

Stephen Ralekwe

LRC Oral History Project

7th August 2008

Int This is an interview with Stephen Ralekwe, and it's the 7th of August (2008), Thursday. Stephen, on behalf of SALS Foundation in the United States, we really want to thank you for taking the time and agreeing to participate in the LRC Oral History Project.

SR It's a pleasure.

Int I was wondering whether we could start the interview, if you could talk about your early childhood memories, growing up in South Africa, your sense of social justice, injustice, where that developed, and your formative experiences that may have led you into the legal profession.

SR Well, I grew up in Atteridgeville, which is just west of the city centre here in Pretoria. I was born in the early 70s, 1970 to be precise, and however, I did not stay in Atteridgeville. My parents had to relocate to the then Bophuthatswana around 1977.

Int Was this a forced removal?

SR Not exactly a forced removal, but then when Bophuthatswana gained independence, so-called independence from South Africa, my father being a South African citizen had certain business concerns in the then Bophuthatswana homeland, and he was then told that he couldn't be a South African citizen trading in Bophuthatswana. He had to stay in Bophuthatswana and become a Bophuthatswana citizen.

Int Right.

SR That's...that's how basically we got to stay there, although we did stay in that territory at some point, so that's where I grew up really, and all my youth days were spent there, in Hammanskraal. I went to primary school, finished that, went to what was called a middle school, and just as I was about to complete my...what was then called standard seven, I think they call it some grade now. I can't really tell what grade it is now. We didn't have a high school in the village that I grew up in, and then there was this whole protest around an access of those students that had passed standard seven to go to standard eight, because standard eight was located in high school at the time. So parents had like contributed money to the building of what would then eventually become a high school in the village, because we did not have government subsidies at the time, you know, where government would come and build schools. And really, that was in 1987, and that's where I was conscientised.

Int 1987?

SR Yes, 1987. I was doing, I was supposed to be starting my standard eight at the time.

Int Right.

SR And that's where we...I really got conscientised to the whole notion of access to education, you know, and by so doing, the whole unrest that took place at the time, conscientised me to the idea of...of law. However, my first career of choice was medicine.

Int Really?

SR But I think the events of that day sort of shaped my whole sense of what I perceived as social justice...

Int Right.

SR ...because here we were, sitting in the beginning of the year, about a hundred or so of us, without a high school, meaning therefore that we have had to then go out of the village to adjoining villages that had high schools, for us to be accommodated there. And I remember at the time, the only nearest high school was about fifteen kilometres from our village, meaning therefore that it would have meant parents having to pay extra money over and above what they had already paid, towards building the high school which was not there, and having then to pay for transport to take us to...I mean, you can imagine one couldn't walk fifteen kilometres going to school, another fifteen coming back. Thirty kilometres a day. I mean, the whole time would be taken up by just walking to school for instance. So that's when I developed the sense of law to say how can I use law to contribute to the transformation of society, in a very small way, and that's when I then started, you know, reading literature around the ANC, although it was banned at the time. And then I got actively involved although not at leadership level but at grassroots level with, and identified with what mobilisation was taking place within my village. Although what then happened after the unrest...my father sort of shoved me off to boarding school (laughs) and I spent my high school there, and that's...that's when I really, like I'm saying, got the sense. And then I just told myself that look, come the end of my high school, I think I'm going to become an attorney, and...but then I didn't study full-time. I first tried to study by correspondence with UNISA, and then I couldn't make it at UNISA. That's when I then decided in 1994, to go and study full-time. I then went to the University of the Western Cape, again, chose the University of the Western Cape particularly because of its history, because of the struggle credentials that that university had at the time. I mean...I could have studied at a nearby university for instance, maybe University of Witwatersrand or any of the universities that were present; I could have gone to Turfloop for instance, the University of the North it's what it's called now. I think now they call it University of Limpopo. But I chose the University of the Western Cape particularly because of its struggle credentials, and then that's when I then, in 1994, started studying at the University of the Western Cape, and then I finished in 1996, my first degree. And that's where the love of law, that's where the whole notion of social justice, social transformation, transforming our society, you know, I followed the whole negotiations in Kempton Park and all those agreements that were

entered into by the then banned ANC...rather it was very recently unbanned at the time, and post-Constitution and...I then developed that sense of saying, I see myself in a very small way, contributing to the development of the Constitution, because remember, we had just come into a new dispensation, a completely new dispensation for everybody. We now find ourselves in a constitutional dispensation where the Constitution is the supreme law of the country as opposed to the apartheid period where Parliament reigned supreme. And then what I like most about our Constitution is where it enjoins the state in particular to protect, promote and fulfil the rights in the Constitution. And that's when I then decided that...but then, you know, I need to do this. I need to be a human rights lawyer; I need to...to use the skills that I would gain out of becoming an attorney to assist the vulnerable, the poorest of the poor of our country. And I completed my first degree in 1996, as I said, and then moved back home because my dad wasn't quite well and then I had to just assist in the running of the family business for about two years, and then in 1999, yes, that's when I went back to university to do my LLB degree.

