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REVIEW ESSAY

Max Price's statues and storms

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Price, Max. *Statues and Storms: Leading Through Change*. Tafelberg, ISBN 978-0-624-08776-2, 2023.

If anybody doubted – I was not among them – the challenges and harrowing experiences Max Price faced during the tumultuous "Fallist" years of 2015 to 2017, when he was vice-chancellor of the University of Cape Town (UCT), this book will dissolve those doubts. Protesters shut down the university and engaged in intimidation, assault, and arson, with an ever-increasing list of demands. Dr Price himself was subjected to verbal abuse and physical assault. His office was firebombed, and he lived with the real threat that his official university home, Glenara, would also fall victim to the arsonists, most likely in the dead of night. It is not difficult to imagine how frightening this must have been. Throughout all this, he kept his cool and displayed Herculean levels of patience with, and generosity of spirit toward, the protesters who were causing the mayhem. He takes pride in his unflappability and what he describes as his "thick skin" (Price, 2023, p. 13). He suggests that courage "is required to take unpopular decisions", especially ones "that your friends and allies think are wrong" (Price, 2023, p. 12).

However, to the extent that we take courage to be a virtue, it is courageous to take unpopular decisions only if the decisions are also the right ones. If they are the wrong decisions, then the character trait being described is rashness – a vice rather than a virtue. Of course, Dr Price believed, at the time, that he was making the right decisions. From *Statues and Storms*, it is apparent that in 2023 he still has the same appraisal of his decisions, regretting only the occasional minor matter, such as a particular choice of words (e.g. Price, 2023, p. 213). He describes his memoir as an "insider's view, inevitably partial". He does an outstanding job of making his decisions seem reasonable. He is his own best spokesman, and I encourage those interested in the political climate of higher education in South Africa and higher education more generally to read the book.

However, appearances regularly depart from reality. Those unfamiliar with the reality are often unable to see this. Thus, in this review, I, another former UCT insider, plan to provide some insight into why we should think that the central (as well as more peripheral) decisions Dr Price made were indeed erroneous. This will assist readers of Dr Price's book in reaching a more informed decision about the wisdom of his decisions. While the book is almost entirely focused on that period of Dr Price's vice-chancellorship that coincided with the Fallist protests, the first two substantive chapters (after the Introduction) set the scene by speaking about Max Price's own political conscientising and activism when he was a student at the University of the Witwatersrand, and about how he came to be the vice-chancellor of UCT. The remainder of the book examines the events from early 2015 until the end of 2016. It was in March 2015 that the protests demanding the removal of the statue of Cecil John Rhodes began. Later that year, the Fees Must Fall protests began. The initial demand of the latter protests was, as their name suggests, an end to fees for higher education. However, many more

demands followed. Dr Price recounts what happened during these crucial two years and provides the reader with an insight into his approach to those events.

Given the critical approach I shall take, it is especially important to emphasise that Max Price, despite his mistakes, is a much better human being than those with whom he was negotiating, although he would never draw such a conclusion himself. Indeed, part of the problem lies in the differential scruples of Dr Price and his team on the one hand and the protesters on the other. When the (more) reasonable negotiate with the unreasonable, we should not expect any outcome to be just. Even splitting the difference between the reasonable and the unreasonable never yields a reasonable outcome, but only one that is to some or other degree unreasonable. Reasonable people will seek to minimise the unreasonableness of the outcome, but as long as they negotiate with the unreasonable, the outcome will necessarily be unreasonable to some extent. Of course, sometimes the reasonable have no choice but to negotiate with the unreasonable. That, I shall suggest, was not the case in deciding how to engage Fallists. I shall return to that later, but first Dr Price's method of reasoning needs to be made explicit. Two different approaches emerge.

Method and conclusions

Late in the book, he declares that he has "become an enthusiast of moral casuistry", which he characterises as "using general principles in reasoning analogically from clear-cut cases to vexing cases" (Price, 2023, pp. 287-288). This inaccurate characterisation is in tension with what he correctly says about opposing approaches, according to which difficult cases are decided "by applying a general principle" (Price, 2023, p. 288). Casuists do not start by applying principles. Instead, they seek to generate nuanced principles from considering a wide range of cases. It is true, as he also says, that casuistry depends, in a "fine-grained" way, on "unique circumstances, on the specifics of history and the nature of community, on law and custom, on the balance of power and likely outcomes". However, to suggest that other approaches to ethics ignore these factors in the application of principles is to "strawman" [1] almost all those alternative approaches.

