquiry*”. As the majority of the people who will be reading this Report will probably not be lawyers, I will not burden them with legalese or legal technicalities. Suffice it to say that the statement is, with respect, misconceived: as to how disputes of facts are resolved is a matter of law; no one is at liberty to “*put in place*” or make rules for that.

8.8 As for the Terms of Reference, stakeholders were given sufficient time to make inputs, and they did so. This issue was dealt with in the various Directives I issued, and no queries were raised at the hearing about this.

8.9 The majority of the stakeholders supported the inquiry process.

8.10 In any case, virtually all the difficulties the letters saw, could also apply to mediation. Difficulties will always

be there, but it is only when we dig deep into our commitment to finding a solution in the interests of the game that we surmount them.

8.11 In any event, the present process does not necessarily exclude mediation should such a need arise. There is no reason to think that the facts gathered by this Inquiry and the recommendations it makes, may not be used as material for mediation. The two processes may be complementary. What is fundamental to any process is the will, as some stakeholders put it, to put the interests of the game of cricket first; no process will resolve anything in the absence of that; not an Inquiry, not Mediation.

9. There were other issues raised in the letters, consistent with the attitude that the Inquiry should be halted; these issues were, however, not germane. Moreover, they were covered in the Directives I had issued.

Co-operation from clubs/stakeholders, and their participation.

10. Special comment must be made on the co-operation shown by clubs/stakeholders (the two words will be used interchangeably) and their participation. Despite their differences of opinion on whether or not the fundamental objective of the Langa Report had been achieved, the

directors too co-operated fully. This included the administration, in particular the previous CEO, Mr Fredericks and later Mr Jono Leaf-Wright, his successor. Also, the clubs responded appropriately to all the Directives I issued from time to time, aimed at guiding the process. As I said earlier, the meeting with the clubs' representatives on 18 September 2019 was well attended. Their interest and co-operation was demonstrated when, despite a call referred to earlier on by the person to leave the meeting, they remained. But the co-operation went far more beyond that: for example, after explaining to them that the process would take the form of an Inquiry, and after being asked to do so, they made written submissions, appeared at the hearing, made oral representations and in some instances, even sent in additional written submissions after the hearing had closed. The co-operation demonstrated the interest people had in the game, and enabled the Inquiry to gather representative views. I am satisfied with the co-operation received; even more importantly, I am satisfied that the Inquiry has received representative views from the clubs. This Report is therefore the product of representative participation by the clubs or stakeholders.

Methodology

11. Once it was determined that the process would take the form of an Inquiry, I issued Directives from time to time to all the clubs and stakeholders, aimed at expediting the process.
12. My Directives and other communications were through the office of the CEO of the Board, to be filtered down to the clubs and teams. The feedback I received was that this was done.
13. A proposed draft of the Terms of Reference was received from the then CEO. After redrafting the Terms of Reference to bring them in line with my mandate, as I understood it, I caused them to be distributed to all interested parties for their comment by a certain date. There were no substantive amendments suggested and such as there were, were worked into the final version. The final version of the Terms of Reference is contained in *Bundle B: Directives and Terms of Reference*, attached hereto; so too is a copy of the proposed draft by the then CEO. The intention behind giving the stakeholders a say in the formulation of the Terms of Reference was to ensure that everyone would be satisfied that the relevant essential issues were covered by the Inquiry.
14. The Langa Report identified three main categories of stakeholders: Previously Advantaged Clubs ("PAC"), being traditionally white clubs; the Concerned Cricket Forum ("CCF"), comprising so-called coloureds and people of Indian origin, and Black African Cricket Clubs ("BACC"). It must have

pained the Langa Commission to categorize people in this manner, but it was a realistic approach dictated by the manner in which the issues in dispute presented themselves. Regrettably, I too had to go through the same pain and categorize the stakeholders into those same groupings. It was again an inevitable pain, but necessitated by the realities on the ground. I had to be pragmatic; we all know that the most pragmatic option is not always the most palatable. It should be noted though that I did not limit participation to the above three groupings. I also opened the door to those stakeholders who argued that, as a matter of principle, they did not wish to be put into any of the three categories. I went even further: I invited any other interested stakeholder to make submissions.

15. Several written submissions were indeed received. They were in response to the issues as *per* the Terms of Reference, namely, whether or not the fundamental objective of the Langa Report had been achieved, or substantially achieved; also, on the related issues of the composition of the board of directors, the clubs' voting rights, and the right of African clubs to veto the appointment of African non-independent directors. The substance of the various submissions is summarized later when dealing with the TOR. I do point out that in doing so, I do not always mention the names of those who made written and/or oral submissions; after all, they were mostly not doing so in their personal capacity, but in a representative one. Here and there I also use acronyms. Another reason I do not always

mention names is because copies of the written submissions are attached to this report, and, secondly, the proceedings were recorded and may be transcribed if need be.