Int And did you go to UWC as well?

SR I went back to UWC. I...I sort of got so attached to...because I thought, look, I'm now steeped into this tradition that is UWC.

Int Sure

SR And I don't see myself doing my LLB at any other university but UWC. And I sort of re-attached myself with UWC, and then in 2000, we were then encouraged to apply for Articles – they call them Articles of Clerkship because we're required by the Law Society here to do a certain period of training under supervision of a senior attorney.

Int And it's two years?

SR That's two years. But then you had an option to do one year of Articles and then do five, six months of Law School as we call it, then that will be taken as having done two years, but then I did the two years of Articles. And then I remember in September of 2000, I got a letter...we applied, then we were short-listed and then you, you know, they came to the university campus to do interviews, and then I was short-listed for the second round of interviews and then...I remember we had to go to the LRC Cape Town to do the interview there, the second interview, yes. And in September, I got a letter from them where they were offering me a job as an Articled Clerk or what we call a candidate attorney. That put a lot of pressure on me because now, you know, I accepted, I signed the acceptance letter and then sent it back to them. Now here I was, before...just about a few weeks before my final examinations, here I was, here's this organisation that, you know, has sort of given me an opportunity to develop and that was one opportunity that I told myself I'm not going to miss. Although it put a bit of pressure on me in terms of seeing to it that I pass my final exams at the end of the year, but I think it also gave me an encouragement to study hard, because what stood between me and joining the LRC was my final exams. And fortunately I passed my final exams, all of them, all of the papers that I wrote. And then in January of 2001

that's when I joined the LRC as a candidate attorney. I spent the whole year in Cape Town and then towards the end of the year, I negotiated with my then boss, Vincent Saldanha, that I be transferred to the Pretoria office, because I had some family commitments that needed me to come back and be near home, but then I didn't want to leave the LRC, so fortunately they negotiated with the Pretoria office and they had a position that needed to be filled, and then I just came back to Pretoria and continued working for LRC for the final year of my Articles, and then I completed my Articles in 2002, and then in 2003, February, I started with them again. Because my contract had ended in December of 2002, yes, and Matthews Mojapelo who was an attorney at the time, resigned to join the Bar to become an advocate. Now there was a void in his practice, and I don't know whether it was because of the fact that they did not have a person at the time (laughs) or whether perhaps they thought I was the best candidate to come and fill that position, but yes, I was then called back to the LRC for the rest of 2003, and Charles Pillai resigned somewhere in the middle of 2003 to become a FAIS ombud – it's a body that had just been established, it's the Financial Advisory and Intermediary Services ombud, so I then had to double and took over his practice as well, of course under the supervision and direction of Nic de Villiers who was also an attorney at Legal Resources Centre, Pretoria. And ja, I stayed with them until the end of 2003, and then that's when my association with LRC came to an end. I then left the LRC but then because of the, you know, the exposure that I had to the kind of work that we were doing, I...I spent two months of 2004 really trying to find myself, trying to decide, you know, I mean, for three years I was doing public interest law and not many private law firms do public interest law.

Int Sure.

SR And then I was like, ok, now, you know, where do I go from here, how do I fit in, into, for instance, a law firm that does criminal work? I don't have an experience in criminal law. I...I don't have an experience in say, for instance, road accident fund claims...all I know is public interest law. All I know is assisting the vulnerable, the poor of the poorest to access social services for instance, you know, their right to housing, their right to water and sanitation, their right to school, to education, I...I just know nothing about going into court and standing in front of a magistrate, running a trial of an accused who's been accused of a criminal offence. I don't even know where to start, although I did only three months of legal...criminal work, where, you know, we were just exposed as part of our training to that aspect of law. So I...I sat home and I just thought, well, maybe it's an opportunity to also take a bit of a break and just to refocus and...and see, and then all of a sudden, I got a call from a friend of mine who was also doing Articles with me at the Legal Resources Centre.

Int Who was this?

SR It was Mr Madlahlapolosa. At the time he was already at the Lawyers for Human Rights office in Durban. He gave me a call and said well, there's a vacancy at Lawyers for Human Rights in Pretoria, they're looking for someone but it seems they can't find somebody, so I already told them that no, in fact there's this other colleague of mine, we were together at Legal Resources Centre, who at the moment is not employed and perhaps he can come and assist. And sure, I...I applied and I went for

interviews and they hired me, and I work there now as an attorney, because I was admitted in March of 2004, I think, around about the eighth or so of March 2004, and then I started working for the Lawyers for Human Rights on the 15th of March 2004. I worked for them for two years, but then, just like the LRC, I was in the project called Refugee Rights Project, where our purpose was to see to it that our government recognised their membership of, and their...them being signatories to various international treaties and protocols insofar as the treatment and reception of refugees are concerned. So largely we liaised very much with the United Nations High Commissioner for Refugees.

