IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL LOCAL DIVISION, DURBAN

CASE NO: D1411/2019

In the matter between:

DURBAN UNIVERSITY OF TECHNOLOGY	Applicant
and	
SESIYANDA GODLIMPI	First Respondent
THABO MKHWELANGA	Second Respondent
HLENGIWE KHUZWAYO	Third Respondent
MUSA MBONAMBI	Fourth Respondent
PHUMLANI SITHOLE	Fifth Respondent
LINDA NDLOVU	Sixth Respondent
WANDILE DLADLA	Seventh Respondent
WENDY MACHI	Eighth Respondent
NTUTHUKO NXUMALO	Ninth Respondent
SIBUSISO ZUMA	Tenth Respondent
NONDUMISO MFUSI	Eleventh Respondent
EMIHLE ZIBONELE	Twelfth Respondent

PHELELISIWE NGCOBO	Thirteenth Respondent
ZININGI NGWABI	Fourteenth Respondent
LINDANI ZUNGU	Fifteenth Respondent
THEMBELANI THOBANI NTULI	Sixteenth Respondent
THE STUDENT REPRESENTATIVE COUNCIL DUT	Seventeenth Respondent
ECONOMIC FREEDOM FIGHTERS STUDENT COMMAND	Eighteenth Respondent
SOUTH AFRICAN STUDENTS CONGRESS (SASCO)	Nineteenth Respondent
NATIONAL STUDENTS' MOVEMENT (NAMSO)	Twentieth Respondent
REMAINING REGISTERED STUDENTS: DURBAN UNIVERSITY OF TECHNOLOGY	Twenty First Respondent
SOUTH AFRICAN POLICE SERVICES	Twenty Second Respondent

ORDER

[1] The first to eighth and sixteenth to eighteenth respondents are granted condonation for the late filing of their heads of argument and practice note.

[2] The *rule nisi* granted by consent on 21 February 2019 is confirmed save that each party is directed to pay their own costs occasioned by the application.

JUDGMENT

Henriques J

Introduction

[1] The following statement by Aleksandr I. Solzhenitsyn is applicable to the matter before court: 'Human rights are a fine thing, but how can we make ourselves sure that our rights do not expand at the expense of the rights of others. A society with unlimited rights is incapable of standing to adversity. If we do not wish to be ruled by a coercive authority, then each of us must rein himself in... A stable society is achieved, not by balancing opposing forces but by conscious self-limitation: by the principle that we are always duty-bound to defer to the sense of moral justice.' [1]

[2] The process of balancing competing interests and rights, specifically those entrenched in the Constitution, has often raised vexing questions of law. The opposed application in this matter raises such concerns of competing interests including the right to protest, the right to education and the right to freedom of expression.

The Relief

[3] On 21 February 2019, the applicant obtained a consent order with the first to eighteenth respondents pursuant to an urgent application. [2] For purposes of completeness the order reads as follows:

'1 This application is heard as one of urgency as contemplated by uniform rule 6(12) and the ordinary time periods and forms of service, prescribed in the Uniform Rules are dispensed with.

2. A rule nisi do issue calling upon the respondents to show cause, if any, before this court on the 8th day of March 2019, at 09h30, or as soon thereafter as counsel may be heard, why an order in the following terms should not be granted:

2.1 The respondents, other than the 21st and 22nd respondents are interdicted and restrained from:

2.1.1 Being physically situated within 150 metres of any of the applicant's premises when marching, gathering, protesting or demonstrating or otherwise grouping together for unlawful purposes, including, in the case of organisations or political parties, convening any march, gathering or protest within 150 metres of any of the applicant's premises, save that this

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[1] Aleksandr I. Solzhenitsyn *Rebuilding Russia: Reflections and Tentative Proposals*, *Orginially published 1990*.

[2] Reference to 'the respondents' in this judgment is only to those respondents who opposed the application. Those respondents not represented by Ian Levitt Attorneys appeared in person at the hearing.

order shall not prevent the seventeenth respondent from duly holding a peaceful meeting for lawful purposes;

2.1.2 Interfering with, threatening, harassing, intimidating or in any way violently interacting with employees, representatives or students of the applicant when marching, gathering, protesting or demonstrating or otherwise grouping for unlawful purposes in the vicinity of the applicant's premises;

2.1.3 Physically damaging, interfering with or in any way violently coming into contact with the applicant's property, equipment or assets at any of its premises;

2.1 .4 Causing, directing or inciting any other persons to conduct themselves as set out in paragraphs 2.1.1 — 2.1.3 above;

2.1.5 Contravening, or causing, directing, inciting or encouraging any person, organization or political party to, in any way, contravene the provisions of the Regulation of Gatherings Act 1993;

provided that nothing in this order should be construed as prohibiting or preventing the first to twenty first respondents who are registered students of the applicant from peacefully attending and participating in lectures, academic and associated activities of the applicant on or around the premises of the applicant for the duration of the above order.

