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This is an interview with Judge Dennis Davis, and itâ\200\231s the 5" of September 2008. Dennis, on behalf of SALS Foundation, we really want to thank you for agreeing to participate in the LRC Oral History interview project. I wondered if you could start the interview, if you could talk about your early childhood memories, growing up in South Africa under apartheid, and where you think your sense of social justice and injustice developed?

Well, I grew up in Cape Town. I...my earliest memories of course, were probably like many others, as a small child. I think one of my first memories as a small child, I used to go to the Jewish Day School, which was in Highlands Estate, called Herzlia, and I would then take two buses home. My mother worked as a legal typist and so there was never anybody home except well...well, my sister was younger than me and the domestic worker, so very often I would go to my motherâ\200\231s office on the way home, between the two buses, and...for lunch, and I remember, you know, seeing at a very early age, these sort of brutish white policemen treating black people with incredible sort of violence, and being deeply disturbed about it and sort of thinking, you know, if I was the Prime Minister, you know as a child and that, this wouldnâ\200\231t happen. There was a real sense at an early age, of that serious division in our society, which had a...I didnâ\200\231t realise until I thought about it afterwards, obviously had a larger impact upon me than previously I thought. I think the real influences were that my parents were working class Jews: my father was a motor mechanic, my mother was a typist, which was unusual. The school I went to, almost all the kids were middle class, and more than that. And growing up in a kind of working class background, slightly different, being the slightly the other, one was more...more aware of the cadences of injustice than perhaps would be...other people might think. So my...my family, because if youâ\200\231re working class white, youâ\200\231re not really anything other than conservative. My parents voted for the United Party, I remember distinctly. But there was a sense of injustice that came out because I remember my father being...when they used to go to school meetings, and my mother was giving my father...moaning at my father for being late, and he would say, well, unlike all the other parents, I come home in my overalls and I have to clean up. Theyâ\200\231re all in their suits so there was a sense in which it wasnâ\200\231t all that, you know, far removed, you sort of started linking up with black working class people, and certainly, so from that very early age...and then of course, secondly, going to a Jewish day school and having the Holocaust thrown down oneâ\200\231s gullet meant that to a large extent, it wasnâ\200\231t a million miles removed from what was going on in South Africa. So in 1966 I remember going to Israel and getting hold of that book by Brian Bunting called The Rise of the South African Reich, which obviously, you know, showed those links, and became manifestly clear to us that there were parallels between South Africa apartheid and the Holocaust. And...and I, you know...and that of course translated into...into some sense of social conscience, which took place at the university. Why law? Briefly, my mother worked as a secretary for lawyers all her life. You know, I to some extent therefore, I kind of encountered the law to that extent at a very early age of my life. My father was fascinated by...by lawyers. He always read the Benjamin Bennett books, which were books, which were on great crime trials. And from...and then my best childhood friend, whoâ\200\231s now a judge in the High Court in London, his father was a lawyer, and

Int

DD

Int

DD

Int

DD

we were...we were terribly close, and these were the influences that I think kind of...prompted...

And the friend of yours is?

Peter Gross, who is now Sir Peter Gross, in London, ja.

Ok. I wonder whether I could take you a bit back? In terms of growing up in Cape Town, coming from what you say is a working class Jewish background, in terms of school, what was the sort of level of discourse about the disparities...within racial groups?

Ah, interesting! I'm not sure that in the very early stages there was much, because I think growing up as a white child in South Africa in the late fifties, early sixties, was hardly a time in which there was much awareness. I mean, that...you may find that surprising in the sense that I suspect before 1960, there must have been, but somehow we were shielded from that, I didn't quite understand why. I do remember, I have a very, very vivid childhood memory of Sharpeville uprisings in 1960 and being allowed out of school. The only two occasions we were ever let early was strangely enough, in the Cuban missile crisis, Lord alone knows why, everybody thought the world was going to end the next day, in '63 I think, and earlier than that, three years earlier, when we were let go early, because of the Philip Kgosana's PAC march down Roeland Street, in Cape Town, and that was clearly a very, very vivid memory of that there was something wrong, and it was very much the memory of, you know, white people fearing that the black hordes were out to get us, but outside of that, I should say we were shielded from this and I'll tell you when I think the most formative educational experience that I had at school, was in 1965, in the very early days of high school, when we were taught 'Cry the Beloved Country' by a very, very remarkable teacher, who taught it in the most extraordinary way...we spent almost the whole year reading this book, and he taught it as a book about really, the political dilemmas in South Africa and that was a mind blowing political experience.

I'm also wondering, as a young person, in terms of reading, the material you read, did you...were you influenced at all by newspapers or any political books...I'm wondering in terms of your political conscientisation?