Int Right.

SR And the Department of Home Affairs, and I...I was then tasked with working on unaccompanied minors. Those would be minors coming into the country unaccompanied, then we would have to see to it that they get as much protection as possible from intimidation, harassment, unlawful detentions, and then all those kind of things, and to assist them through the process of applying for asylum, and to sit in in the interviews, just to make sure that those interviews were conducted in a humane manner, in a manner that is not infringing on any of their rights as asylum seekers in this country. So yes, and...I stayed with Lawyers for Human Rights for about two years, and (laughs) I sort of decided well, why don't I just explore other avenues and just see, broaden my horizons and then see, you know, what else is out there. And then there was this vacancy here at the Department of Justice for an assistant state attorney. I applied, I went for interviews and I was appointed. I started working for the state in February of 2006, yes. So ja, that's...that's really been my little journey through (laughs) the corridors of law and justice.

Int Well, it's a wonderful outline. Thank you so much, but I'm going to take you right back.

SR Ok.

Int Growing up in South Africa, it seems to me that you would then have...had to transplant yourself at the age of about six or seven and go into Bophuthatswana, which was a homeland, from what I can understand. Did you, growing up...did you feel somehow isolated and confused about one's identity and where you belonged, because it seemed to me your formative experiences may have been very much here, in Atteridgeville?

SR Look, ja...I remember in 1978, if not '79, you know, back then we were required during school holidays, because it was during the time of the pass laws, and most...most children growing up at the time, you know, my peers at the time, we wouldn't really come in to the city centre, I mean, now I'm staying in town, you know, I can...buy a house wherever I so wish. But then back then, you know, I had to travel to my grandmother in Atteridgeville because she was staying in Atteridgeville and...that was only during the school holidays, and we had to carry what we called a school pass, you know. It's just sort of a little letter from the school principal to say

no, no, this person is schooling at this or that school, it's now holiday time, the holidays commenced from this date to that date, and you know, he's allowed to be in town, because remember, some of the children had to visit their mothers in what we colloquially called 'the kitchens', you know, it's where they're working and they're staying there as in-house maids. And I remember I was walking through Marabastad – Marabastad it's an Asian business area – and then I was walking through there and I should have in fact...but then because of my naughtiness, I should have just got off a bus from Atteridgeville and then straight into a bus that was going to take me back home, but then I decided no let me take a bit of a walk around Marabastad, see the place, you know, buy some fish and chips from a local restaurant. And then lo and behold, I saw two police officers coming my way, and then I searched for my school pass and I realized I had left it at my grandma's...

Int Gosh...

SR ...and then I knew I was going to be in trouble, how was I going to explain, you know, my being in town without a school pass during that time? And I rushed back and then I had to, you know, just mingle my way through and then back onto the bus stop just so that I...I run away from them. And you'd feel very isolated. I mean, you come into town, you know, you...you don't get the service. I mean, you're standing in a queue for instance, but because now there's a white person behind you, he gets served first, and then that gives you a sense of saying, you know, I mean, to these people I'm worthless, really, as a person. All that I'm worth to them is the money that I'm bringing to them, for instance, if you're buying in a little shop on a corner. And the whole segregation, you know, the whole...I mean I remember, we wouldn't come to Paul Kruger's Square for instance, just the square behind us here, you wouldn't sit on the lawns for instance, as a black person, you know, you wouldn't visit all this...I mean Pretoria has got very beautiful parks but you wouldn't visit any of those parks. You would just pass through the park but not sit, as a black person. And that sort of hurt one, in a sense that you would then say, well, but then I'm not welcome here, but then this is my country of birth. Where am I supposed to go to? What am I supposed to do, you know? And ja, you know, the whole segregation, the whole racism, sometimes very, very blatant, blatant racism, where you'd feel as if they are sort of welcoming, but they're not, their actions tell a different story, their words may be welcoming but their actions would tell a different story, you know. So I...I then decided, you know, look, I'm not going to be running away, and this is my country of birth. Fine, there are those that went in exile in the sixties and all that, and perhaps in the seventies, there were those that still went in exile, but I was too young to go into exile and the eighties really, you know, I think the eighties represented a very difficult time in the sense that it was, you know, at the height of the total clampdown by the then Nationalist Party government, of opposition and political activists and all that, and that's...ja, you know, that sort of shaped my whole sense of law, my whole sense of justice and...and it's sort of given the impetus to me to say, you know, if for instance, you know, attorneys and organisations – although one didn't know much about Legal Resources Centre for instance, I came to know about Legal Resources Centre in the early...in the middle eighties to late eighties, and one then said, well, I mean, here are organisations like Legal Resources Centre, how does one contribute? How does one get into the whole mode of contributing to what they're doing, I mean, they're doing very wonderful work. Ja, and I really do not regret the time that I spent