3. The orders in paragraphs 2.1 read with 2.1.1 - 2.1.5 above, shall operate as interim orders with immediate effect, pending the final determination of this matter.

4. The 22nd respondent is ordered to take all steps reasonably necessary, given its available resources, to give effect to this order.

5. All questions of costs are reserved.'

[4] At the hearing of the opposed application, I was advised by Mr Ramogale, who appeared for the respondents, that such order was a negotiated order and although 'consented to by the respondents', did not mean that the respondents consented to the relief. The order was negotiated by the parties at court as the respondents were provided with 24 hours' notice of the application and were unable to meaningfully consult with their legal representatives, who are based in Johannesburg, to properly oppose the granting of the order.

[5] He confirmed that despite this, there was no qualification of the order which reflects this, nor any reservation of any of the respondents' rights in this regard.

Issues

[6] The issues for determination in this application are the following:

(a) Has the applicant made out a case for a final interdict?

(b) Does the relief sought infringe any of the respondent's constitutional rights and, if it does, is such infringement justifiable?

The Parties

[7] The applicant is the Durban University of Technology ('DUT'), which is an institution of higher learning and has campuses in and around both Durban and Pietermaritzburg.

[8] The urgent application was instituted on the applicant's behalf by the Deputy Vice Chancellor of the applicant, in response to the violent protests which had erupted on various campuses of DUT in and around Durban, being its Steve Biko Campus, ML Sultan Campus, City Campus, Brickfield Road Campus and Ritson Road Campus.

The applicant conducts its main administrative affairs from the Steve Biko Campus in Botanic Gardens Road, Durban. During these protests, there were a number of acts of vandalism during which property of the applicant was damaged, and a life lost.

[9] The first to fifteenth respondents are students at DUT_and are members of the seventeenth respondent, being the Students' Representative Council ('SRC') of DUT. The first respondent is the president of the SRC. The sixteenth respondent is also a student at DUT, and, together with the first respondent, is a member of the eighteenth respondent, being the Economic Freedom Fighter's Student Command ('EFF Student Command') which has offices at DUT. The nineteenth respondent is the South African Student's Congress ('SASCO'), a voluntary association of students which also has offices on the DUT Campus and the twentieth respondent is the National Students Movement ('NASMO') which has offices at the DUT Campus.

Factual Matrix

[10] It is perhaps useful at this juncture to set out the common cause facts which culminated in the interim order being granted. These were as follows.

[11] On 4 February 2019, a meeting was held at Cane Grower's Hall on DUT Steve Biko Campus which was organised by the SRC. Members of the SRC, who are also members of the EFF, addressed the meeting. When the meeting ended, the SRC and students who had attended the meeting attempted to enter into the DUT Sports Centre to disrupt the registration process. Approximately 80 students proceeded to the sports centre and tried to gain entry by force, damaging the main doors. They were unable to enter.

[12] This conduct was instigated by the SRC, and the members of the SRC cited in this application were present and involved. Many of the members of the SRC are also members of the EFF Student Command, SASCO and NAMSO, as members of the SRC are also members of these organisations.

[13] Later that same day at about 12h20, students wearing EFF t-shirts returned to the DUT Sports Centre and once again attempted to gain entry by force and on this occasion the glass panels to the doors were shattered. They were, however prevented from gaining access to the registration venue on the second occasion. I may add that it is common cause that these protests related to student accommodation, the failure of the National Student Financial Aid Scheme ('NSFAS') to notify students of the outcome of their applications for financial aid, and the exclusion of students from registration.

[14] At 13h15 the same group of students threw rocks and stones at security officers and motor vehicles in the parking area. A DUT motor vehicle was damaged and photographs, depicting such damage, were attached to the application. [3]Simultaneously, some of the protesting students set fire to bins in the food court of the Steve Biko Campus. SAPS attended at the scene and one of the SAPS vehicles was damaged by the protesting students and three security personnel employed by an outsourced security company, TLG Xellent Security Services, were also injured.