I think like most kids, I wasn't one to read...you know, newspapers were dreadful. I mean, there was no Mail & Guardian, the best newspaper was the Rand Daily Mail, if you lived in Cape Town you only got it when you were up in Johannesburg...such a different period, no internet, none of that, no television. I mean one knew that the South African Broadcasting Corporation was a joke, I mean, that one did know. And the Cape Times was a sort of, you know, liberal, in the very weak sense of the word, newspaper, it was the best you got. I...I think that one's kind of awareness of South African politics as the years went by...I mean certainly in the very early days, I can't recall reading major texts on South Africa. I think that...I think that when I look back, my early days were sort of reading things on the Second World War and God alone knows what, you know, sort of European history, so Eurocentric we were. As the

Int

DD

Int

DD

Int

DD

Int

DD

sixties went by, I think after â\200\230Cry the Beloved Countryâ\200\231, I mean obviously Alan Paton

fascinated me because, you know, Iâ\200\231d been so influenced as a kid by that book, and you read the rest of the stuff that Paton had written, and I do remember in the...as I got into high school, that a lot of the stuff that then became banned, a lot of those things like The Guardian, South African one, and all of that, were floating around, there were obviously kids whoâ\200\231d come from slightly more radical families, and one started reading the alternative press, which might have been banned at the time, \*66 reading Brian Buntingâ\200\231s book, and then starting to quarry out, there was a series o f his

books, thereâ\200\231d been the earlier book by Govan Mbeki on the Pondoland, and that certainly, by the time I got to Standard Eight, then I was starting to read that stuff, and that did make a significant impression. But theoretically I was really a liberal in that...in that sense I mean, you know, 1970 my first year at university, I was a seventeen year old, I go and work for the Progs, like so many of us, (Geoff)

Budlender and them, all...all of us started off there, youâ\200\231ll probably...Itâ\200\231s only in

the...in the early seventies that suddenly as an Economics student I get accosted with (Harold) Wolpe and (Martin) Legassickâ\200\231s material and that then changes my entire theoretical thinking. Because then I start reading Marx, but not in those early years.

And the decision to do law as you said was the early..."?

My mother...my motherâ\200\231s influence was clearly considerable, my father clearly loved law and he did, he loved talking about advocates and you know, from a very early age I heard about all these great advocates like (Thomas) Upington and (Harry) Snitcher and (Issy) Maisels and Morris (Zimmerman) and all this sort of stuff. My father was clearly fascinated by this. I mean there was that famous case, which became a movie about the woman whoâ\200\231d murdered her husband in Kenya in...I canâ\200\231t remember w hat

the film was called, in the 1940s and got off, and my father actually was passing through Nairobi at this stage, up to Egypt to fight in the Second World War, and actually was...heard that case, so those were stories I heard as a kid and that was clearly where I was going, ja.

So you went to UCT?

I went to UCT.

Right. And in terms of, you said you did Economics and you were very influenced...

Yes, I did Economics, yes.

In terms of being influenced by Martin Legassick and Harold Wolpe, Iâ\200\231m wondering whether you could talk a bit about that and how that changed?

Well, it did because...because of the theoretical paradigm with...under which all of us had...all of us, let me talk about myself, the only person I can speak about, that I thought about, until 1971, \*72, would have been the liberal paradigm of (Alan) Paton,

Int

DD

Int

DD

Int

DD

you know, the liberal paradigm that...that what this is all about was race and the innate prejudices of people and that the National Party were really an aberration. And that somehow, you know, economic rationality would purge South Africa of apartheid. When one started to read (Harold) Wolpe and (Martin) Legassick one began to realise that in fact this was a much more deeply imbricated relationship between capital on the one hand and race on the other, making it a much more problematic and nuanced problem. And in a sense what they did was they made one reflect on my goodness, this rather wishy washy liberal thing where if we all hug each other, weâ\200\231ll be fine, had to be replaced by a more systemic analysis of what was going on in the society.

Absolutely. Iâ\200\231m also wondering, in terms of NUSAS politics, at what point did you then become involved, if at all?

I oddly enough did not...was not on the SRC and therefore wasnâ\200\231t directly involved in NUSAS. I got involved in the Wages Commission.

Right.