16. Each grouping was advised to identify at least 2 representatives to articulate their case at the hearing. The same opportunity was extended to any stakeholder or interested party who did not fall within the three groupings. The hearing took three days, namely, 14, 15 and 21 October 2019. Proceedings were not conducted with the rigidity of a court. I indicated that, first to be heard, would be those who were of the view that the objective of the Langa Report had been achieved, to be followed by those who held the opposite view. This order was, however, not strictly adhered to. Moreover, interventions were allowed from time to time even though one speaker would still be on the floor. The idea was that the stakeholders should feel that they owned the process. The important thing is that those who wanted to make oral representations were given the opportunity to do so, which they seized. More written submissions were filed in support of, and subsequent to, oral submissions. This Report is therefore based on all the submissions made, oral and written. The issue is therefore not how many individuals made submissions, but whether each view was fully represented and ventilated; after all, repeating the same point and facts by a long line of people would not have added any more value to it. It was not a matter of counting votes. To be borne in mind also

is the fact that clubs had to make inputs as *per* grouping, although some submissions were also received from stakeholders who indicated that they were not keen to be classified with any of the three groupings. No submissions were made by CSA, while some were made on behalf of the CGL itself. I indicated during the hearing that while the terms covered the issue of voting and aimed to finally align CGL's MOI with the demands of the CSA, I would not draft the actual provisions of the MOI; the furthest I could go would be to propose some guiding principles to that end.

Transformation: The fundamental objective of the Langa Report as the subject of the Terms of Reference

17. It is common course that the fundamental objective of the Langa Report was to bring about transformation. It is therefore important to understand correctly the concept "transformation" within the context of that report; after all, it is that very objective that forms the subject matter of the TOR. That objective was to bring about transformation in the game of cricket, not only within CGL but, hopefully in the end, in the country as a whole. Transformation would be the culmination of various accomplishments, some of which may be described briefly: bringing together the clubs belonging to the three groupings; uplifting the standard of cricket in previously disadvantaged communities; providing, developing and maintaining facilities in those areas to ensure the nurturing of

talent which would finally result in the game being representative of the demographics of the country at all levels. The development plans would be sustainable and feed into all levels of the game right up to the national level. Such transformation would not only be reflected on the field, but also in the administration of the game; to this end, special arrangements regarding the election of directors were made. It is on these issues that the Terms of Reference seek some views and, if possible, make findings and recommendation. As one of the clubs submitted, the aim of the Langa Report was to create a viable system of club development, especially clubs from previously disadvantaged areas; a system that would be a sustainable pipeline through which players from such areas would be given the opportunity to advance to the level of everyone else in the country. Indeed, it would be idle to suggest that the Langa Report could have aimed for any less.

Whenever herein I speak of the fundamental objective of the Langa Report, I refer to transformation in the sense unpacked above: a collective term with elements described earlier, such as the provision of equal facilities, resources, *etc.*

18. This fundamental objective is affirmed by the CGL in its *Transformation Policy Document – October 2014*; for example, in paragraph 5 thereof, “*Transformation Mission*”, and paragraph 11, “*The Role of the CGB*,” more explicitly in subparagraphs 11.4 to 11.6. The following also appears in

paragraph 2 of the document. *“Transformation does not only speak to issues of racial redress. It is about management and governance; about resources and opportunities; and about embracing change in a multi-layered set of arenas”*. Mr Lunga Kupiso, (Bundle F, page 30): *“For me in particular, transformation must also answer to the question, have we introduced the game and built facilities in a previously starved community, equipping those locals to sustainably build on and preserve the introduced resources This for me, is the biggest red flat which we should be cognizant of before we rush to say we have reasonably met the Langa report success factors”*.

19. The TOR were correctly understood by all the stakeholders as relating to the above fundamental objective, namely, transformation. The TOR are aimed to find the way forward, irrespective of whether the question is answered in the positive or in the negative.
20. Having determined the fundamental objective of the Langa Report, one must proceed to deal with the TOR to consider the vexed question whether or not that objective has been achieved, and then deal with related issues in accordance with such a finding.

SECTION II

Addressing the Terms of Reference

21. The following are the Inquiry's Terms of Reference:

- “1. To inquire into whether or not the goals and objectives of the Langa Report have been achieved, or substantially achieved, namely, to transform the game of cricket in the country.*

- 2. Depending on and in accordance with the findings in 1 above, to determine or not determine which clauses, if any, in the proposed Memorandum of Incorporation should be drafted and if so in accordance with what guiding principles, regarding*
 - 2.1 The composition of the Board.*

 - 2.2 Veto rights by Black African Clubs over Black African nominees on the Board.*

 - 2.3 The voting rights of one team clubs and the possible appropriate voting mechanism.*

- 3. To make appropriate recommendations, if any, on the way forward in accordance with the findings and possible determination as per paragraphs 1 and 2 above”.*

It would be appropriate to deal with the TOR in the order in which they have been formulated.

A. **“Whether or not the goals and objectives of the Langa Report have been achieved or substantially achieved, namely, to transform the game of cricket (within CGL)”.**

22. Although the TOR speak of transformation of the game of cricket “*in the country*”, this Inquiry is actually only with reference to CGL. The question is a fundamental one, on which the Inquiry turns; other questions are dependent on how the question is answered. The 20 March 2018 MOI took cognizance of, and accepted, the Langa Report regime, which was to be for 6 years, namely, from 2013 to 2019. It was hoped that transformation would have been accomplished by that time, hence the following clause in the MOI:

“6.5 *Aim of Transitional Period*

It is anticipated that transformation will have been achieved by the end of the Transitional Period at every level of CGL and all the objectives and goals set out in the Langa Report will have been achieved, alternatively substantially achieved.

It is envisaged that members will be able to interact and compete with each other on an equal, non-racist, non-sexist basis in an

environment of mutual trust, understanding and respect and free from discrimination on any basis.

6.6 *The transitional arrangement will cease at the end of the 6-year period and the provisions hereinafter set forth shall prevail*”.

23. Optimistic and no doubt believing in good faith that the fundamental objective would have been achieved at the end of the transitional period, the MOI even went further to make provisions for the “*After Transitional Period*”.