[15] On the same day at approximately 19h00 the DUT Head of Protection Services, Mr Melusi Mhlongo, and Mr Gumede, the site manager of Xellent Security, responded to a loud noise which they heard behind the Steve Biko Campus Student Housing Department. On their arrival at the scene, they observed students in EFF t shirts running away. A closer investigation of the scene revealed that a DUT motor vehicle had been petrol bombed. They were able to extinguish the fire on the burning vehicle but the front windows of the

[3] Founding affidavit, annexure 'B'.

vehicle had been shattered and front seats of the vehicle had been burnt. Photographs depicting the damaged vehicle were annexed to the application papers. [4]

[16] On the following afternoon, being 5 February 2019, at approximately 14h45, a security officer at Carlos Court reported over the two-way radio that EFF students were collecting stones behind Open House. Five security guards responded to the scene and found students forcefully trying to gain entry into Open House. Mr Bhengu, a security officer, who closed the gate, suffered head injuries when students threw stones at him. The students, some of whom were wearing EFF t-shirts, split into two groups.

[17] One group remained behind Open House and the other group proceeded to the entrance where they continued to throw stones at the security officers. One of the security officers fired a shot or shots during the incident which apparently fatally injured one of the EFF students, Mlungisi Madonsela. Mbali Ntoza, a DUT staff member, was seriously injured during this incident when she was hit in the face with a rock or a brick thrown by one of the protesting students. She was immediately hospitalised and as a consequence of these violent protests, activities on DUT Campus were immediately suspended.

[18] On 16 February 2019, the following extract was posted on the DUT SRC Facebook page:

'Receive our revolutionary yet humble greetings from the SRC LED BY EFFSC.

It is very much important and paramount to utilize this opportunity and send special thanks to all DUT students, staff stakeholders and other Combrades [sic] from different student organisations for the necessary support they offered in respect of a late fighter Mlungisi Madonsela.

Having said that I want to put it on record that DUT management (enemy of the people) didn't support not even with a single cent. It's a testimony on its own that management is responsible for the death of Fighter Mlungisi, they killed him for selfish profit!!

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[4] Founding affidavit, annexure 'C'

We demand nothing but justice for Mlungisi Madonsela and immediate radical response to murderers. If they don't do that they will find themselves dancing in a corner without music instruments!!

We call upon the outgoing Vice Chancellor Mr Mthembu (a killer) to respect students and not respond to students issues with such cruel action, it's UNAFRICAN, INHUMAN AND SATANIC to opportunistically kill our people with an intention to appease white and Indians people.

No university will operate on Monday unless the following is resolved:

1). Unblocking of all students despite their previous debts

2). Termination of all contracts with abusive and unconjucive [sic] residents

3). Termination of contract with excellent company (hit man's Company)

4). But most importantly, the removal of Indira and Malusi Nxumalo from the positions they are currently occupying because of their conduct towards students etc.

We call upon all of you good people to support and be present in a March [o]rganized by SRC as well as EFFsc # JUSTICE4MLlJ on Monday from DUT to City Hall .. . .'

[19] The applicant indicated that such postings were indicative that the SRC planned to instigate and cause major disruptions on DUT Campuses on 18 February 2019, in the event of their demands not being met. It is common cause that the demands were not met and when the campus re-opened on 18 February 2019, at 08h30, a group of students wearing EFF t-shirts disrupted classes in B Block and D Block on Steve Biko Campus. These protesting students threatened to kill other students if they did not move out of the classes. Students were informed to proceed to Cane Grower's Hall.

[20] The first respondent, as SRC president, and the sixteenth respondent, addressed the gathering of students at Cane Grower's Hall and instructed students to disrupt all classes.

[21] Once the meeting had disbursed, students proceeded to the Ritson Road Campus and disrupted lecturing which was taking place in the Commerce building.

[22] At the Steve Biko Campus, protesting students further disrupted activities in the library and demanded that students join them. The students then proceeded to Melina Court where they were dispersed by SAPS Public order

Policing before they proceeded to the City Hall to deliver a memorandum to the Mayor. These actions were similarly instigated by the SRC and EFF. The first respondent also addressed students informing them that the SRC had not agreed to classes resuming on 18 February 2019.[5]

[23] An article published on a news website, IOL, on 18 February 2019 at 09h11 records the first respondent as having stated the following:

'We will deal decisively with those who will be found in classes. We just want to make them aware that it won't be business as usual at DUT. In conclusion, classes will not resume on Monday until our demands are met.'[6]

[24] The applicant acknowledged that although it was unable to identify individual students, it was a common thread from the reports given surrounding the events which occurred on the DUT Campus that the SRC, certain of its office bearers, the EFF and the sixteenth respondent were the parties responsible for the unlawful conduct. It was as a consequence of their conduct that the interdict was obtained.