That was my shtick and thatâ\200\231s when I started getting involved was in that...also running the Legal Aid clinics were quite formative for me in their own way, in...running them in 1975, my last year at university and Iâ\200\231d been involved right throughout, and the simple kind of task of going out and helping people about housing and other such matters. I mean Iâ\200\231ll never forget a very, very moving experience when

I...second or third year university, Iâ\200\231m there, Iâ\200\231m at the Elsieâ\200\231s River Legal Aid clinic, helping people with their various problems, and a woman comes to me and she...the biggest problem then was housing and you couldnâ\200\231t get people on the list and it was all egregious and she...I said, where are you living now? And she said, weâ\200\231re in the...the family is in an old broken down Jeep. And she then paused and said, it was fine but itâ\200\231s beginning to leak. I just thought, you know, thatâ\200\231s just extraordinary, that her one simple complaint was it leaks! Now how can you live with a whole family in the back of a Jeep! And it was that sense of, you know, this rank injustice compared with the privilege we lived under, those were very important moments for me in a funny way. But I didnâ\200\231t go...it was strange, Iâ\200\231ve never been one of these people who sort of, you know, wanted to charge onto the SRC and onto NUSAS. I kind of thought that for me, I was happy to do the Wages Commission, I was happy to do the Legal Aid stuff, and...and then of course through the Wages Commission, with (Fink) Haysom and a couple of others once we left university, onto the Western Province General Workers Advice Bureau and so on, so forth, that was my route.

Right. â\200\231m also curious, when you were with the Wages Commission, did you then have much contact with Karel Tip, Charles Nupen, etc...?

I got to know them later because I was Cape Town-based but of course one knew who these people were and...and I got to know them later. Charlie (Nupen) was...was in Cape Town in 1977 when we were doing the Wages Commission stuff, we used to meet at his house in Newlands to talk about all these questions, thatâ\200\231s when I really

Int

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Int

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Int

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Int

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got to know Charles (Nupen) really very well. Karel (Tip) round about the same time. So they were...they were inaudible. Geoff (Budlender) was in my UCT final year law class.

Oh really?

We were together.

Right.

So that was different. So he was a much more immediate figure but the others I only got to know then, so I was very much more Cape Town-based, ja.

And Margie Marshall, I presume, would have come before then?

Oh, long before.

Right, ok. So in terms of with Geoff (Budlender), I mean he was on the SRC?

Oh yes, he was SRC President, ja.

Right. And what was the relationship between the two of you during that time then?

I was enormously admiring of Geoff (Budlender). Not initially, interestingly enough, I thought...I thought initially he was a very kind of weakish SRC President and a bit of a...and a bit wishy washy, but when the crisis occurred in 1972, when we were all beaten up on the stairs, I was also there, you know...

at the march...?

I was protesting...and Geoff (Budlender) handled it brilliantly, and as I observed Geoff (Budlender), you know, from 1972 onwards, I just came to realise that, you know, he was a truly extraordinary human being and I've always felt that, ever since.

Ever since that time when in a way he handled the crisis on behalf of the SRC with a sort of, a kind of rationality that he's renowned for, and I just watched him, and Geoff

(Budlender) had a massive influence on me in a weird way. In 1976 I...we'd both left

university, he'd gone to work for Raymond Tucker, I had been put in my head that I should go overseas to study further, and I didn't...I think I came second in my class

and somebody else had got...and I was by then a big shit-stirrer so the Law School didn't like me very much, and I got no bursaries and Geoff (Budlender) got...no, not

Geoff (Budlender), a guy called Dale Hutchison got them all, and so the question was what was I going to do? And I went to work for the Old Mutual, which was how I got into tax, and the point was that that was going to give me some more money so I

Int

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Int

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could go overseas and...And 76 Iâ\200\231m in Johannesburg, itâ\200\231s just after the Sow  
eto  
uprisings, the countryâ\200\231s in a deeply bad and repressive way, Geoff (Budlender) and  
I  
have coffee, and weâ\200\231re talking about South Africa and he says itâ\200\231s going to  
be horrible  
for a number of years but Iâ\200\231m sticking it out. And I go home and I think if  
Budlenderâ\200\231s going to stick it out then who the hell am I to go? And it was a very  
profound moment for me, ja.

Itâ\200\231s interesting, from what I can gather, Geoff (Budlender) had really been thinkin  
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about something like the Legal Resources Centre, a public interest law organisation or  
firm quite early on and I think in some ways it also predated Felicia (Kentridge) and  
Arthurâ\200\231s (Chaskalson) initiative.

Possibly.

...were you privy to any of those?

No, because I was Cape Town-based, I mean my...my...remember, what happened to  
me was I...my career path was...I worked in Johannesburg from the beginning of  
1976 till the end of April 1977. I then got a job offer at UCT and I went to work in  
Cape Town, in the Law School, and I had very little linkage with that early...that  
early turf war between the Centre for Applied Legal Studies and who started what and  
how...

And when...

...and when, and whoâ\200\231s responsible for it all, which has of course always been of  
great amusement to me, in the relationship between John Dugard and Arthur  
Chaskalson, all that. I actually was not privy to any of that. All of what I know about  
that is second hand.