It is therefore clear from what is quoted above that the lapse of the “Transitional Period” as well as the advent of the “After Transitional Period” are subject to the materialization of a particular condition, namely, the achievement of transformation as envisaged by the Langa Report. That is why the central question, as all stakeholders correctly see it, is whether or not that condition has now materialized. The answer must be an honest one, and be informed by a realistic and frank assessment of the situation. There are two schools of thought: those who contend that transformation has been achieved, at least substantially, and those who contend otherwise. Copies of written submissions by the various groupings are contained in the following bundles attached hereto: “*Bundle C: PAC Written Submissions*”; “*Bundle D:*

BACC Written Submissions"; *"Bundle E: CCF Written Submissions"*. Written submissions received after the hearing had closed are contained in *"Bundle F: Written Submissions Received After the Hearing"*; they are almost all from the two latter groupings. In an attempt to assist this Inquiry, the former CEO, Mr Greg Fredericks, prepared what he called a *"Critical Success Factor Checklist"* copy of which is attached hereto as *"Document G"*.

I start with the group that says transformation has been achieved.

Submissions that transformation has been achieved, at least substantially, and therefore that the interim period should lapse.

24. Under this category fall submissions received from mainly the PAC. I quote liberally from some of those written submissions. Naturally, I will not do so from all of them, nor is it necessary to do so, for three reasons: Firstly, they are contained in Bundle C hereto; secondly, they basically make the same points; thirdly, supporting oral submissions were recorded. The following are some of the submissions:

24.1 From the Wanderers Cricket Club: *"As far as the Wanderers CC are concerned, we believe that Langa has run its course and achieved its aims.*

On this basis, we believe that there should be no racial interest groups at the CGL and Non-Independent Board Members should be subject to election in an open democratic vote.

- 1. Under Langa we are categorized as 'Previously Advantaged Club (PAC)' – effectively a 'white' club. However, our membership is now 50% non-white;*
- 2. Similarly, our management committee contains representation from all racial groups and women;*
- 3. We have a junior section that specially targets non-cricket playing schools – this will change the demographic nature of the Wanderers Cricket Club from the bottom up;*
- 4. We have had success in developing players from HDSA backgrounds for representative teams outside of the school system;*
- 5. We have openly embraced, championed, the requirements of the 1st XI to have at least one player of colour;*
- 6. We have subsidized the membership of HDSA players – those that could not ordinarily afford it.*

And this has been for players (of?) all abilities, not just the 1st XI”.

24.2 Heidelberg Cricket Club feels that *“the Langa report and process had run it (sic) course We feel we are more divided than united and for cricket we (have) to move on”.*

24.3 Calypso Old Maristonians Cricket Club Chairman: *“I can speak from the point of view of our Club, in our case we are classified as a PAC club and we have 95% of our members from previously disadvantaged backgrounds. We have not had the benefit of CGL assistance in our transformation. I think that Langa achieved what it could in its time, however is woefully outdated now as a racially divisive document. Then follows a contribution that is also very important: “The issue of transformation can only be governed by policy, but needs to be executed by individuals. The Policy may have had a good intent, but we have been let down in its execution by a faction fractured composition of board, who have spent most of that time in disagreement via its constituencies”.*

24.4 On behalf of the PAC, Mr Mark Patterson made the following submissions:

- “3. *We believe that Gauteng has achieved many transformations goals and most certainly the latter period of Langa has seen massive changes in structure reflecting effective transformation.*
4. *The CGL office and its structures are massively transformed, as are its offshoots of representative teams, umpires, scorers and clubs.*
5. *As member clubs, the ‘PAC’ clubs are massively transformed for example two of its largest clubs, Wanderers and Old Edwardians both having white membership in the minority. Players are given quality of opportunity and three players of these clubs.... have consistently played senior representative cricket in Gauteng in the last year...*
6. *The racial composition of club captains has also transformed as have their committees.*
7. *Some PAC clubs are almost 100% non-white in their membership base.*
8. *PAC clubs are where true transformation is occurring, institutions of excellence that have*

created environments that don't see colour and get on with providing quality of opportunity for players of colour".

Views were also expressed that other people wanted the Langa Report regime kept in place for their personal benefit. The Langa Report, it was said, divided clubs into racial silos: the PAC, CCF and BACC. It is argued that to retain that kind of regime would perpetuate the divisions.

25. The substance of the written and oral submissions that the objective has been achieved can therefore be summed up as follows:
 - 25.1 The regime put in place by the Langa Report was accepted by the clubs at its inception, but would lapse after 6 years.
 - 25.2 It was to bring about transformation in the game; to this end, facilities would be provided in the previously disadvantaged communities; the transformation would permeate all levels of the game, up to the board level.
 - 25.3 The fundamental objective of the Langa Report has been achieved. Some of the previously advantaged clubs have several black players, at some clubs in the

majority. If the objective has not been fully achieved, it has, at the very least, been substantially achieved.

- 25.4 The objective having been achieved, the regime implemented in terms of the Langa Report must lapse and be replaced by a new one. In this respect, it is argued that what is needed is to elect on merit people with the interests of cricket at heart to run the game; be it directors or administrators.

Submissions that the fundamental objective of the Langa Report has not been achieved

26. Written and oral submissions from all BACC clubs were that the fundamental objective of the Langa Report as described earlier on had not been achieved. Copies of their written submissions are found in Bundle D: BACC attached hereto. They were supported by written and oral submissions from some clubs and individuals one could categorize as falling within the CCF grouping. (It should be note that clubs within the CCF grouping do not hold the same view). The BACC clubs that made written submissions included the following:

- 26.1 Soweto Pioneer Cricket Club: In their view there has not been any transformation as envisaged by the Langa Report. A suggestion was even made that there should be some prescribed targets. It is also argued

that there is a huge disparity when it comes to resources or provision of facilities.