at LRC, I think it moulded me, it shaped me. I mean, I'm working for government, there's this general sense of saying (laughs), you know, civil servants are lazy and all that, but I think the experiences that I had at LRC sort of shape the way I look at the relationship now, because now I'm on the other side. You know, I'm for government and here are the people that are fighting this very government that I have to now defend in court and all that. But then that sense of social justice is still there, you know, and it helps me in my work, to you know, advise my clients, being the government department, say for instance I...we get a case of someone wanting access to social assistance, it enables me to look at it not from a point of saying I have to defend government, but from a point of saying I'm a human rights attorney, I mean that's still the whole being about me, and therefore not withstanding the fact that I must act in the best interest of my client, being, you know, the social agency within government, but at the same time, my sense of social justice also says, does this person qualify for a grant? If the person qualifies for a grant then why don't you advise your clients to give access to this person that's applying. You know, what happened until such time that this person now brings a court action for instance, for him to access a social grant.

Int Right.

SR You know, so growing up in apartheid South Africa, like I'm saying, shaped my whole notion of how I saw justice, how I saw issues of transformation in our country and it was a welcome opportunity for the Legal Resources Centre to have offered me employment, to come and work with them and to advance the whole notion of social justice and transformation.

Int Stephen, you mentioned that around 1987 there was a lot of unrest about access to schooling. And you'd had designs to become a medical practitioner, but what...why did you think that law could actually be used as an instrument of social change? Had you witnessed something to that effect?

SR Ja, look...a case in point, and it's also testimony to the work that the Legal Resources Centre did over the years, and I think will continue to do for years to come. Let's take for instance, there's a...there's this Social Assistance Act in the country, and the social laws...Social Pensions Amendment Act, if I got the name of the Act correctly...when I was still at Legal Resources Centre, Pretoria, there was a mass stoppage of social grants in Limpopo...

Int It was also in the Eastern Cape as well...

SR Also the Eastern Cape, but then the Eastern Cape office took on that matter there...

Int Sure.

SR ...and then the Pretoria office took on the Limpopo matter. And our interaction with those social grant beneficiaries who were stopped, you know, the whole work that went into seeing to it that, you know, they were paid their grants again, that whole exercise, and as well as the change that, you know, the Pretoria office brought in a challenge to access to social grants by permanent residents, because the...when you looked at the Social Assistance Act as it stood before the challenge, the Louis Khosa challenge, it only was accessible by South African citizens, but then you have permanent residents, and the word 'permanent' clearly says, these people, this is their home now, you know, and they couldn't grant, rather have access to social grants, simply because they were not citizens and their identity documents identified them as non-citizens, and the social...what we call the social pensions infrastructure was such that it didn't recognize any number which didn't have a '0 8' as a digit in it, that is the identity number. So that was challenged, and one of the, one of the...the prayers in our court papers were that either we have an amendment of the Social Assistance Act, or a reading in into the Act of permanent...South African citizen or permanent resident. And then yes, the words were read into the Act. And that gives you a sense of saying...it's a transformation in itself, because if you look at...if the law was as is before the change, permanent residents were not having access. Now all of a sudden, you know, there's this change, there's this transformation...government recognises that indeed, we have to expand social assistance to permanent residents as well, and by extension, at a point, where...when I left the Lawyers for Human Rights, we were exploring whether it cannot also be extended to recognise the refugees, but then I don't know how far that went. So, I mean, that's just one example, but there are so many other things that, you know, the law has been used, very positively so, as an instrument of social change.

Int Sure. when you were at UWC, did you join the Law Clinic? Did you work in the Law Clinic at all?

SR Not exactly. Working in the Law Clinic was actually part of the curriculum and then you had a choice, you had a choice really to register for a course that would require you to work in the Law Clinic, but then I didn't register for that course. Instead, my exposure to a Law Clinic environment was when I was doing my Articles at LRC, Cape Town.

Int Right.

SR Ja.

Int So, why did you apply to the LRC in particular? How had you gotten to know about it, because you told me you got to know about it in the mid to late eighties.

SR Late eighties and then early nineties when I started, you know, university. I was in Cape Town, there were a lot of law firms that had, you know, through an office in the Faculty of Law, requested you know, applications from final year students. That was in 200...no, in 2000, yes, in the year 2000. And then I applied. I applied to only two law firms (laughs), I remember. It was the LRC and this other big law firm, I think it

was Bowman Gilfillan, ja, it was Bowman Gilfillan. And then both of them short-listed me for the first interviews, but then my interaction with, and my...my passion for human rights sort of channelled me to focus my energies more on doing well in the interviews for the LRC, and I was short-listed at Bowman Gilfillan as well, for the second interview, but I didn't do that well there, because I had already done the second interview with the LRC (laughs), and my heart was already set on joining the LRC. And ja, I...I, you know, that sort of...my interaction...I remember in the panel it was Ashraf Mohamed and Chantel Fortuin, yes, those two, and I had a very lengthy interview with them, and in a way, I think the successes and what we were reading about the LRC from the mass media, you know, the successes that they were having in terms of the work that they were doing, and I mean at the time, I don't think they had a website. I think they developed their website much later...sort of said to me, ja, but...this is the organisation that you need to join, you know. And I never really applied to any other law firms, I think it was a bit being over optimistic on my part, or a bit naïve by the fact that, well, you may not even be called at the LRC, but I had this...this belief that I will be called at the LRC to come and do my articles there, and ja, my...my gut feeling really proved right.