Right. Ok.

[ mean Iâ\200\231m not surprised what you tell me, that Geoff (Budlender) would have wanted  
to do that. Iâ\200\231'm not surprised that...that that was where he was going to go, in th  
e  
slightest, at all, no.

Iâ\200\231m also curious, Denis, quite early on you were linked up with Fink Haysom and I  
wondered how that relationship panned out, because at some point you did work for  
CALS, if Iâ\200\231m not mistaken.

Ja, no, that came later. I...I went to CALS. I was appointed to CALS at the beginning  
of 19...sorry, I went to work there...oh god, when did I start? \*90, I think. And I think  
Iâ\200\231d been appointed a year before and (John) Dugard wouldnâ\200\231t go or something

Int

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Int

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(laughs) so he was taking long-term leave and so by the time I got appointed, by the time I left...my relationship with Fink (Haysom) was...

...and Halton Cheadle...

...well, Fink (Haysom) is different. Fink is...Fink is...Finkâ\200\231s my student.

Right, ok.

In 1978. Fink (Haysom) is this enormously charismatic and impressive student and I'm a very, very kind of unconfident, finding my way, young lecturer. Heâ\200\231s...well, Iâ\200\231ve always joked with him, I said, I used to think he was better theoretically read than I was even then, because he was such a good bullshitter. Iâ\200\231'm not sure that he was, but the fact is...because I remember, this very funny thing about him going on about (inaudible) and I was saying to him, where did you read it? And he said, in the library, and then I discovered that the only book of (inaudible) in the library was written in French, which he couldnâ\200\231t...

(Laughs.)

It was for his (inaudible) Doctorate thesis. Fink (Haysom) was a master at that. But...but Fink...Fink and I, I think, came together in about â\200\23177, â\200\23178, and he...and he...you know, Iâ\200\231m very grateful for that too, because I think students influence teachers as much as teachers influence students. Maybe Iâ\200\231m getting to a stage now that itâ\200\231s no longer the case, because Iâ\200\231m getting too old, but I certainly for the first fifteen years of my teaching career, students had an enormous...itâ\200\231s not fair, they still do...have an enormous impact upon me and make me reflect upon all sorts of things. And he was unique.

Ja. The 197...I think it was â\200\23175, â\200\23176, the NUSAS trial, how did that impact, if at all, on you because Arthur Chaskalson led that and Charles Nupen and Karel Tip, Paul Pretorius and others...and others were involved.

Well, it didnâ\200\231t really. I mean in a sense, you know, again, you have to understand that...that that trial coming, you know, at a time of my ending my university career...Cape Town was very isolated. I mean, it was a very isolated form of politics and one knew about the trial, one was concerned about these people, but it was very, very much at arms length to one, they were not direct experiences. We were a very divided community.

Really? Where do you think the action was, so to speak?

Well, I think the action for many...for some of us, I mean, the action was in the early



beginnings of the trade union movement from the time of the Phillip Frame strikes

Int

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Int

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and the stuff that (Johnny) Copeland and others were doing in Durban and...and all of those, that lot. That was for me clearly, I mean, once I got into (Harold) Wolpe and (Martin) Legassick it seemed to me all this other stuff was rubbish, that the union movement was where it should be, which was why the Wages Commission was so important. That was critical stuff. I was very worried about the (Lawrence) Schlebusch Commission in the early seventies. That certainly I remember very distinctly and what followed from that, absolutely, that affected me. But that was here, we went to protest down there at United Party offices, in...just, at Church Square...I mean, that was where the action was. And then in 1976, the action then in a sense...was that began that tension between the populist struggles and the union struggles and the tensions with the workers and...and the more kind of chartless type lot. That started then, but the action for me was always in the unions. I always thought that was the engine room.

Right, interesting. And so, going further along, you get to UCT and you start teaching and you get influenced by Fink (Haysom) and...

Yes, of course.

And so, 1978 and 1979, I'm wondering for the period of the eighties, before you could get to CALS, which was 1989, 1990, in that period, what were some of your experiences?