26.2 There was a broadly worded written submission on behalf of the BACC itself, later to be augmented by oral submissions during the hearing.

26.3 It is pointed out that whereas the BACC written submissions were not as extensive as the PAC's, the oral evidence was very extensive and detailed which, as said earlier, has been recorded. Moreover, more written submissions were filed after the hearing and they are contained in Bundle F.

“1. Diepsloot CC, management and players maintained that the Langa Commission recommendation is not met and reiterate that Langa Commission report and recommendation is living document and it cannot have expiry date, it is rather a work in progress and should continue its validity as long as all if not most of the recommendations are met satisfactorily which is accepted by all concerned parties and stakeholders.

2. ... The transformation in the cricket is still in tokenism and window dressing, these issues are serious and need to be taken into consideration.

The board representation needs to be the true reflection of SA demography and we propose non-independent director of CGL 7 should be 5 Black and rest two from another racial group. ...

7. *The club cricket in the township is almost nonexistence as the grounds are not suitable and investment is required which CGL do not have.*
8. *I would say the cricket in CGL will be fully transformed when we have in Gauteng 64 township having cricket club not only 10 clubs as what we have currently. At least to see the transformation out of 64 townships at east 70% must be club by 2022". (Bundle F, pages 1 and 2).*

27. The extensive oral evidence was by *inter alia*, Mr Sibiya, Ms Gcilishe and Mr Khan (Diepsloot Cricket Club).

28. As in the case of submissions by the PAC grouping, I sum up the written and oral submissions contending that the fundamental objective has been achieved:

28.1 It was stated by a club from the CCF grouping: "*If after decades some clubs that have been there for decades cannot field even one player of colour in their Premier*

team, transformation has not yet occurred". Indeed, a suggestion was even made by a club from the BACC grouping, that some targets should be set for clubs.

28.2 Details of lack of facilities and resources were given. It is not necessary to set out all the details that were given. Firstly, they can be found in the attached statements or from the transcription. Secondly, and very importantly, the disparity in both facilities and resources was not in dispute although varying explanations were given some of which implicated some of the BACC clubs themselves. I was asked by one of the clubs to go on an inspection *in loco* to see the disparities for myself but, for the same two reasons, I did not find it necessary to do so. For example, details regarding lack of facilities in black areas were given, particularly in African areas, which still existed. Simple examples were given. Diepsloot Cricket Club went so far as to say that they had not seen a single grass-cutting machine. Many clubs were in the same boat. CGL gave only R2800.00 *p.a* and 24 balls per club. But it must be noted that the amount of the grant as well as the number of balls depended on the size and needs of a club. CGL would get some money from CSA, and distribute it according to its own criteria.

28.3 It has been submitted that there lacks a viable infrastructure to develop black players up the pipeline on a sustainable basis. To make real of Langa, it was submitted, is to create the longevity of previously disadvantaged clubs. It was conceded that some good work was achieved, but that it would be premature to dump the Langa Report; it should continue to be implemented. Creativity was needed.

A third category of submissions

29. Under this category fall submissions that there has indeed been some notable achievements towards transformation but that it has not been accomplished yet. Falling in this category is a number of CCF clubs (see Bundle F, with differing views). A few examples will suffice:

29.1 I feel constrained to mention Dr MM who, both in his oral and written submissions, pointed out some achievements; for example, the appointment of a black person as president, black coaches, the graduation of black individuals from CGL to high offices at CSA, attainment of some silverware etc. Turning to the “*Critical Factor Check List*” (Document G), Dr MM says 9 out of 15 of the points have been achieved.

29.2 Here too I should mention Mr Faizel, former member of the board. He submitted that there has been some

transformation, with Indian, white, coloured and African players playing together. Integration is not only at the level of players, but also at the level of the board and parental support/participation. Financial directives from CGL followed, and some transparency on the part of the board regarding the financing of each club; and balls were distributed to disadvantaged clubs. Langa wanted to make the playing field level, by *inter alia* having the facilities upgraded. He said prior to Langa, there was perhaps only one black Premier League team. Within the first year of the Langa Report teams increased; they are now 5, with 5 White; 2 Indian and 2 Coloured. Dr Salojee: with regard to administration, over 70% of support staff is presently people of colour.

- 29.3 Randburg Cricket Club, with an even more neutral stance: *“It is our perception that the Langa Report has been given sufficient time parameters to run its course and achieve what was intended. However, should it be deemed that this has strengthened the unification between all people; its continuance should be considered. If the opposite has occurred and this has had the effect of dividing people, then a solution must be sought, parameters rectified, with clear and achievable goals. First and foremost, the benefit to cricket itself should be considered”*.