Dr Price is careful, in an endnote, to differentiate the casuistry he likes from a different sense of the word, namely sophistry (Price, 2023, p. 309n5). However, there is a reason why the word has these two different meanings. The reason is that a case-based approach is arguably especially liable to deteriorate into sophistry. This is because it is so easy simply to say "this case is different" and then to conjure up some justification for that claim. For example, it is very easy to say, as Dr Price does, that the removal (and covering up) of artworks at UCT was not like what the Nazis and Stalinists did with disliked artworks. At UCT, he said, it "was different – it was solely about the curation of art in public spaces" (Price, 2023, p. 205) However, when you are "curating" in direct response to, and to meet the demands of, people who want works removed, you are not curating. You are censoring. Moreover, the suggestion that it was "solely about curation" is at odds with another rationale Dr Price gave for the removal of works of art at UCT, namely "to protect them" (Price, 2023, p. 203). Again, it is not curation (although it may be custodianship) if you are removing artworks to protect them from people who want to burn them.

Similarly, it is easy to say that "the timing wasn't right for wide-scale arrests of protest leaders because we were all engaged in negotiations with these very same activists" (Price, 2023, p. 247). However, that rationale is entirely question-begging. After all, if the law-breaking protest leaders had

[1] https://en.wikipedia.org/wiki/Straw_man

been arrested, one would not *need* to negotiate with them. Although Dr Price declares his enthusiasm for casuistry, he does not stick to this methodology.

In much of his book, he looks like a utilitarian or other consequentialist – seeking to do that which will produce the best – or least bad – consequences. One of the pitfalls of such reasoning is to take too short a view on the consequences of an action. Crude consequentialists are willing to sacrifice principles, such as the rule of law and freedom of expression, in the belief that this will produce the best consequences. What more sophisticated consequentialists realise is that sacrificing such principles typically has much more deleterious consequences in the longer term.

There are two kinds of conclusion for which Dr Price argues. The first of these is that (most of) the Fallists' goals and demands were laudable: broadly, "decolonisation" of the university, but also the removal of financial obstacles to higher education. There are exceptions to his endorsement of the Fallists' goals. For example, he rejects the idea that, at this stage in South Africa, higher education should be free for *everybody*. The rich, he thinks should still pay (Price, 2023, p. 108). The second kind of conclusion is to seek accommodation with the Fallists even when they were violating the rights of others and acting illegally (in a liberal democracy). Sometimes, the purported laudability of their demands is part of the justification for accommodating them, but sometimes, even when he disagrees – as in the case of free higher education – he was willing to support that demand to the South African president (Price, 2023, pp. 122-123).

'Black pain'

His arguments for the first kind of conclusion take the following form:

1. X is a source of "black pain" (to protesters or potential protesters).
2. Therefore, we should (a) understand why that is; and (b) avoid or dismantle X.

I shall provide some examples shortly, but the form of this argument needs to be understood. The first premise is often true, at least if we understand "pain" to refer to an adverse psychological state rather than a physical sensation. However, there is either no attempt, or only an inadequate attempt, to determine whether this pain is shared by all or even most "blacks" or whether it is only the protesters. That does not mean that there is no reason to understand it. If people are expressing pain, whether or not they are also protesting, there is reason to understand why they feel that way. However, understanding why somebody is complaining does not mean that the complaint is justified. Explanations are not justifications. Thus, from the fact that X is a source of psychological pain, it does not follow that we must avoid or dismantle X. Sometimes we need to need to remove X, but other times we need to change the psychology. (Paranoias and phobias, for example, need to be understood, but then treated rather than taken as veridical.) The problem is that Dr Price generally does not do the work of showing that the complaints are justified. I say "generally" because, as I have noted myself, the sense of alienation that some students feel at universities is entirely warranted, and needs ongoing alleviation (Benatar, 2021, pp. 8-9). He does provide justification for such cases.