Well, there were two or three. I mean, I'm...in the late seventies into the early eighties, and I was still doing the union stuff, but a lot of the struggles were then ones that were at the university itself and then the Law School itself. Unfortunately the history of the UCT Law School I don't think really, kind of is written, it's not reflected. There were...I mean, I was really central in my own little way, to the kind of ideological debates taking place in the Law School, and those were all about what kind of legal education should you have? Let me give you an example: I started teaching Labour Law in 1978, I had a seminar course, all these people went through, (Fink) Haysom, (Clive) Thompson, and the last lecture which had always been at my house, last seminar, was about...had the following proposition, this was from 1981. Nelson Mandela 1990 phones you tomorrow morning. He's the President of South Africa; he says I want you to draft a Labour Code. Please draft it from a socialist position and you draft from a capitalist position. And we would have a debate, so that was the...for me, from the early eighties, we had to start thinking through, one day this country was going to change, God alone knows why I thought that was, but you know, it can change. How are we educating people? Are we going to have extra courses in Roman law or are we going to deal with vernacular African law and so on? Those were very big issues. Then...then parallel to that, the United Democratic Front...I'm not a keen supporter of them because...because I'm really a workerist at heart. However, there's no doubt about it that...that they're the only show in town. And the intellectuals on the campus, and I think perhaps myself and Colin Bundy at UCT were the two what's it...we landed up by doing a huge amount of the public stuff for them, because they were...they...people like Dullah Omar were being detained all the time. I remember in 1985 or 1986, here, down there, just at St Georges, (Dullah) Omar was the main speaker. He was, he had gone underground. I landed up by being the main speaker. So

Int

DD

Int

DD

Int

DD

we were quite happy to be useful idiots. So in a sense all of a sudden willy nilly I became very actively involved in the...in the process of the UDF and then, mid eighties, was the big Torture Report that I did with Don Foster and a lot of campaign against torture and the Detainees Parents Support Committee. You have to understand that in Cape Town, there were no major human rights lawyers in the way there were in Johannesburg. So like if you took things like the unions or the Detainees Parents Support Committee, etc...I was the only guy there, you know, there was nobody else who was helping, so a lot of that work I started...I started being involved in, so there was...it was all of that, it was the UDF, Detainees Parents Support Committee, the unions, and a large degree the ideological struggles at UCT. It was a very exciting time in its own way; I think much more interesting than today.

Absolutely. I mean on the eighties also have been a horrific time, it's a time of repression; it was also a time of great resistance, as you outlined.

Yes, yes, and more than that, and the moment when you realised, the moment that you truly realised that this country had to change, you know, this wasn't going to end so quickly...ya.

I'm also curious, because you know, much has been written about the Don Foster book...that you did on torture with Don Foster, that...that was really pivotal and I think in some ways it also brought professionals, people...whether they were lawyers, or psychologists etc. the progressives, into a very consolidated movement.

Well, it was and the way it started was...because I'd been thinking for a long time, since the Albino Matthews article in 1966 about the tension, that could we actually subvert the process of political trials by de-legitimising the evidence stuff? And I didn't know who to get hold of in the Psychology department so I...and initially went to Psychiatry and they were too conservative, they didn't want anything to do with us, and then I got hold of Don (Foster) and Don (Foster) said, oddly enough, you know he too had been thinking about this, and he did a huge amount of the work for that process. We were saved because I have no doubt that Foster and I were going into the tension ourselves, until (Halton) Cheadle arrived with his...the famous Wendy Orr case, and that in a sense, exploded everything. So the two of them ran almost together.

What made you decide to then leave UCT?

Oh, I'd been quite miserable at UCT throughout the eighties, it was an exhausting period. I...I really didn't want to be part of an institution I thought was very conservative, in which I really kind of found those emotional battles...it was very curious, I get myself involved in all this stuff and people, you know, keep going on about what a dreadfully horrible human being I am, and I kind of always think that in some parts, I'm wanting...I really hate conflict, I want to apologise within three minutes of having...what's it...so I'd found I was really...I'd come to an end of a period. I just felt that I just couldn't be here anymore and Halton (Cheadle) was the person, more than anybody else who thought...who I'd only met in the early eighties and with whom we had big arguments initially, but the fact was that we'd become

Int

DD

Int

DD

Int

DD

Int

10

increasingly friendly and Halton (Cheadle) I think had realised my position and when it was clear that John Dugard's time had run their course, they had approached me and

I thought, this is great, I really...I had wanted to go to Wits two, three years earlier, they had approached me to come to Wits in about 1988 but the right wing at Wits had opposed my...my appointment and I just thought, I'm not going to another institution

where I have to go through the same personal battles, so I didn't, and it was the best

thing I could have ever done, because when I went to CALS I have to say even the right wing and I got on very well, you know...

(Laughs.)

It was quite amazing. Maybe I was mellowing, I don't know, just maturing.

Before we even move to you joining CALS, I wondered what your understanding and your perceptions were, and knowledge of the setting up of the Legal Resources Centre and CALS?