Critical Success Factor Checklist

30. As said earlier, in anticipation of the hearing, the previous CEO, Mr Fredericks, prepared the “*Critical Success Factor Checklist*” (attached hereto as Document G). I will only refer to it briefly and with reference to the submissions made. It is important to note that the contents thereof are his personal opinion. The document speaks to certain milestones with regard to progress, or lack thereof, towards achieving the fundamental objective of the Langa Report, which he dissects into constituent goals. He then makes some assessment of progress made, if any, in respect of each such goal. The document is, as it were, a score sheet. I need not get into it in detail; I only refer to a few material indicators:

30.1 Transformation: the document says this is a burning issue. It is indicated that there is a “*Draft Transformation Policy*” document to deal with it; **however the process of implementing it is said to be still ongoing.**

30.2 A strategy and policy focused Board in tandem with a policy and strategy implementation Administrative component led by an effective CEO: The process is said to be ongoing. During the hearing, one person commented as follows: you need a willing administration; there has been very little interest in

driving the process; CSA at the time had very little interest in monitoring the implementation of the Langa Report. **Again, this is also work in progress.**

- 30.3 Neutralizing divisions appearing within the organization along racial lines including division within racial groups as a result of recent events: **The remark is that the process is still ongoing.** Oral submission by a participant: racial divisions are there, not because of the Langa Report; individuals in (one) groups would influence others (in another group); blatant racism would be shown.
- 30.4 A more balanced power base with respect to voting rights on the basis of a long term perspective: **Process still ongoing.**
- 30.5 Ensuring that a Constitution is in place enabling the interim process to be completed: **There is an MOI in place, approved 20 March 2018.** This is a step in the right direction.
- 30.6 Human Capital (Competence) Development at all levels (introductory, high performance and elite) and in all areas (participants, administrators and officials) on a multi-dimensional basis: **This is still work in progress.**

- 30.7 Establishment of sustainable Cricketing infrastructures (community involvement, administrative structures, resources) in an alliance with local and provincial government Sport and Education departments in previously disadvantaged areas (communities of the future): **This has not been achieved.** This was the preponderant view of BACC and some CCF clubs.
- 30.8 Transformation processes targeted at re-inventing the organization in its totality based Change Management principles embedded in the values of empowerment, equitable resource distribution, affirmation, elimination of all inequalities: **This is also said to be still ongoing.**
- 30.9 Finance – development of a financial strategy supporting the establishment of the ‘re-invented’ GCB structure over the next 5 – 10 years: **Still ongoing.**
31. While the Checklist may be showing some achievements in other areas, it clearly shows that the goals aimed at achieving transformation are yet to be attained. In virtually all of them the former CEO’s remark is “*Ongoing*”. The score therefore rhymes with the body of written and oral submissions. There are those who blame lack of progress on the board, while a few also blame CSA for its failure to monitor the implementation of the Langa Report. In fact, one participant

went so far as to say that in 2015, CSA “*wanted to prematurely terminate Langa (Report) & discussed aligning of GCB’s MOI with CSA’s – esp. appointing independent directors...*”

32. My above conclusions about the checklist are based not only on the scoring by the former CEO, but also on written and extensive oral submissions by a number of CCF and BCC clubs.

Findings

33. Summarized basis for the Findings: It cannot be denied that some achievements have been made. The fundamental question is whether the implementation of the Langa Report has resulted in at least substantial transformation of the game of cricket in that the playing fields are level in terms of facilities and resources, to make the game of cricket equally accessible to all. To that end, we must have in place a viable sustainable pipeline through which previously disadvantaged groupings are drawn into all levels of the game. Without that, the state of CGL cricket would not be as representative as it should be. The question is therefore whether that stage has been achieved within CGL. Weighing up all the submissions made, and understanding the fundamental objective of the Langa Report to be transformation in the sense unpacked in paragraph 17 and elsewhere above, the answer must be in the negative. In fact, there has not even been a substantive

achievement. The fact that a number of so-called previously advantaged clubs (or so-called white clubs) have a number of black payers, even in the majority, does not translate into the real transformation of the game, much as that should be applauded; the same goes for the fact that players of different races play together, as well as other notable achievements such as predominantly black (generic) staff and black directors. What is required is transformation in the sense unpacked above, as opposed to cosmetic transformation. These milestones, plausible as they are, do not even amount to a substantive transformation. In fact, in the absence of a viable sustainable pipeline to effect transformation, there exists a danger that even some of the above mentioned modest achievements may be lost, bearing in mind for example, as it was pointed out, that some of the clubs in BACC areas, have had their teams decreased and that others even had to fold. The truth of the matter is that there is a direct link between the issue of the provision of facilities and resources, on the one hand, and transformation on the other hand: the latter cannot be achieved without a committed board; that is one of the reasons why the issue of the composition of the board (discussed later), which controls resources and determines policy, is crucial. It deserves to be noted and applauded that CGL did make some effort towards providing some facilities that, in some areas, were vandalized. As a CCF club submitted, CGL issued some financial

directives and there was some measure of transparency on its part regarding the financing of the clubs, and balls were distributed to disadvantaged clubs.

Conclusion:

34. In light of all the written and oral submissions, my answer to the question whether the objectives of the Langa Report have been achieved, or substantially achieved, is in the negative.

Recommendations

35. In light of my findings, I recommend that the mechanisms set up in terms of the Langa Report that are essential for bringing about transformation should be continued with, albeit again for a certain period of time.
36. Had my answer to the question been in the affirmative, my Report would have ended at such a finding. Since I have found otherwise, it is necessary to deal with the remaining Terms of Reference.