Int You've had a very unique experience: you had the Cape Town experience and then you had the Pretoria experience. What are the differences in the two offices? What were your experiences of the differences, if any?

SR Look there wasn't much difference between the two offices. The only difference I think, was the, you know, the attorneys that you found in the two offices. I mean, the Cape Town office had very experienced attorneys. Similarly, the Pretoria office.

Int Sure.

SR And the kind of work...I think the whole, you know, if one had to make an example, for instance, let's say environmental law issues, you know, there was a common approach between the two offices. Ellen Nicol in the Pretoria office, and I forgot her name now...

Int Angela Andrews?

SR Angela Andrews in the Cape Town office. The whole collaboration...

Int Sure.

SR You know, if there was a petrol spill at a refinery in Durban, you know, all three offices: Pretoria, Cape Town and Durban, would combine efforts. So I think it wasn't more about the differences in their approach. I think their approach was an LRC approach, you know. We had a certain focus, we had a certain approach, which was very unique to the LRC. Although the only difference, like I'm saying, was just in terms of personnel, in terms of the attorneys that were in the office, but I think not

because of the approach that they had to issues, but just on their own, you know, personal qualities and experiences. But I think the LRC had drawn to itself very, very intelligent and experienced attorneys. I mean, you look at Henk Smith for instance; I always make a joke that, you know, if you had worked at Legal Resources Centre, Cape Town, and you did not go to Richtersveld, so then I would be very surprised.

Int Right. (Laughter.)

SR Because you know, without exception, all of us working in Cape Town had to do a little stint of work on the Richtersveld. I mean, it's only finalised I think last year, although there are still issues, you know, now I think they are working on, you know, the money side of the whole thing, but a lot of work was put into Richtersveld, for instance. A lot of work was put into other projects within the office.

Int So what...what sort of work did you do in the Cape Town office? What kinds of areas of public interest law did you get experience and exposure in?

SR Look, as a candidate, you sort of get shoved around (laughs). I...I started off, I think, with Angela Andrews as my first supervisor, yes. I had signed my contract with Steve Kahanovitz but then I started with Angela Andrews, did a bit of environmental law because what they had done was to then rotate us every three months.

Int Right.

SR And then I did my stint in environmental law with Angela; from there I worked with Vincent Saldanha. Ag, with Vincent, we did a variety of things. He always, you know, I always tagged along, even to these many functions that he got interviewed...I mean, rather...

Int Invited to...?

SR Invited to, and then he would drag me along, you know. I was his candidate, what else could I do? Ja, and then I did a stint with Steve Kahanovitz, I did a stint with Chantel (Fortuin), and with Chantel we did a lot of family related issues, you know. And then I had to run around the Family Courts...

Int Right...

SR And then I went to the Athlone Justice Centre, but I was based at the Wynberg Magistrates Court doing my criminal law stint. And then on coming back, I think it was the last quarter of the year, I did refugee law with William Kerfoot.

Int Ok.

SR Ja, that's when I then left at the end of 2001 and then joined LRC Pretoria. And then I did social welfare, housing and a lot of land reform.

Int Sure. Now, in the Pretoria office, they often said that the Pretoria office has done some incredible work, but at the same time there were lots of tensions in the office. What were some of the tensions that you were aware of? You might not have experienced...

SR I think the tensions were a lot to do with...although it didn't really come out as such, but I think there was a lot of racial tension. When I came to Pretoria, it seemed like, you know, there was groupings. There was Charles Pillai, the Director then, an Indian, it was...there was Louise du Plessis, there was Ellen Nicol, there was...you know, the old lady...?

Int Beulah Rollnick?

SR Beulah Rollnick. Paula (Howell), so I think...and then there were the staff members, you know, paralegals, Bethuel Mtshali, Skosana and then the attorneys: there was Matthews Mojapelo because the other attorney had left at the time. So I think it had more to do with who was...who was the Director, whether the Director could be listened to by the other members of staff, I think it had more to do with a lack of respect...

Int Right.

SR ... for each other in the office. I think it had to do more with...and that's the sense that I got, that there was a certain level of hierarchy in the office, where, you know, maybe people felt, you know, I'm being put in my place, and when Charles (Pillai) left, I think Nic (de Villiers) took over and there was a general dislike by the other colleagues of Nic as a Director. I think he was seen more as a very strict person who required a certain level of, you know, work to be done in the office.

Int Sure.