[25] In addition, in respect of the nineteenth and twentieth respondents, although their members constitute a minority of the SRC, they did not speak out against the first respondent or oppose the actions of the EFF and appeared to be complicit in the unlawful conduct which occurred. It was on this basis that the interdict was sought against them. This was as the violence and intimidation was ongoing and the academic programme had been disrupted and suspended.

Respondents' Opposing Papers and Opposition

[26] At the outset, it warrants mentioning that the respondents filed an answering affidavit comprising 39 pages in volume, including the annexures. Three pages of this affidavit incorporated the response to the applicant's application. The bulk of the affidavit was devoted to a background history and a recitation of the Constitutional rights of the respondents with reference to case authorities and quotations therefrom.

[27] The respondents' opposition to the factual matrix advanced by the applicants in the founding affidavit was met with bare denials, lack of knowledge, and in my view, an obfuscation of the factual issues.

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[5] Founding affidavit, annexure 'D'.

[6] Ibid.

[28] The respondents' contentions as emphasised in their heads of argument were essentially that the relief sought was far-reaching, difficult to discern with any degree of precision and an unjustifiable limit on their constitutional rights. Effectively, in substantiation of their challenge, the respondents relied on s 16 and 17 of the Constitution.

Analysis

The requirements for a final interdict

[29] The requirements for a final interdict are the following:

(a) a clear right;

(b) an injury;

(c) the absence of an alternative remedy. [7]

Has the applicant met the requirements for a final interdict

[30] The question to be asked in the circumstances is whether the applicant has met the requirements for a final interdict. There were a number of acts of vandalism during which property of the applicant was damaged, staff injured and a life lost. Mr Boulle, who appeared for the applicants, is quite correct when he refers to the common cause facts alluded to in the founding affidavit which are not disputed. He is correct that in respect of paras 7 and 8 of the founding affidavit, the only denial is that the SRC members attempted to break into the DUT Sports Centre. The remainder of the contents of these paragraphs are not disputed and do not contain a denial that the protesting students tried to enter the Sports Centre (save to deny that the SRC members attempted to break in).

[31] In addition, paras 9 and 10 of the founding affidavit are not answered at all and must be accepted. There is no dispute that the same group of students instigated by the SRC, threw rocks at security officers, set fire to bins, damaged a vehicle and injured three security personnel. In addition, there is no dispute that students wearing EFF t-shirts ran away from the scene where a vehicle had been petrol bombed. There is also no dispute that EFF students were forcibly trying to gain entry to premises and injured a security officer by throwing stones and that a staff member was injured after a rock or brick was thrown at her face by a student. The Facebook post on 16 February 2019 by the SRC similarly has not been disputed.

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[7] Hotz & others v University of Cape Town 2017 (2) SA 485 (SCA), para 29.

[32] Although the contents of para 14 are denied, such denial, I agree with Mr Boulle, is disingenuous. Clearly, the EFF and the SRC incited disruption and unlawful protest. Regarding para 15, there is no dispute that students marched to Melina Court and were dispersed by the SAPS and that such march was instigated by the SRC and EFF.

[33] Most notably, what is not addressed at all is para 17 of the founding affidavit in which the applicant alleged that the common thread in the protests were the SRC, its office bearers, the EFF, the sixteenth, nineteenth and twentieth respondents. As this is not disputed, it must be common cause that these respondents are the main instigators of the unlawful protest action and violent conduct.

[34] The respondents have conceded that the applicant has a right to manage and control unlawful conduct on its property. The respondents however, take umbrage at its attempts to control activities outside of its campus. Having regard to the decision in *Hotz & others v University of Cape Town* 2017 (2) SA 485 (SCA), once the requirements for a grant of a final interdict are established, the court does not have a discretion to refuse the granting of same. There is no doubt that it is in the public interest that violence should not be tolerated. That is so, whether it involves damage to the applicant's property or the unlawful intimidation of the applicant's other students, or the staff of the applicant. In such circumstances, the applicant has indeed a clear right to ensure the safety and security of its property, personnel and students.

[35] As previously referred to in this judgment, there can be little doubt that the respondents have not advanced any substantial opposition or seriously challenged the factual matrix as set out by the applicant. The actual injury to the applicant in the form of damages to its property and its employees including the security personnel has not been disavowed to any meaningful extent.