- B. **Determining “which clauses, if any, in the proposed Memorandum of Incorporation should be drafted and if so in accordance with what guiding principles, regarding....”**

B.1 “The composition of the Board”

37. As the heading indicates, these would be clauses on the composition of the Board of CGL; i.e. the election of non-independent members. On this aspect too, written and oral representations were made. The submissions were, however, not extensive as it was generally agreed that the board should be reflective of the demographics of the country. However, the point was emphasized that even so, people should be elected on merit. There was however a submission (for PAC) by a board member: *“We do not feel that a director should serve only his selected clubs but all of cricket. This way cricket will move forward with one agenda”*. On the other hand, it was submitted by a CCF club (Western Warriors) that the stage had not been reached yet for free uncontrolled democratic voting: *“The divide is very prominent and thus will bring about chaos if left to an open vote. (We) believe that the composition of the board must reflect a fair representation of all racial groups to bring about transparency and fairness. We feel that this is in line with the Langa report and should remain so”*.

Several clubs were against the replacement of all existing non-independent members of the board. It was proposed that there be at least 4 non-independent African members, (Soweto Pioneer Cricket Club).

38. In one sense, the issue of the composition of the board was a simple matter: all participants wished for the board to be racially diversified. In another sense, it was complex. The

difficulty was always going to be how to achieve that, given the fact that democracy has to be at play. It was on this point that views diverged. There was for example a view that black (generic) teams nominate their own candidates (presumably black) and submit them to the democratic election process. But this holds the potential for a scenario where such black candidates are not elected. Without counting heads, this view was by far in the minority. By contrast, many wished for an elective mechanism that would deliver a board reflective of the demographics of the country. Of course, where principles of democracy have to apply, that may be easier said than achieved. So, the submissions cut to the chase: it should be prescribed that there be say 3 Africans, 2 Coloureds, and 2 people of Indian origin and 1 white. The figures may be adjusted, but the principle is clear: the groupings as *per* the Langa Report should each be represented.

Findings

39. **Basis for the findings.** It is important to uphold the principles of democracy. Democracy is, however, not an end in itself, but a means towards an end. Let us leave aside the fact that “*democracy*” is in any case often differently understood and applied in various countries, such as in the USA where the candidate who gets the most popular votes ends up the loser, or where ethnic groups vote in silos. My view is that there is a need to prescribe that there be a certain number of African,

Coloured, Indian and white non-independent directors, the largest allocation being to Africans. It pains one to say so, but that is the same pain Justice Langa and his colleagues must have experienced. Here are some of my reasons:

- 39.1 Since transformation as envisaged by the Langa Report is not yet accomplished, for example lack of facilities still prevailing etc, it would be premature and indeed defeat the whole objective of the Langa Report to risk a scenario where there would be no African, Coloured, Indian or white member(s) on the board.
- 39.2 Such a board would lack credibility and would be out of step with other sporting codes in the country.
- 39.3 It would make the interaction with various levels of government very problematic.
- 39.4 Given the obvious importance of the role of the board as the determiner of policy, its composition is relevant to the issue of the provision of facilities, distribution of funds etc.
- 39.5 By having board members from various groupings, the board would have in its midst people conversant with the challenges, needs etc of each such group.

40. I must, however, add a caveat: even so, people should be appointed on merit and, as it was repeated by the participants, they must have the interests of the game at heart, above the narrow interests of their club or grouping. Also, as it was said, politics should not be on the agenda of the board; it should only be the interests of the game. I also noted with concern a statement that some board members are there for their own personal interest; hopefully, that is not the case.

Recommendations

41. It is recommended that the guideline in drafting the relevant clause should be that seats on the board are allocated each grouping, with the majority to Africans (*inter alia* Warriors); furthermore, see “B.4: *Further comments and guidelines on some relevant clauses*” below, paragraphs 49 *et seq*, as also “*Brief Concluding General Remarks*” below, paragraphs 52 *et seq*

B.2 “Veto rights by Black African Clubs over Black African nominees to the Board”

42. This is a proposal by the BACC clubs. It does not come from the Langa Report, but surfaced recently as the TOR for this Inquiry were being worked out. In terms of this proposal, BACC clubs would have the right to veto the candidacy of an African non-independent director nominated by a PAC club.

Soweto Pioneer Cricket Club: “*SPCC is aware of the risk of*

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window dressing and tokenism in the election process. We are of the view that clubs in disadvantaged groups have (sic) the right to veto board member nominees". The basis for such a veto is the fear that such candidates would not genuinely represent the interests of BACC clubs. As I understood the argument, such candidates would not ordinarily be residing or playing cricket in traditionally African areas, but in traditionally so-called white areas. Africans with no real interests of the African clubs at heart but who ostensibly represent them would be carried onto the board by non-African votes or even against them.

43. While the proposal did also enjoy some support from some of the CCF clubs, especially during oral submissions, it was criticized by PAC clubs and by some of the CCF clubs. It was felt that there was no basis for it; that it would bring further divisions; it would perpetuate the silo setup; it has served its purpose, etc. People should be elected on merit and on their interest in cricket; once that is done, there would be no need for such a veto. The candidates would, as it were, know their job. It was submitted that such a right would "*bring about further disparity amongst racial groups (We) want to steer away from such and rather want to focus on how we can perhaps find a solution to better approach same without causing division*" (Western Warriors, CCF). What is impressive with this club though is that it went further to make a practical suggestion: "*10 nominees from all racial groups so defined*

under the charter and put forward to GCL, GCL will shortlist by means of interviews. 3 or 5 names remaining will go onto a ballot for voting, 2 of each groups with majority votes will find themselves on the board. This way Vetoing is included without excluding other racial groups". It seems that for this suggestion to work, the "3 or 5 names" referred would have to be from each racial grouping. While the suggested solution might attract some criticism, the important thing about it is that it shows some commitment to finding a solution, as opposed to those who criticize without coming up with any suggestions. In any case, is there any solution under these difficult and complicated circumstances that can be perfect?