SR Which I think, you know...he was correct. You know, I really do not doubt his intentions, because he wanted the office to operate at a certain level of professionalism, because we owed it to our clients firstly, to see to it that their case were treated no different from a paying client. You know, I mean, we were Legal Resources Centre, you know, free legal advice and assistance, and as such he wanted us not to think that because this client's sitting across the table is not paying, therefore I should not give him quality advice and quality assistance. And I think it sort of created that tension. And then, you know, the whole rotation of...before Nic was appointed as director, the whole rotation of acting directorships, because it sort of broke the chain of systems, the way systems were supposed to be.

Int Right.

SR And ja, no, I was well aware of the tensions in the office, I mean, for the two years that I stayed with them there was this tension at the office, and I think, in a sense, it sort of...although, I mean, you know, there was great work being done by the Pretoria office, but I think it also in a sense negatively affected, you know, the level of commitment and I think there was some level of disillusionment as well, you know, by some of the attorneys who felt that perhaps Nic was, you know, a bit over...over zealous in his approach.

Int Do you think it might have been also a gender issue?

SR Perhaps.

Int Right.

SR Perhaps. You know, it's just one male attorney, anyway, ja...I mean at the time it was only Nic (laughs) and, you know, the rest of the attorneys were female. Perhaps it must have been, but I think it's like, you know, three females to one male. I mean, I couldn't be counted amongst the males, because I was not at the time, you know, an attorney, I was just a locum, but I think, ja, gender issues as well and...and for something like that in an organisation that is supposed to be seen at the forefront of...of issues around gender, around racial harmony, it was a bit disturbing.

Int Right. Did these issues ever get ironed out, or discussed in AGMs or...?

SR There was a time where we had a session in the office, I think it was in 2003...ja, there was a time where we got someone from outside to come and have a look at the office, you know, the way the office functioned, you know, obviously touching on broad issues within the office, and then we...the whole office went through that exercise – I think it was a two day or one day exercise, I can't remember quite well. And that was part of Nic's efforts really to bring in some form of...some form of harmony, some form of co-ordination in the office so that we pulled with one effort, we...you know, we were all the same page in so far as issues were concerned, what issues needed to be dealt with, how was the approach, we needed to work as a team, approach it as an office, not as individuals, you know, not like in a law...you know, a typical law firm where an attorney would have his own files because he has to write fees. I mean, we didn't write fees, so...ja, and then I think that exercise in a way helped. Although like I'm saying, that was the time I was there, and then I don't know beyond my time at LRC, leading up to the closure of the Pretoria office, how things were, you know, but I did keep interaction with everybody at the office, and I...you know, it was very sad when I then heard that they were closing down the Pretoria office...but ja...

- Int Do you think that closure of the Pretoria office was justified?
- SR Look, it wasn't. It wasn't justified. I remember I was making a point to Louise (du Plessis) at some point, to say, look, the fact that this, the LRC decided to open offices where these offices were located, it's simply because they wanted people to have access to those offices. Now, somebody out in Limpopo, in a very remote corner of Limpopo, comes through, he now has to go past Pretoria, to Johannesburg, in a city that perhaps that person it's for the very first time that he gets to Johannesburg. Fine, you know, he may have...he may experience the same, you know, anxiety coming to Pretoria, but then it's worse going to Johannesburg, where you now have to look for Gandhi Square (laughs) and locate the LRC office there. So I think, for whatever reasons, I mean, the reasons that I heard, were to do with downsizing, fine. The LRC and most other non-governmental organisations I think were really at the time suffering, and I think they still do suffer from donor fatigue, but for me the closure of the LRC Pretoria office dealt a blow to the vulnerable, to the poorest of the poor out there, who would then have to...because imagine somebody spending money to travel to Pretoria and then having to then travel back and, I mean, some of the interactions that the Pretoria office had with, for instance, every last Thursday of the month, we used to travel to Winterveld, and people from villages around Winterveld would come...
- Int Gosh...
- SR And they would tell us all their problems, we would get documents from them, we would approach Department of Social Welfare in the North West with all the queries that people, you know, had...had come forward and brought to us, and it was sad on that level, because now it means those people are no more having that luxury of, you know, having, or seeing this red bakkie from the LRC coming through and, you know, having people coming to listen to their problems on social grants, for instance, so ja...I think it was a very bad move on the part of the LRC to have closed down the Pretoria office. Perhaps certain measures could have been taken, perhaps if maybe it was to do with the number of staff in the office, they could have perhaps moved to a smaller...smaller rooms within the same building, I think. Ja, so it was very sad. The closure, I think, did more harm than...than good, to the vulnerable of our society.
- Int Thank you for that. Stephen, when you were saying that how...when you finished at the LRC, you were wondering whether you could work at a private commercial law firm. Do you think it's a disadvantage for young lawyers like you to go through the LRC and get experience in public interest law, and then maybe after that experience as candidate attorneys, find that law firms might not accept them readily?
- SR It is, it is a difficulty. But again, I think many big firms, although some have got a little component of public interest law, because remember public interest law has to do more with constitutionalism and constitutional law is still very much in its infancy in this country. I don't think that, you know, down the line, post-'94, we have developed such a jurisprudence on constitutionalism in our law, such that, you know, law firms would be interested in constitutional litigation, which is largely public