[36] The respondents, in their answering affidavit, noted the illegality which the applicant sought to prevent through these interdict proceedings and disingenuously failed to advance any substantial grounds to justify their conduct as being 'legal'. [8]

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[8] Respondents' answering affidavit, para 120, pg 66 of the indexed papers.

[9] *Hotz* (supra) para 31.

[37] As elucidated by Wallis, JA in *Hotz,* para 30, and similarly in this matter there was no dispute regarding the right which the applicant sought to protect and it was common cause that it had the right to control and manage access to its property, ensure that it is allowed to properly manage and control unlawful conduct of its property, ensure that its staff are able to carry out their work in the interests of the students, ensure the safety of its students and staff and other members of the public who are legitimately on its property and protect DUT property.

[38] Similarly, as Wallis JA found in *Hotz,* in my view, the concessions by the respondents narrow the area of dispute. Their denials in the affidavits do not constitute an acceptance of 'their participation or complicity in all the events'9 described by DUT. However, as stated in *Hotz* para 31:

'. . .it is a concession that they were participants in protest action that overstepped the bounds of peaceful and non-violent protest. That is relevant because that is the boundary set by the Constitution in s 17 of the Bill of Rights, which guarantees the right, "peacefully and unarmed"' to assemble, demonstrate, picket and present petitions.'

The absence of an alternate remedy

[39] Even the presence of private security guards and the SAPS on the premises posed no deterrent to the respondents' unlawful conduct. In such circumstances, the applicant was rendered powerless to exercise any alternate remedy other than to approach the court for relief.

Respondents' Constitutional challenge

[40] In my view, from a general conspectus of the papers, the applicant's contention that it seeks to prohibit unlawful conduct by the respondents renders a Constitutional challenge unviable. The respondents have referred to a plethora of cases dealing with the entrenched rights to protest, gather, assemble, demonstrate and picket, and the right to freedom of expression.

[41] Section 17 of the Constitution provides that, '[e]veryone has the right, peacefully and unarmed to assemble, to demonstrate, to picket and to present petitions'. In *SATAWU & another v Garvas & others*, [9] Mogoeng CJ stated that s 17 means that:

[9] SATAWU & another v Garvas & others 2013 (1) SA 83 CC para 52-53.

‘[52] everyone who is unarmed has the right to go out and assemble with others to demonstrate, picket and present petitions to others for any lawful purpose. The wording is generous. It would need some particularly compelling context to interpret this provision as actually meaning less than its wording promises. There is, however, nothing, in our own history or internationally, that justifies taking away that promise.

[53] Nothing said thus far detracts from the requirement that the right in s 17 must be exercised peacefully. And it is important to emphasise that it is the holders of the right who must assemble and demonstrate peacefully. It is only when they have no intention of acting peacefully that they lose their constitutional protection. This proposition has support internationally. As the European Court of Human Rights noted:

"(A)n individual does not cease to enjoy the right to peaceful assembly as a result of sporadic violence or other punishable acts committed by others in the course of the demonstration, if the individual in question remains peaceful in his or her own intentions or behaviour."

This means that it is appropriate to proceed on the basis that s 17 of the Constitution means what it generously says.

[42] This contingent right is subject to the proviso that such protest is peaceful and unarmed.

[43] The respondents from the indisputable facts in this matter cannot by any stretch of the imagination claim to have acted peacefully and unarmed. The respondents' suggestion that peaceful disruption to everyday life is inherent in protest action cannot be equated to acts of violence, destruction of public property and perceived threats of physical harm against persons or property, which is clearly conduct in conflict with the prevailing tenets of the Constitution. As stated by Mogoeng CJ in SATAWU v Garvas para 68, '[t]he fact that every right must be exercised with due regard to the rights of others cannot be overemphasized.'

[44] The respondents' reliance on s 16 of the Constitution, relating to the rights of freedom of expression, is equally unsustainable for the reasons that s 17 of the Constitution is not applicable. Their similar rationale precludes the provisions of s 16 from being relied upon as a suitable basis for the relief sought by the applicants. The rights in s 16(1) are subject to the provisions of s 16(2) which reads as follows:

'16 Freedom of expression

(1) Everyone has the right to freedom of expression, which includes(a) freedom of the press and other media;

(b) freedom to receive or impart information or ideas;

(c) freedom of artistic creativity; and

(d) academic freedom and freedom of scientific research.

(2) The right in subsection (1) does not extend to(a) propaganda for war;

(b) incitement of imminent violence; or

(c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.'