However, these justifiable complaints arise either from socio-economic conditions or from a language barrier (given that the typical medium of instruction is English rather than African languages). While these factors disproportionately affect "black" students in South Africa, they do not affect those "black" students who come from privileged backgrounds, who are fluent in English – some of whom, it turns out, are among the most vocal of complainers. If we set these justifiable complaints aside, there

are many instances of purported "black pain" that Dr Price describes and explains but does not justify. For example, he briefly mentions the killing, on campus, of Professor Brian Hahn by a "black" former PhD student (Price, 2023, pp. 31-32).

Dr Price cites the then Student Representative Council (SRC) president, who wondered whether this "incident" was "a reflection of some other deep flaw in the nature of our relations as a community across race, gender, student and staff lines" (Price, 2023, p. 32). This quotation understates the widespread claims on campus at the time that the killing might not have occurred if the campus had been more thoroughly racially "transformed".

Dr Price takes this at face value. He does not subject this preposterous claim to any critical scrutiny. He does not mention that the killer was subsequently found not guilty on account of mental illness and was detained as a State patient. The killing was committed by a deranged individual and had nothing at all to do with a purported failure to transform (Benatar, 2021, pp. 18-23). Dr Price similarly accepts, without critical evaluation, the narrative that colonialist attitudes prevail at UCT (Price, 2023, pp. 43, 69, 73) – a narrative that is used to justify his view that calls for decolonisation have merit. For example, he writes approvingly of former SRC president Ramabina Mahapa's criticism of the artworks on display at UCT (Price, 2023, pp. 191ff). While he makes a few critical comments, he accepts the broad thrust of Mr Mahapa's argument even though there is good reason not to do so (Benatar, 2021, p. 348). Nor does he point out, as I have (Benatar, 2021, p. 346-348) that even if one accepted Mr Mahapa's narrative, that narrative does not explain the destruction and removal of all the works that were either destroyed or censored. Elsewhere, Dr Price cites the protesters' claim that "quietness was a white suburban middle-class privilege" that those neighbouring on student residences "should not assume as a right" (Price, 2023, p. 76), but he does not evaluate this claim.

For example, would the protesters still deny a right to quiet when they are writing exams or trying to sleep the night before them? If so, we could easily test the resilience of such a denial. I anticipate that they would very quickly demand such a right. In another example, Dr Price cites allegations and perceptions that Danish journalist Flemming Rose is an "Islamophobe" (Price, 2023, pp. 208-209). Without assessing the merit of those allegations and perceptions – which are actually groundless (Benatar, 2021, pp. 82-89) – he uses them as part of a justification to disinvite Mr Rose from delivering the TB Davie Academic Freedom Lecture. For example, he says that this lecture is "*the* event that proclaims UCT's core values" and that Mr Rose, given the perceptions about him, would be an inappropriate symbol of those values (Price, 2023, p. 211).[2] It might be added that the perception that a long list of TB Davie lecturers were antisemitic has never been a barrier to them speaking.

One sees a continuation of this pattern of whose complaints are uncritically accepted when Dr Price cites the analogies drawn "between the legacy of colonialism in South Africa and Zionism, portrayed as a colonial project, and the racial divides around both those campaigns" (Price, 2023, p. 184). He again takes those claims at face value, ignoring, as just one example, the 650,000 Jews from Arab countries who fled to Israel (Beker, 2005, pp. 3-19) – refugees rather than colonialists,[3] and often "racially" indistinguishable from Israeli Arabs and Palestinians. There are rare occasions when Dr Price does

[2] This is dripping with irony. Mr Rose is not an Islamophobe. He is a defender of freedom of expression. If UCT's values included freedom of expression, Mr Rose would have been an excellent symbol of them. In disinviting Mr Rose, UCT revealed that freedom of expression is not one of its core values, thereby making it the case that Mr Rose was a poor symbol of UCT's values.

[3] Of course, this is also true of many Jewish immigrants from Europe.

push back at Fallist claims. For example, he disproves their factually false complaint that "whites" were being favoured in residence admissions (Price, 2023, p. 173). However, these refutations are exceptions. The broad narratives are accepted without challenge and yet are used to support his conclusion that their demands are just.