As I say, let me be clear, I only know this second hand, I mean, you know, it always...the CALS mythology is that John Dugard had wanted to set up a linkage between legal institutions on the one hand and...and CALS, and that the way...sorry, Legal Aid type clinics, and the way that was...he had envisaged it was through the Legal Aid clinics at Wits, which were already also up and running as at UCT. And that this was his great moment and he was going to do it, and then, somehow Arthur (Chaskalson), you know, the idea was to have a...a unit which would do exactly what...what LRC did as part of this process. That was always...that was always the (John) Dugard claim and this was then hijacked by Arthur (Chaskalson) and by Felicia (Kentrige) et.al. That was the thing. And where the truth lies in this, I haven't

got the slightest idea. I mean, I'd always regarded...I'd always been curious about

this, because John (Dugard) I think did an extraordinary job. I mean...John Dugard, an extraordinary job. I mean, he's one of the really great unsung heroes of that entire

period, influencing countless people. But when it came to the LRC, it seemed that he had such a blind spot about it that whatever sort of...he...I mean I remember there's

an...there's a letter that he writes to Time magazine kind of correcting them, right? It

seems such a petty and stupid dispute. I didn't really want to be involved in it. I

t seemed to me that the LRC was a perfectly legitimate organisation under an extraordinary human being called Arthur (Chaskalson), and...and so be it. So I...you know, I'm the last person who can tell you where the truth lies. In fact, it was irrelevant to me.

Fair enough. What interests me is that you...you are looking from the outside in. There's the Legal Resources Centre set up in 1979, CALS we don't know, perhaps earlier, perhaps later...

But roughly the same time.

Sure, And then Cheadles some time in the mid-eighties?

DD

Int

DD

Int

DD

Int

DD

Int

DD

Int

DD

Int

11

Earlier than that.

Earlier?

Earlier. Because Halton (Cheadle)...Halton's (Cheadle) the second person to join CALS. Halton (Cheadle) joins CALS because John (Dugard)...oddly enough he's interviewed by people like Arthur (Chaskalson) etc. but essentially on behalf of John (Dugard).

Right.

And he gets in and then he's...and the idea is to work in labour etc. etc. and Halton (Cheadle) then starts his own law firm on his own.

Right.

Cheadle, Thompson and Haysom comes a year or two later, that is absolutely true. But...but the litigation stuff starts at roughly the same time to Halton.

So if you had to reflect on this particular period, which is from 1970s, late 1970s onwards to the 1980s, what's your sense of...the idea is...the perception is that the

Legal Resources Centre was very cautious and it was perhaps not at the cutting edge of political work, whereas maybe Cheadle was regarded as doing that, and to some extent in terms of theoretical output, CALS was. What's your sense of this?

Well, I think that the Legal Resources Centre was more cautious, because Arthur's (Chaskalson) an extraordinarily cautious lawyer. And I think that Arthur (Chaskalson) had wanted to bring the profession along with him and it was important to him to have the protection of the profession, and not to sort of be Rambo-like about the way the business was going to go. And I think he was also looking for a deep seated vision of what the LRC became, so it's...you've got to look at this in a more nuanced fashion. I think there were different strategies, different personalities, different politics. The LRC...the LRC did work which was sort of a kind of mass work helping people who were less well known or cases that were less high profile, because they were looking at a sort of systemic way in which you could redress some of the injustices in the country.

Sorry, carry on?

They took the test case approach and early on they had the Rikhotso, Komani cases.



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12

Well, that's true. Komani and then...and then Rikhoto came, and those are very important cases, vital. I mean I've written about that myself. They're vital. And that was their approach to some extent. But...but it is true, let me say, having said that, that I think the...that they've marketed themselves far better than CALS has. And I say that as a former director of CALS. That if you couple CALS with...with Cheadles, the record of Cheadles is utterly and completely extraordinary. Peter Harris has written this book now, about the...the case from before, ja. That case was just one of an enormous amount of cases. I've mentioned the Wendy Orr. Wendy Orr was an absolute extraordinary piece of litigation, you know. It may not in some ways have been systemically as lawyerly as Rikhoto and Komani but it was enormously important in exploding the...The work that Cheadles did via CALS in the...through the union movement, I think stands out as extraordinary cause lawyering and the difference between the LRC and the...and CALS was that what CALS then became were the lawyers for the unions, and therefore they were part of the social movement, and so I don't think you can compare the two. I think they're different.

Ok...

In an entirely different way. So the conventional wisdom, you know, which is you say the one is...I think they were doing very different things, both very important things. I do think it's true that...that there's been an imbalance in the historical analysis of the two groups, meaning that I think that...that the LRC is heralded for Komani, and for Rikhoto and for other things, but you've got to search very long and hard, how many cases did the LRC do during that period as monumental as all of those union cases, which...which brought in the unfair labour practice and...and the stuff that (Martin) Brassey and (Halton) Cheadle did in particular with Thompson, Haysom, all that exposure to the torture stuff, the exposure of (Mangosuthu Gatsha) Buthelezi etc. that was remarkable work, so I kind of find it churlish to kind of compare...in a way I think they were both very important. But I do think that there's a skewed...as I said when I heard that you were going to come and interview us, we all chuckled, those of us from CALS and said, our history's never written, we never do our history, and we haven't.