[45] It is instructive to note the first respondent's denial of having instructed students to disrupt classes and his explanation that all he did was 'issue out a clarion call for students to join [their] cause'. [10]

[46] Such a suggestion by the first respondent, who is the president of the SRC, belies the fact that as the elected representative, students invariably will be constrained to follow his directives as opposed to instructions.

[47] In any event, the indisputable facts as advanced by the applicant clearly demonstrate that students were enticed, if not incited, to conduct themselves in an unlawful manner resulting in the indisputable violent acts contrary to the tenor of the specific provisions of s 16(2) of the Constitution. Even if my assessment of the facts is incorrect, the conduct of the respondents does not enjoy Constitutional protection as the relief sought by the applicant as set out in the interim order relates specifically to unlawful purposes and conduct.

[48] In view of the above findings, such reliance on ss 16 and 17 of the Constitution cannot be of assistance to the respondents. The respondent's further contention that the applicant must justify the limitation of such rights in terms of s 36(1) of the Constitution is a non sequitur. It is abundantly clear that the relief sought by the applicant does not constitute a limitation of the respondents' Constitutional rights.

The Order

[49] After careful consideration of the facts and the legal authorities submitted to the court, the irresistible conclusion is that the applicant has satisfied the requirements for a final interdict. The respondents' criticisms that the interim order and the final order will be mulcted with vagueness and are too broad in scope, particularly regarding the perimeter of 150 metres from the applicant's

[10] Respondents' answering affidavit, para 117, Pg 65 of the indexed papers.

premises, is in my considered view, devoid of substance. In my view, having considered the application papers and the authorities referred to in the applicant's supplementary bundle of authorities I am satisfied that a perimeter order is warranted. [11] The applicant has clearly articulated its intention and desire not to prevent students from exercising their entrenched rights to protest and freedom of expression.

[50] On the contrary, it is abundantly clear that the applicant seeks only to hinder unlawful conduct and activities within the confines of its premises extending to an external perimeter of 150 metres which, in the circumstances, is both reasonable and justifiable.

Costs

[51] It is trite that the general rule is that costs should follow the result unless valid reasons warrant a departure. The respondent places reliance on the dictum in Biowatch Trust v Registrar, Genetic Resources & others, [12] as a basis for not awarding an adverse costs order. The rationale in Biowatch is premised on not creating an impediment for litigants who advance Constitutional issues in the public interest. From the above findings, Biowatch is distinguishable and not germane to the facts and legal issues relevant to the current matter.

[52] Notwithstanding my finding above, I am alive to the respondents' contentions relating to the cause that precipitated the protest action, namely the issue of student accommodation, student finances and NSFAS funding. These causes, are indubitably legitimate concerns applicable to the general body of students. Whilst the conduct of the respondents warrants criticism, since acts of public violence and damage to public property cannot be condoned in a democratic society, the legitimacy of the cause must be distinguished. For this reason, I am persuaded that it is not only just but also equitable that each party should bear its own costs. In the result, the following orders will issue:

Order

[1] The first to eighth and sixteenth to eighteenth respondents are granted condonation for the late filing of their heads of argument and practice note.

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[11] Laursens Division of BTR Ltd v National Union of Metalworkers of SA & Others (1992) 13 ILJ 1405

[12] Biowatch Trust v Registrar, Genetic Resources & others 2009 (6) SA 232 (CC) para 22.

[2] The rule nisi granted by consent on 21 February 2019 is confirmed save that each party is directed to pay their own costs occasioned by the application.

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HENRIQUES J

Case Information

Date of Argument	:	2 July 2020
Date of Judgment	:	22 December 2020

Appearances

Counsel for the Applicant	A. J. Bouile
[Instructed by]	NSG Attorneys 2nd Floor Cliffton Place 19 Hurst Grove Musgrave, Durban Ref: A Cohen/lk/D0400/00135 Email: acohen@nsg.co.za
Counsel for the First, Second to Eighth and Sixteenth to Eighteenth Respondents	A M Ramogale
[Instructed by]	Ian Levitt Attorneys 19th Floor Sandton Cifty Office Towers Cnr Rivonia and 5th Street Sandton Tel: 011 784 3310 Email: angelike@ianlevitt.co.za c/o Tomlinson Mnguni James Suite 201, Ridge 6 20 Ncondo Place Umhlanga Rocks Tel: 031 566 2207

Email: tamsini@tmi.co.za

Ref: T JONES/ZC/14

This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand down is deemed to be 15h00 on 22 December 2020.