The price of crude consequentialism

Arguably even more dangerous than Dr Price's agreement with (most of) the Fallists' demands, is the fact that he negotiated with them at length, rather than enforcing the law, and protecting the rights of the majority of the university community. Dr Price denies that he and his executive were soft on criminal behaviour. He says that this perception arises from the "fact that we were willing to consider clemency and amnesty", but says that such concessions were only "applied to people who had already been found guilty and sanctioned" (Price, 2023, p. 279). This is seriously misleading. First, the negotiations with the protesters were underway a long time before any of the offending students had findings of guilt made against them. (There were court *interdicts* against some of them earlier.)

Second, criminal and other illegal behaviour, instead of being nipped in the bud, was allowed to continue while these negotiations were taking place. This meant that the rights of thousands of people were violated over a period of three years. Third, either those dozen students who were eventually found guilty constituted the sum total of those who had brought the university to a standstill, or they were not. It follows that either the will of 12 people was prioritised over the rights of everybody else or that only *some* (probably small proportion) of those who had violated the rights of others experienced any disciplinary consequences. Either way, that does not reflect well on Dr Price's administration.

Finally, it is misleading to say that Fallists had been sanctioned if, via the clemency or amnesty process, the sanctions were voided. Being sentenced to expulsion is a sanction in name only if that sentence is set aside through clemency or amnesty. Dr Price's rationale for negotiating with the Fallists, rather than immediately enforcing the law, is partly that he shared their goals and did not want to be seen as an opponent of those (Price, 2023, p. 46). However, arguably, the more dominant rationale was that negotiating would avoid the terrible consequences that he thought would have resulted if he had instead had the law enforced. Such calculations are, in their nature, hard to make. Even in retrospect, one cannot be sure what the counterfactual would have been. However, there must be a very strong presumption in favour of enforcing the rule of law and protecting freedom of expression, not only, but also not least, because of the bad consequences of not doing so. Too many awful actions can and have been justified by *saying* that they were necessary to prevent some greater bad.

Moreover, the costs of Dr Price's negotiating with law-breakers were – and likely will be – very high. Thousands of students lost weeks of learning, millions of rands of damage was done, workers had to clean up gallons of strewn human excrement (Price, 2023, pp. 49, 159)[4], people were intimidated, assaulted, and traumatised (with long-term psychological effects), a dean was driven to suicide[5] (Price, 2023, p. 242) and dangerous precedents were set. Dr Price thinks that because the university eventually returned to business, his strategy was not only vindicated but also seen by "most people" to have been vindicated (Price, 2023, p. 275). He also assures us that the clemency granted to the pro-

[4] Dr Price glosses over the unpleasantness of this (repeated) task when he offers lines such as: "The stink, an assault in itself, was quickly removed."

[5] This suicide receives only a brief mention in the book.

testers "could be revoked if the student was found guilty of similar offences in the future" (Price, 2023, p. 273). What this reassurance ignores is that most undergraduate degrees at UCT are three-year degrees, making that the approximate length of a student generation.

Even if we allow for the fact that at least some Fallists took longer over those degrees,[6] undertakings from students (and especially those who were some years into their degrees) not to disrupt the university are of negligible help if, in their wake, there are successive generations of students who learn that they too can bring the university to its knees with impunity. Indeed, as recently as this year (2023), protesting students shut down the University of Cape Town, again with impunity. Expect there to be more of this! We should also not forget the lessons of impunity learnt by the very students who were granted amnesty. The full ramifications of those lessons still remain to be seen.

The shortcomings of Dr Price's crude consequentialist thinking become more apparent when we move from real threats of violence to merely speculative ones. In *Statues and Storms*, Dr Price says that he feared violence if Flemming Rose had been allowed to speak on campus, but that he could not reveal his sources who were the basis for that judgement (Price, 2023, p. 213). However, when Dr Price was explicitly asked just prior to the formal disinvitation whether he had any specific evidence that there would be violence if the lecture went ahead, he said that he did not.[7] As I have noted elsewhere (Benatar, 2021, p. 89), Mr Rose did subsequently speak in both Cape Town and Johannesburg, without incident. In an endnote, Dr Price dismisses the implication that his fears were misplaced. He accuses me of "spurious hindsight reasoning" (Price, 2023, p. 304n3). Here Dr Price fails to understand the difference between hindsight and a forecast. If I said *in advance*, as I did, that a violent reaction was unlikely, and it then turns out that there was no violence, that is not hindsight reasoning. It is confirmatory (or at least supportive) evidence for my view.[8]