I'm also...I think you're right, quite right in that they were doing important things and different things. I mean, from quite early on, Arthur (Chaskalson) was very adamant that labour law wasn't going to be a feature...key feature, although someone like Charles (Nupen) for example, as you know was really into labour law.

Ya.

But I'm just wondering, quite apart from the politics of when things started, what really was the relationship between CALS and LRC at the time during the eighties, and here again, of course, you weren't involved, but what's your sense of it?



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13

Well, outside of Arthur (Chaskalson)...sorry, outside of John (Dugard), who clearly was quite bitter about some of the stuff, I donâ\200\231t think it was a bad relationship at all.

People were doing separate things. We got together for all sorts of things. You know, those great conferences that (John) Dugard ran for the judges, all the LRC people were there. I mean, from the outside one deeply respected both these groups. Arthur (Chaskalson) was the sort of seminal lawyer, I mean, the one that one said when one grows up one wants to be like Arthur (Chaskalson). You know, these other guys were...were different. Halton (Cheadle) was a much more controversial character. The sense about the...oddly enough, the sense was that the sort of Geoff (Budlender) /Arthur (Chaskalson) stuff was less glory hunting than the...than the CALS people. You know, there was a sense of more mellow and measured, but I never thought...and so there was something like we do more than you do sort of thing, but I didnâ\200\231t get a sense that there was any intrinsic warfare between the two groups. They were doing separate things, and that was quite clear. The resentments come later when...when one thinks that people didnâ\200\231t...and look, lots of people didnâ\200\231t get credit.

Let me give you for example, I think to name two or three lawyers, whatâ\200\231s his name...Raymond Tucker, Denis Kuny as an advocate, David Soggott. David Soggott and Denis Kuny, particularly Denis Kuny, did far more cases than Arthur (Chaskalson), Sydney (Kentridge) and Ismail (Mohamed) put together. But you never get any...they never get any credit.

I have interviewed Denis Kuny.

Ja, but they never...people like Denis (Kuny) and David (Soggott) are off the seismograph but those guys were the troopers, they did the stuff, and they were good lawyers. They may not have been as forensically brilliant as Arthur (Chaskalson), I accept that. So thereâ\200\231s a lot of sense in which, you know, whoâ\200\231s getting the credit?

Ernie Wentzel was another one. I mean, these were guys who did wonderful work, and I think theyâ\200\231ve been...they havenâ\200\231t been given their just...their just desserts. But I never thought during the eighties that there was...I mean, I know that one was very happy that both those institutions were running parallel to each other, and I felt that. I felt that when I came to CALS as a director, I never felt that we were in competition.

Right. Whatâ\200\231s also curious is that quite early on the LRC had a very strong contingent of what was called the NUSAS boys and of course, Cheadle Thompson Haysom did too, and I wondered whether CALS also had that NUSAS group within it?

Well, we had all those people. I mean, obviously (Halton) Cheadle and...and (Halton) Cheadle and (Fink) Haysom were part of...part of CALS. I think one thing about...so they...we were drawing similar pool. I think there was one difference. Itâ\200\231s a controversial point. I still think (John) Dugard in his bumbly way drew out people in a way that Arthur (Chaskalson) didnâ\200\231t. I think people at the LRC under Arthur (Chaskalson), my impression was they were Arthurâ\200\231s (Chakalson) boys and Arthur (Chaskalson) was numero uno. John (Dugard) didnâ\200\231t have that kind of...and he was much better at giving people space, he was wonderful. So that the personalities of Halton (Cheadle) and Fink (Haysom) and Clive (Thompson) and Gilbert (Marcus) and Paul (Benjamin) and Edwin (Cameron) were all very much more prominent on the terrain than Geoff (Budlender), and if you ask CALS people, many of them will

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DD

14

say that Charlie (Nupen) and Karel (Tip) and Paul (Pretorius) who were all there, had to leave the LRC before they became personalities in their own right. And I think that...you know, and I...I think there's some merit in that.

Sure. So you get to CALS and then, what is the...the early 1990s like?

Completely different because now we're in the period of the beginnings of the transformation of South African society and our job from 1991 onwards is how do we gear South Africa for a Constitutional revolution? And that's what we're on about.

And in a sense labour now gears down...

