Judy Thomson **LRC Oral History Project**

Interview 1: 23rd April 2008
Interview 2: 23rd April 2008

Interview 1

Int This is an interview with Judy Thomson. Judy, thank you ever so much for agreeing to be part of the LRC Oral History Project, we really appreciate it. I was wondering whether we could start the interview by talking a little bit about yourself in terms of your personal background, where you came from, your personal trajectory, and your general career path and interest.

JT Well, I was born in Melbourne, Australia of a Scots mother and an American father, who died when I was three. Looking back on it, possibly with the help of Freud, I think I was aware of that when I was growing up, it was…I was the only child with an American father, I was different from the beginning. And that difference you can rejoice later, but at the time when you're little, makes you feel excruciatingly odd. I think that played as much of a role in making me look outward rather than inward, which is…obviously differentiates my life from lots of my schoolmates. It may also have been the time, being born in 1939, we were exposed to the end of the war, and in my memory anyway, the post war world, in many ways defined where we are today. And that included moving from the country where we were living, after my father's death, we moved as small children…I first went to boarding school when I was three, and then down to the city where our mother was, trying to hold everything together. Because it was not easy for her to bring up two small children without any resources at all, because again, it was in the middle of the war, she had given up working herself, she had been very much of a career woman and had looked after her own parents before she met our father. And her story in many ways again, helped to form how I position myself, I suppose, and how I saw the world, was between these two parents and what they had done and what they had achieved and not achieved. I went…after boarding school, I came down to the city at five to an all girls school, which I was actually thrown out of for having quite falsely, they accused me of stealing the Red Cross money, which I certainly didn't! I had obviously pushed teachers into the lake, and I'd fed laxatives to all of the other little girls in my class, as an effort, , to ingratiate myself to them, and these were the only chocolates I could locate. But after that dismal failure I went to another school. And when I finally left that school where I'd been the captain of that school, the person who presented the school prizes that year, was the headmistress of the prior school and she was amazed to see me and actually handed me my prizes, she said: you must have turned over a new leaf! (Laughter) So that was my entry into the world of adults. But I knew that I wanted to leave Australia…for many reasons, though I suspect this had more to do with my family than the rather provincial culture that was the Melbourne in the fifties. And I'd applied to Oxford and got accepted at Lady Margaret, and so my mother was…and step-father by now, brought me across America to meet my American relatives, …in New York…and they were absolutely amazing, I got along with them immediately, I wondered where they'd been all my life! It was very much a sympathy

and understanding…the same way as when I stood on Park Avenue in New York, it felt like that was my city, I'd known it all my life. I know millions of people have felt the same way, and it's got to be one of the great cities of the world in that regard that we can all feel we are New Yorkers. And luckily I stopped in Boston to see a friend who had come from Oxford to the Harvard business school and he said, "you don't want to go to Oxford; you want to go to Harvard". And I said: I do? and so we walked around to Radcliffe, which was the women's college, in those days, and I was accepted a week later. Which was very gratifying because I could go back and tell my uncle, because both my own father and he had gone to and he had said, "you'll never get in to Harvard". So it was rather nice to go back and be able to say, well, I have! And so, that fall I…I stayed that summer in New York, doing more languages, because again, Australia is not strong in any language, including English, but it's definitely weak in French of German. And so I had to have one for Radcliffe, so I came up in the fall, and began what was really four immensely happy years. And I adored it. I, read liberal arts, I was thrilled I didn't have to read law, which is what I was going to read in Australia had I gone to Melbourne University. In Australia to basically get into a professional career, you had to go straight away into the training, you couldn't do liberal arts and then your professional career as you can in America. And so bless the final choice in fact of going here because it was absolutely wonderful. I married at the end of my sophomore year and had my daughter my senior year when I was writing my thesis, but from the moment I arrived in America, I had been actually stunned…I had never seen a society so divided as I saw America then. I'd never realised there was such extraordinary divisions between rich and poor, between black and white, between educated and uneducated, I'd never seen such fissures at such a scale. In Australia, prior to the sixties anyway, we all lived in a much more modified version, I'm sure there were fissures but they were slight. Certainly my mother hadn't been to the university, she had, I think, a sixth grade education. My sister had left school at twelve and had run away from home and had gone droving. All of that was possible, it was not only secure, she was perfectly safe, running to the centre of Australia and driving sheep for three thousand miles. But here it was not the… I suppose, it as the level of…to my mind, hopelessness. Everybody talked about hope and yet I certainly couldn't see how things had changed that much. Well, obviously I was on the cusp of what was to deeply affect me, which was the Civil Rights Movement which culminated in the early sixties, and in which I became involved while I was at Harvard. I worked with Phillips Brooks House, an outreach group. I actually lived in Roxbury area in one of the settlement houses, before I was married, and then I became even more involved after marriage. It was this…this division that I'm speaking of, actually took place within my own life too because my husband didn't understand anything about my concerns, nor did he share them, he didn't see them and I found this very confusing, but I've got to admit, I didn't really understand then terribly well and I sort of thought that was his limitation. And, you know, he would moan more as I learnt more and surely he would change. That didn't really happen, so I should have recognised that perhaps I was not in the right marriage, and it did come to grief at the end of the sixties. But during that period, you, I don't think could live in America, even with Vietnam, and not be drawn into and empathize with and want to work with the Civil Rights Movement, which I did. And the sort of thing was that I can remember is after King's death, organising a rally with a wonderful woman in this area called Mrs Peabody, who had gone to jail in Florida over integration, and we could not find a place to hold a rally. And so finally we did get Northeastern University to agree to let us have the gym, but it was really