Dr Price's claim to be employing consequentialist thinking becomes even more questionable when we consider that he capitulated when there was not even an imagined threat of violence – as in cases when he reversed department and faculty decisions to grant Duly Performed certificates to students who had failed to meet the requirements for such certificates (Benatar, 2021, pp. 130-148, 327-328). What is common in all the cases is not warding off catastrophe, but too uncritically accepting claims of "black pain"[9] (Price, 2023, p. 258) – declarations that, as I have noted, he sometimes describes and explains, but does not evaluate. Indulging these declarations also has longer-term deleterious consequences. It feeds into the already dominant narrative that encourages people to see themselves as victims. That

[6] Chumani Maxwele, for example, took seven years to do a three-year degree. He was in his fifth year when he protested against the Cecil John Rhodes statue.

[7] I know this because it was I who asked the question. He did not say that he had evidence which he was not at liberty to disclose.

[8] In fairness to Dr Price, he also had this to say in his defence: "not only had the original cartoons caused hundreds of deaths, but just a year earlier there were the Charlie Hebdo killings, but at the time that the decision had to be made the UCT environment was very different from 2017 and he spoke in very different contexts. But the fact that he spoke without incident a year later demonstrates the reasonableness of my suggestion to the AFC that the lecture should be held at a later time." (There are a few problems here. First, Paris is not Cape Town, or even UCT, and anybody interested in detailed nuances of cases should attend to those differences. Second, the contextual difference between UCT and the Hoernlé lecture which Mr Rose delivered in South Africa is not relevant, because the feared violence was not from Fallists (who would unlikely have even known who Mr Rose is), but from Muslims, who are not restricted to UCT. Finally, the suggestion that the absence of protest at the Hoernlé lecture confirms his view, gives his view a strong aura of "unfalsifiabilty". If both a violent reaction and its absence support his position then we are no longer in the realm of testable, empirical claims.

[9] This also explains why Dr Price would not override deans who had cancelled classes during the protest, even though he would override a dean and a head of department when that is what was required to address black pain.

is already a national pathology. Even former president Jacob Zuma sought to characterise the charges of fraud, corruption and racketeering against him as victimisation because he is "black" (Duma, 2019). Dr Price's approach to UCT's protesters has done nothing to counter this national pathology and much to advance it. [10]

One reason for not having confidence in Dr Price's evaluations of consequences, especially in the more distant future, is that we have good evidence for thinking that he is a naively optimistic calculator of even short-term and medium-term consequences, at least when this fosters "transformation".[11] Some examples: When the infamous "Shackville" protest was underway, blocking an arterial road on campus and backing up traffic onto the M3, a major municipal road, a "decision was taken not to intervene physically … to move the shack (which would also require dispersing the protesters), but to monitor the situation to see whether the protest would be sustained, particularly through the night" (Price, 2023, p. 175). By this point in Dr Price's narrative, it beggars belief that he thought it likely that the protest would fizzle out.

When Willie Bester's sculpture, *Sarah Baartman*, was uncovered, in keeping with the artist's wishes, and the director of Library Services refused to re-cover it, Dr Price's executive "decided to move the sculpture *temporarily* from the library" (Price, 2023, p. 198, my emphasis). At the time of writing (October 2023), it has, to the best of my knowledge, still not been returned, and there is no sign of that happening soon. "Temporarily" is obviously a vague term, but in context, the move was not temporary. Another artwork that was "temporarily" removed from view was Diane Victor's *Pasiphaë* (Furlong, 2016). Given that the university has since sold it,[12] it seems unlikely that it will be back on any of that institution's walls in the coming years. Dr Price had a similarly naïve view when he expressed the hope, after cancelling Flemming Rose's lecture, that UCT would be able to invite Mr Rose "in a couple of years" (Price, 2023, p. 212). I renominated Mr Rose to deliver the TB Davie Lecture for a few years following his disinvitation, but the new, tamed (Benatar, 2021, pp. 90-94) Academic Freedom Committee preferred to invite a series of speakers who criticised rather than defended freedom of expression (Benatar, 2021, pp. 126-129, 156-162). There are no signs that people like Mr Rose will be invited to deliver the TB Davie lecture in the foreseeable future. It certainly has not happened yet, even though more than a "couple of years" have passed.