(Interruption. Has to leave for court)

I'll give you about three minutes worth from now, I'm sorry...I think that CALS...we

gear for the constitutional revolution and so my idea now is how do we gear the centre to start thinking for all the needs of South Africa in the 1990s? So now you've got to

think about...through constitutional jurisprudence, policing, gender issues, Edwin (Cameron) comes along with the AIDS issue so...you know, and Zackie (Achmat), that's Edwin (Cameron) and Zackie (Achmat). Obviously the labour issue is how do the unions now fit into the grand scheme of things, you know, what kind of economic policies are going to fit into this, and land...so Aninka's (Claassens) there and we are

now...we are now thinking, you know, how do we play a role in trying to reinforce all of these...these initiatives? And that's what CALS does. And that's why if you go to

CODESA, we had more people from CALS involved in assisting than any other institution...by far more than the LRC. There was hardly a CALS person who we've had not direct or indirectly involved in the negotiations.

So on that note, Denis, thank you very much.

I'm sorry that...

No, I'd really would like to interview you again; perhaps another time.

With pleasure, but that's...ja, ok. I hope that's what you wanted.

(Third recording starts).

I'm sure it was the bloody corporates...wasn't even...

(Laughs.)

I think that at the end of the day the LRC, for me, was important. I mean, when you

ask me what I really think, I think that they were terribly important in building a...sorry, a kind of public interest law institution. I do think in the 80s but by far and away, what Cheadles were doing was the cutting edge stuff. I think what you tell me is absolutely right. I think oddly enough, the LRC, I get much more admiring of as the

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Int

15

90s get on. They stuck it out and...and the guys who are there now, Iâ\200\231'm...you know , whatever Arthur (Chaskalson) etc...the people I really admire are the people working there now, because I think they...they were in my court the other...yesterday, on the...

Cape Town office?

Ja, on the fishing case. They...they do...they do all sorts of other work, and let me say this, you know, itâ\200\231s interesting to me as well that those who leave do so wonderfully. Geoff (Budlender) should have left years ago. Heâ\200\231s probably one of the most gifted advocates this countryâ\200\231s had. Lord alone knows why he didnâ\200\231t come to the

Bar five, six, seven years earlier. So I do think that, you know, youâ\200\231ve got to ask ...I

think...I think that Arthur (Chaskalson) started...it could have only been Arthur (Chaskalson) but I think it also needed somebody not as dominant as Arthur (Chaskalson), for all his wonderful creative...creative forces to...whatâ\200\231s it...and that

was the thing about CALS was that John Dugardâ\200\231s...John Dugardâ\200\231s almost inability

to impose an iron will on the institution and his extraordinary insight in getting these quite brilliant people like Cheadle and...and (Edwin) Cameron, I mean, who by the way, and you see, thatâ\200\231s the other thing I think, if you ask me who are the two most

brilliant lawyers of my generation, theyâ\200\231re Edwin (Cameron) and Halton (Cheadle)...

Interesting.

And I think that does make a difference, ja. So thatâ\200\231s my take...

Thank you.

Dennis Davis\200\224-Name Index

Achmat, Zackie, 14  
Benjamin, Paul, 13

Bennett, Benjamin, 1  
Brassey, Martin, 12  
Budlender, Geoff, 3, 5, 6, 13  
Bundy, Colin, 8

Bunting, Brian, 1, 3  
Buthelezi, Mangosuthu Gatsha, 12  
Cameron, Edwin, 13, 14, 15  
Chaskalson, Arthur, 6, 7, 10, 13, 15  
Cheadle, Halton, 9, 10, 11, 13, 15  
Claassens, Aninka, 14  
Copeland, Johnny, 8  
Dugard, John, 6, 10, 11, 13, 15  
Foster, Don, 9

Gross, Peter (Sir), 2

Harris, Peter, 12

Haysom, Fink, 4, 6, 7, 13  
Hutchison, Dale, 5  
Kentrige, Felicia, 6, 10  
Kentrige, Sydney, 13  
Kgosana, Philip, 2

Kuny, Denis, 13

Legassick, Martin, 3, 4, 8  
Maisels, Issy, 3

Mandela, Nelson, 8

Marcus, Gilbert, 13  
Marshall, Margie, 5  
Matthews, Albino, 9

Mbeki, Govan, 3

Mohamed, Ismail, 13  
Nupen, Charles, 4, 7, 12, 14  
Omar, Dullah, 8

Pretorius, Paul, 7, 14  
Schlebusch, (Lawrence), 8  
Soggott, David, 13  
Thompson, Clive, 8, 13

Tip, Karel, 4, 7, 14

Tucker, Raymond, 5, 13  
Upington, Thomas (Sir), 3  
Wentzel, Ernie, 13

Wolpe, Harold, 3, 4, 8  
Zimmerman, Morris, 3

Cases:

Komani, 12  
Rikhoto, 12  
Wendy Orr, 9, 12



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