interest litigation, because, you know, that litigation touches on the core of constitutional law, on the core of the rights that citizens have vis-à-vis the State, so yes, on that level it becomes a bit difficult for young candidate attorneys having only been exposed to public interest law to make it in the public sector, especially in commercially driven law firms, and perhaps it's not such a very good thing to...for somebody who doesn't want to work...you see, because the problem is, some people would go into the LRC for instance, not because their heart and their minds and their focus is on public interest litigation, but simply because, you know, I've got to do Articles and, you know, I will see what I do after my Articles, as long as I would have done my Articles just to comply with the Attorneys Act, and then the person comes out of there armed only with a lot of knowledge on public interest lawyering and nothing on commercial law, you know, for instance, mergers and acquisitions, take-overs, you know, all those commercial issues that get dealt with by law firms. And then ja, at that level they will find it very difficult to get employment in the private sector, where, you know, only commercial work for instance is dealt with, let alone criminal law.

Int I'm also curious, you work for government, as you tell me. In the current context, there's a lot of crisis in the judiciary, the Constitutional Court is under attack, there seems to be a lot of concern about politics and the legal sphere, and there seems to be this enmeshment. What in your sense is going on, and where do you think public interest law organisations can be most effective?

SR Let's take the issue of the disbanding of the Scorpions for instance. The ruling party takes a decision in a conference and I think that's where...currently there are submissions being made, you know, participation, and I think that's where public interest law firms should really come in, and the question is, does a conference of the ruling party dictate how government must work? I don't know. Some say, you know, the president and/or the cabinet ministers are deployees of the ruling party, but then we have a Constitution, which establishes in it, and in fact requires that there be a National Prosecuting Authority, that there be legislation to create a National Prosecuting Authority. And that National Prosecuting Authority must then do what it is enjoined to do by the Constitution. Then the NPA Act gets promulgated. Within the NPA certain other specialist divisions get created, and then there's the Directorate of Special Operations, or what is commonly known as the Scorpions. Now legislation is now again before Parliament to say they must now be disbanded, and put into some other still to be formed and named specialist body and take those people there and then assimilate them into the SAPS, for instance. The role of public interest law firms, like LRC, for instance, is to then say, aren't we by so saying or by so doing, violating the Constitution? Aren't we...aren't we putting people's lives – remember persons have got a right to security and freedom of the person – aren't we infringing on that right of security? Because part of the work by the DSO is organised crime, to deal with high profile organised crime, and other related crimes, which touch on the security of the individual. You have money in the bank; for instance, you need to be sure that your money is secure. Then there's some fraudulent activity going on, you know, those kinds of things, so it is upon those organisations to then come on board. Because, you know, it's very varied, you know, the Constitution is so clear on what is required to be done, and if government for any reason, goes against what the Constitution requires of them to do, then public interest law firms become very

relevant, to come in and say, whoa, hang on, look at the Constitution, let us go back to that Constitution and see whether we are not by our actions, violating the Constitution. So they are very much relevant on that basis. Although, you know, sometimes I get a sense that, I mean look, a decision has been taken and it's just a normal process of just seeing public participation. I mean, take the Khutsong matter for instance, you know, there was this public participation on the demarcation of municipal borders, and although they lost in the Constitutional Court because the Court found that no, the Constitution and the provisions were adhered to, but that's the role of public interest law firms, to come in – LRC, LHR and others – to come in and ensure that the State not only, you know, protects but then it also promotes and fulfils the rights in the Constitution.

Int Stephen, I'm wondering, I hear a lot of concerns about how government in a post-apartheid era doesn't seem to comply with judgments and orders and there's lots of contempt orders, etc. What's your sense of what could change in order for there to be this adherence to the rule of law?

SR I think it has got more to do firstly with the type of personnel that the state has. I think, most of the...and I see that, in our interactions and by so saying, I don't mean to negatively criticize, you know, government officials, especially the ones that are supposed to...for instance, let us take this recent Constitutional Court case of Nyathi, where, you know, after the poor man had won his case in the High Court, you know, his claim was not processed in time and he died without receiving his money, because, I mean, the matter was just finalised recently in the Constitutional Court, after they had in fact challenged the State Liability Act, because I think that Act was meant to protect government property from attachment.

Int Right.