Dr Price also miscalculated the outcome of the Institutional Reconciliation and Truth Commission (IRTC), which the protesters had proposed to investigate the causes of the protest and which they believed would vindicate them (Price, 2023, pp. 221-22). Dr Price and his executive, believing that the IRTC would instead vindicate themselves, agreed to such a commission. Dr Price says that the IRTC's report was "a big disappointment" (Price, 2023, p. 293). For many of us, the outcome was utterly predictable.

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[10] Dr Price records one of his diary entries, in which he said: "When editor and political commentator Ferial Haffajee expresses her incredulity that born-frees feel helpless and oppressed, and looks to the real material opportunities that they have compared with their parents, she misses the point, misreading the existential psychic landscape upon which this victimization is dramatized" (Price, 2023, p. 220). But it is Dr Price who misses the point: understanding people is fine, but pandering to their pathologies is quite another matter.

[11] To emphasise, the argument I am making here is not simply that Dr Price was wrong about the consequences. We can all make mistakes in judging the consequences of an action. The point is that (a) many of us could see in advance that he was mistaken; (b) there is a pattern to his mistaken judgements; and (c) he was and is appealing to mistaken judgements to justify overriding a very strong presumption in favour of enforcing the law.

[12] I am grateful to William Daniels for alerting me to the fact that this work has been sold.

Dr Price also optimistically elides consequences that have *already* occurred. For example, when he is explaining why he and his executive did not initiate disciplinary action against Chumani Maxwele for his initial protest, he says that Mr Maxwele committed subsequent offences "for which he was charged and, at various points, interdicted, suspended, found guilty and expelled" (Price, 2023, p. 49).

He does not mention all the occasions through this process on which Mr Maxwele was indulged. Nor does he mention that the expulsion was eventually overturned on procedural grounds by the Western Cape High Court and that UCT then failed to try the matter *de novo*, as it was within its rights to do. These omissions leave readers with the false impression that Mr Maxwele was eventually held to account. He was not.

Conclusion

Did Dr Price have any choice but to negotiate with the protesters? I believe that he did, even though I am the first to admit that it would not have been easy. He could have enforced the law and shown that nobody, not "even" Fallists, are above the law. Not all the action would have had to take place at the barricades, with the sometimes poor optics of meeting violent protest with necessary force. Once students had broken the law, they could have been arrested, individually in their abodes, charged, their bail opposed, and tried. That would have sent a very clear message to everybody other than the most fanatical of protesters, that criminality and other illegality would not be tolerated. This is to be distinguished from those forms of protest that do not violate the rights of others. Such protest must obviously be permitted.

I realise that taking a firm line would have pitted Dr Price against the "useful idiots" [13] among the UCT staff and students, who would then have faulted him for doing so. However, given Dr Price's self-declared "thick skin", withstanding those criticisms would have been a real act of courage because he would have been doing the right thing. Liberal democracies should not be held to ransom by those who would trample over the rights of others.

On 6 January 2021, right-wing rioters broke into the United States Capitol building in Washington, seeking to overturn the presidential election results. The United States Department of Justice, along with other authorities, has since responded in exactly the right way – by tracking down as many as possible of those who participated in the insurrection, pursuing charges against them, and obtaining convictions. It did not seek to "understand" their anger and sit down in negotiations with them.

There are now charges against former president Donald Trump in connection with his pivotal role in attempting to subvert the election results. This is not without risk. Such prosecutions have brought threats of further violence. However, to capitulate to those would be fatal in the longer term. It would also be wrong in itself. While rights-disregarding protests are becoming more common in the United States and other liberal democracies, and the protesters involved may sometimes not be brought to account, the problem is much greater in South Africa, where it is much more common for rioters to wreak havoc without any legal accountability. The consequences of this culture of impunity for the country should not be underestimated.

We are already experiencing the negative effects, but these may be vastly overshadowed by those that could still manifest. South Africa's universities have an important role to play in the future of

[13] https://en.wikipedia.org/wiki/Useful_idiot

the country, educating new generations. Students learn not only in the classroom but also informally through the behaviour of the universities. In recent years, the informal lessons have not been good ones. If Dr Price had listened to his friends (and others) who had advised the course of action I have recommended, then the University of Cape Town might now be on a different course.[14]

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[14] I am grateful to William Daniels, Elisa Galgut, and Richard Jurgens for their comments on the draft of this review.