My view:

44. I do not share the view that such a veto would result in polarization; I just don't see how. My problem with it though is that I don't see a sound basis for it. The basis for the concern about tokenism by BACC clubs does not bear scrutiny. I am unable to find any substantiation for it. It is presumptuous to say because an African candidate has been nominated by or is associated with a so-called white club, either by residence or play, they would not have the interests of African Clubs at heart. It would also be very problematic not least because it would result in Africans excluding another African. I recommend below as to how the concern may in any case be met.

Recommendation:

45. The starting point is of course, that there be at least a certain number of African non-independent directors. The challenge is to address the concern raised by the BACC clubs. Whether it is well founded or not is beside the point because perceptions go a long way towards shaping relationships. Without being prescriptive or exhaustive, one may suggest, for example, the following guidelines:
- 45.1 That the candidate must have demonstrable knowledge and experience of the needs and other challenges of African Clubs.
 - 45.2 That it be a requirement for such a candidate to have a continuous interaction or involvement with an African club.
 - 45.3 There must be some attestation by at least two clubs in confirmation of 45.1 and 45.2 above.
 - 45.4 More criteria may be added. Being no King Solomon, I hold no monopoly of wisdom. The fundamental point is that there must be objectively ascertainable empirical evidence of knowledge and first hand experience of the challenges, the needs, etc of African Clubs on the part of the candidate. I therefore recommend that the relevant clauses of the MOI be

drafted in accordance with those guidelines. Furthermore, see “B.4: Further comments and guidelines on some relevant clauses” below, paragraphs 49 *et seq*, and also “Brief Concluding General Remarks” below, paragraphs 52 *et seq*

The following statement is apposite: “*Those on the board should also be individuals who have more than acknowledgement of the conditions faced by the communities who make up the BACC constituency. They should be individuals with an understanding of conditions, not based on research and hear say (sic), but having lived and experienced (not a must to be living in during their time in serving) what life in those areas is like, so that the person is best positioned to connect with the struggles of the cricketers in such areas*”. (Lunga Kupiso, BACC, Bundle F, page, 32).

B.3 “The voting rights of one team clubs and the possible voting mechanism”

46. The issue is whether small clubs, as small as one team clubs, should, as it is presently the case, have the same number of votes as bigger clubs, or whether the latter should have weighted votes. Mr Patterson said that voting rights should be weighted. By far the majority of the clubs, particularly from the CCF and BACC groupings, were against weighted votes. Equal voting rights is rooted in the Langa Report. The reasons

for equal votes, as articulated by various participants, include the following: that we are confronted with an abnormal situation in terms of disparity of facilities; that small clubs may be marginalized; that access to resources would be seen to be fair and transparent; mutual trust would be built. All these and others would facilitate transformation.

My view:

47. I find the arguments for equal voting weighty, provided that it is a mechanism towards an end; that is, it is an interim arrangement.

Recommendation

48. Taking into account the submissions made, I recommend that the practice be retained and the relevant clauses of the MOI remain, or are drafted in such a way as to sustain the current arrangement.

B.4: Further comments and guidelines on some relevant clauses

The approved 20 March 2018 MOI

49. The CGL has been operating in accordance with the Langa Report regime, subject to clauses 6.5 and 6.6 of the approved 20 March 2018 MOI, which I need not repeat here. In the

event it is agreed to continue with the interim regime pending the achievement of the fundamental objective of that report, there would be no need to temper with the regime; therefore, the two clauses would still need to be retained because the Langa Transitional Period is not meant to last forever.

The Summary of Proposed 2019 Amendments to the GCB MOI, July 2019

50. In section C of the 20 March 2018 MOI members of the CGL make an unequivocal commitment to transformation during the Transitional Period:

“6. The members of the CGL acknowledge their commitment to Transformation, Affirmative Change Management and Empowerment as evidenced by, inter alia, their acceptance of the Langa Report and their commitment to the Transformation Charter.

In an effort to achieve change and transformation, the membership has reached agreement on an arrangement which makes provision for an equal sharing of responsibilities, ability to manage and make decision concerning the administration of cricket and cricketing activities within its area of jurisdiction in Gauteng.

It is envisaged that the arrangements set out below will bring about equality amongst all the clubs within each Interest Group and between the Interest Groups themselves such that, at the end of the Transitional Period, the members from different Interest Groups will be able to compete with each other on an equal footing. The arrangements set out below are applicable only during the Transitional Period". (Own emphasis)

Two things are clear from the above. Firstly, commitment to transformation; secondly, that the Transitional Period will endure for the purpose of achieving that transformation. That being the case, any clauses in the July 2019 Proposed Amendments which seek to do away with the Transitional Period regime before transformation is achieved, cannot stand; alternatively, if they are redrafted, it should be in such a way as not to undermine the above commitment; that is, they should not aim to dispose of the interim regime prematurely. The guiding principle would therefore be that a proposed amendment should not be inconsistent with the above commitment. That is the exact problem with all the proposed amendments in “Phase 1” and those indicated in section “ C Transitional Period” in the July 1019 Summary of Proposed Amendments.

51. Regarding the section: "D After Transitional Period:" I cannot comment on clauses relative to this period for two reasons: Firstly, the period has not been entered into yet. Secondly, by the time it arrives, there might have been a fundamental change of circumstances necessitating new thoughts on the way forward, and the appropriate provisions commensurate therewith. Let us therefore cross that bridge when we get there.