SR Now, it's a problem of us not having that sense of selflessness about it, you know, being happy to get our pay checks at the end of the month, and I think also senior managers within the State not coming down on junior personnel to say, look...because in terms of the Public Finance Management Act, state debts have to be paid within thirty days, if there's a judgment the judgment has to be satisfied within thirty days of the judgment, even if it's by settlement or by a court order. But, you know, judgments come to us, we go to court on behalf of the state, we get judgments, a judgment says the plaintiff has to be paid x amount. We take that through to the client departments: this is a judgment of the court, please comply with the judgment, and then I think also on our part as well, as state attorneys, we...perhaps we fail in not making proper follow-ups and, you know, ag, we've got the judgment and I close my file and then I put it away, but then I don't monitor whether the state complies, that particular state department against whom a judgment has been delivered and they are ordered to pay; I don't check, I don't follow up whether payment is being processed, how far has it been processed, when can we expect it to be paid? And then there's this whole...I think, there's this whole sense of the executive, especially in the provinces, you know, the contempts of court, I think the executive, either they think they can just run roughshod over courts, such that they ignore judgments, such that they...even if a judgment is put before them, you know, they just put it and file it away, you know,

without actually seeing and reading the judgment, seeing what the judge's comments were, you know, because I think within the judgments themselves, that, you know, you'd find areas where judges, you know, say certain things which might actually improve on the level of service delivery. So I think it's more a question of, you know, this general *laissez faire* attitude amongst government officials not to adhere to court orders, even if, you know, they get those orders in time. And sometimes you'd very much be so surprised that a government official would sit in court throughout, and even on the day the judgment is delivered, the official would be in court, surely he goes out of court and back behind his desk knowing that he has this judgment that has been granted against us, and I have to now start taking pro-active measures to comply? So I think there is that lack of sense of, like I'm saying, selflessness, service delivery, I think the whole principle of *batho pele* is really not being put into much effect by lower ranking government officials, because those are the people that have to now, at the end of the day, see to it that payment vouchers are filled in, they are captured and then they are paid. Ja, so I think it is that, it is that.

Int Stephen, I've asked you a range of questions. I'm wondering whether I've neglected to ask you something, which you feel ought to be included in your LRC Oral History interview?

SR Well, nothing much. I think we've covered a very broad range of issues and questions like you say, and I think on my part what I can just say is, it was a pleasure, I mean, a very great experience working for the Legal Resources Centre. I still miss the work (laughs). Sometimes I get frustrated with government work.

Int I can imagine. (Laughs.)

SR Ja, and I'll then, you know, reminisce on my days at Legal Resources Centre, the experiences that we had. You know, those interactions with people on the ground, listening to stories that they tell...I remember Nic de Villiers always used to say, you know what Steve, when you draft your papers, you must draft them in such a way because I mean, mostly we were doing applications, you know, there was no oral evidence...paper...things would be argued on the papers, issues would be argued on the papers, and he was saying, you know, if you tell a human story...and I remember there was an attempt by the City of Tshwane to evict some illegal occupiers at some building out in Sunnyside, east of here, called...I can't remember the name of the building now...De Villiershof, yes, that was the name of the building, and the amount of time that I spent there, interviewing each and every single occupier, and taking all their stories, transforming those into affidavits, telling the stories of human suffering, human neglect, and...and one misses those experiences, one misses, you know, those interactions with ordinary people, as opposed to what I'm now doing, interacting with government officials, and ja, but I really have enjoyed my stay at the Legal Resources Centre, it was...it was a very welcoming experience, and I think I have learnt a lot, and that's what shapes my life now, and I can only hope that the LRC will remain a part of our society. It's become so much a part of our society and I hope it remains, you know. I mean, I think, as long as we have a Constitution, we'll still need organisations like the Legal Resources Centre.

Int Stephen, you've pre-empted a lot of my questions, so thank you very much for a wonderful interview, and also for really taking the time from your schedule to meet with me.

SR It's a pleasure. Thank you.

Stephen Ralekwe–Name Index

Andrews, Angela, 9, 10
De Villiers, Nic, 4, 11, 12, 16
Du Plessis, 11, 13
Fortuin, Chantel, 9, 10
Howell, Paula, 11
Kahanovitz, Steve, 10
Kerfoot, William, 10
Madlahlapolosa, Mr., 4
Mohamed, Ashraf, 9
Mojapelo, Matthews, 4, 11
Mtshali, Bethuel, 11
Nicol, Ellen, 9, 11
Pillai, Charles, 4, 11
Rollnick, Beulah, 11
Saldanha, Vincent, 4, 10
Skosana, 11
Smith, Henk, 10

Cases:

Khutsong, 15
Louis Khosa, 8
Nyathi Constitutional Case, 15
Richtersveld, 10
Social Assistance (Social Grants) –Limpopo, 7-8

Legal Resources Centre Oral History Project

PUBLISHER:

Publisher:- Historical Papers, William Cullen Library, University of the Witwatersrand

Location:- Johannesburg

©2012

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. These digital records are digital copies of electronic documents and the information contained herein is obtained from sources believed to be accurate and reliable. Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

DOCUMENT DETAILS:

Document ID:- AG3298-1-157

Document Title:- Stephen Ralekwe Interview

Author:- Legal Resources Centre South Africa (LRC)

Document Date:- 2008