B5: Brief Concluding General Remarks

52. Transformation is a process that may not be achievable within a specific timeframe. This is because its achievement may depend on a number of factors, some of them beyond the control of its driver, such as the CGL; for example, lack of resources, and other historical factors, such as the deep divisions of the past along racial and other lines that are often inimical to mutual trust.
53. CGL, by accepting the recommendations of the Langa Report, no doubt committed itself to transformation; this commitment is affirmed in the clauses of the Approved March 2018 MOI referred to above. Much as there is still a lot to be done, CGL has done a lot; to give a few examples: It is said that in the past R7M was spent on facilities including in deprived areas, but that some equipment disappeared or got vandalized, eg nets and sightscreens; about R700k is spent on balls for all

the clubs in a season, and of course some traditionally white clubs have a number of players of colour; in some instances, in the majority. Mr Yasin Manack submits for example that “*the number of black clubs in the CGL has increased immensely; Both BACC clubs and CCF have seen growth in the clubs and teams. From 4 clubs the BACC have increased to 10. (Whereas) the CCF were around 14 clubs we are now 21 clubs*” (Bundle F, page 12). He then goes on to mention, to use his words: successful cricket results at all provincial levels, the majority spread of provincial coaches at all levels and that the purchasing power of the CGL was reviewed and recommendations were made to grow the black business database of suppliers. Of course these achievements are to be contrasted with the reasons given for the view that transformation has still not been achieved; for example, Mr Brian Van Rooyen, Vice President, at page 28, Bundle F) “... *the view of the PAC constituents are ‘that Langa has come and gone’ and that we should move on. These calls come from people who have enjoyed the white privilege of properly funded and maintained infrastructure for more than 100 years who advocate the notion of ‘We should move on’. My question to these members how do you bridge the gap of 100 years of inequality in 7 years*”. (His own emphasis). In his extensive and substantive well researched submission, Mr Mohammed Majam, a former member of the board, writes (Bundle F, page 63): “*The transitional period was put in place*

to ensure that ALL of the Langa CSF's were achieved. The Board had a period of 6 years in which to do this, conduct the necessary negotiations and have policies in place that will enable the organization to continue moving forward, rather than regressing".

54. Some diagnosis and proposed remedy:

54.1 Diagnosis: I do not think that it is by design that transformation as contemplated by the Langa Report has not been achieved. Some people point fingers at the board, while others have pointed out some worrying issues; for example, that people acted out of self interest; opened themselves to some undue lobbyings; bringing in politics, putting interests of one's grouping and one's club above the interests of the game, being driven by the desire for positions, breakdown in trust, etc. Mr Mohammed Majam again: *"The major disputes and impasses of the CGLCB over the last 8 years have not centred around cricket issues, but often have been about personalities, positions, and power".* (Bundle F, page 67). He also expresses himself as follows: *"It is my opinion, that whilst the early stages of Langa were characterized by achieving very specific transformational imperatives, the latter stages were marred by deepening racial division, jockeying for position, control, powerplays,*

and self-interest, across all interests groups”, (Bundle F, page 64).

54.2 Suggested remedy: It is clear that some achievements were made not despite the Langa Report, but thanks to it; equally, the failure to achieve transformation cannot be blamed on that Report. The problem was either the failure to implement it or to do so correctly, for a variety of reasons such as those in 54.1 above. From the spectrum of submissions, the following steps could be some of the remedies:

54.2.1 The board, committees and sub-committees should be representative, elected in the manner recommended earlier on.

54.2.2 Election or appointment of people who have the interests of the game at heart. This point was made time and again by various stakeholders. Mr Majam also adds: *“It is the responsibility of (the) stakeholders, the member clubs, to move forward with voting in Directors that will be held accountable but more importantly drive the organisation forward”, (Bundle F, page 67).* Some have blamed lack of progress in transformation on the board.

- 54.2.3 Continued acceptance of the fact that transformation is not an option.
- 54.2.4 Restoration of trust. This is, *inter alia*, depended on paragraph 54.2.1 above.
- 54.2.5 Cricket South Africa, as the controlling body, should ensure that CGL implements transformation.

55. We are, as a country, in an era in which there is a demand for transformation, including in sport. All sporting codes, as far as I know, have committed to transformation. No sporting code in the country would go anywhere without doing so, let alone moving away from it. It would therefore be unwise to resist it. The only question should therefore be how to achieve it. I take it that previous mediations, and certainly the Langa Report, were genuine attempts to contribute towards the attainment of this goal. My determination to listen to everybody as well as the effort in compiling this my Report, were in that same spirit.

56. CGL, much as it may be committed to transformation, cannot alone accomplish the task. For one thing, it does not have enough resources. As it has been pointed out above, the disparities amongst the clubs in terms of facilities and resources is too much. The responsibility therefore also falls

on the government: Local, Provincial and indeed National government. It has been pointed out that some government schools in some traditionally so-called white areas do have facilities, some of which even under-utilized, which could be used by people from deprived areas. It was therefore encouraging to hear about engagements between the CGL and some people in the local government for example. CSA, as was suggested by one stakeholder, needs to play a more active role in ensuring that meaningful transformation is achieved.

ACKNOWLEDGMENTS

Finally, I wish to thank the board of CGL for their co-operation, all the clubs, and some individuals for their valuable contributions and for putting time aside to avail themselves. Thanks to Mr Fredericks, the former CEO, and his successor, Mr Jono Leaf-Wright, as well as to the untiring Ms Arlene Lewis, the Executive Assistant.

Dated this 13th day of December 2019.

Judge B M Ngoepe.