incredibly surprising the degree of fear in the city of Boston. A large black rally. There was no room for memorialising King. You could mourn Kennedy, Robert Kennedy, but you couldn't King. And again that…Boston has changed a lot. I left in '76 and returned in, I think 2005. But there's an underlying similarity, still there are remnants, things have changed a great deal perhaps but some things are still there under the surface. Where would you like me to go from there?

Int Well, I wonder whether I can take you right back…I'm wondering, you mention that you wanted to do law and I'm wondering where the impetus for that came from?

JT I think very early, because it's certainly it governs all of my behaviour, a deep belief in process. And that as long as there are rules, and you keep agreeing on what those rules are, and there is a fair process in the execution of those rules, whether it's cricket, croquet, law, I don't mind, but it always obsessed me that what I dislike most about arbitrary acts at school, arbitrary acts within the home, was this lack of process, understanding what are the rules of the game, just tell me the rules! That the notion that they could change by the whim of a stepfather or a teacher, I found deeply offensive. And so when finally I understood there was a thing called law and there is…you can train to be a lawyer, there was never any question, that's the direction I wanted to go in. But I felt singularly uneducated when I was finished with even an undergraduate degree. There was the whole world to learn about and I had only really learnt about the English culture and American culture now. I've still got much more to learn. And I didn't feel…actually when I'd finished an undergraduate degree at Radcliffe, that I knew enough to even start law. So I started a graduate program at Harvard in Art History, mainly because I thought that was, again, a whole area I knew nothing about, I had concentrated medieval history, early church history, and really didn't know the visual world at all. And from there I went on to, years later, into China and into another degree in Chinese Art and Archaeology.

Int I'm also wondering, you came to America and in terms of identity you instantly in a way fell in love with America, but I'm also wondering in terms of noticing the divisions, do you think that stems from earlier sense of social injustice in Australia, or do you think your sense of social injustice really formulated itself when you were in America?

JT No…it might have. Certainly I was aware of social injustice to Aboriginals in Australia. I had at about thirteen gone out to Alice Springs to Hermansburg Mission, and I had been shattered, I had no idea that that's…and I suppose many ways people might have thought that that was an absolutely splendid mission. But the idea of people living in these squalid little tin huts, that that was better than living whatever was their traditional life, struck me as appalling! And I was…chronically aware…my half brother had a rather unfortunate marriage, for many reasons, but the reason that was always given to me was that she was an Aboriginal, and my attitude was pretty much, look, what's that got to do with it? If she's not a good woman that's a, you know, a complaint. If she has entered the marriage falsely that's a complaint…and you can see already is a sort of a legalistic mind…but don't give me the irrationality of having been somebody who may have had an absolutely fascinating background or an extraordinary story to tell that was totally legitimate.

Int You also mentioned that you became involved with the settlement house, and I wondered whether you could talk a bit more about that, and also your work within the Civil Rights Movement as well.

JT The settlement house in Roxbury was…I guess they've all came out of Jane Addams in Chicago, I don't know that then, it was years later that I learnt that. But it always seemed to me that schools, and in this place the settlement house, were a very sensible way of trying to enter a different population than your own. And how did you do it? I mean, did you go in as Lady Bountiful by the day or did you actually go live with people where they were? To try to help other people is actually rather offensive from their point of view. So it's hard to know, how do you, with all the best intentions in the world, give them something that they want on their terms? And this seemed the best possible way to do that. So it was tutoring, it was working within the schools, helping build libraries in the secondary schools, I even got down to deciding that the schools were so appalling and most of these kids had no sports and that they were all as any adolescent would be, were jumping around when they should have been doing what we did in Australia, which is running a couple of miles each morning., We normally got up about six o'clock, and rather than, you know, taking up Hebraic studies or something serious, we all went off swimming or running or having a particular sport before we even entered the classrooms, so we were slightly worn out by the time we got to class, we simply didn't cause trouble. And I thought the same thing might apply to here, so I used to teach tennis at seven o'clock in the morning. I played with an African American marine, who agreed with me that these kids all needed to be out running before they hit the classroom. But I still think that nobody is taking advantage of the role that a school and a school/settlement has, can play in bringing enrichment to the community. But I'm equally convinced that need to be as much of the community as possible. In terms of the Civil Rights Movement that's where it started. I remember being out at Brandise University for dinner one night and realising that, I guess, the man I was sitting next to asked me, why I was involved in Roxbury…well, what's a nice young lady like you doing there? And remember being very shocked because my feeling was that because I was a woman, I'm identifying very much with the second class citizen status, African Americans of minorities, and women are just in that position, where nobody expects us to do anything except be infantile. I hadn't wanted to be infantile in Australia, I don't want to infantile in America. And I faced much the same sort of attitude towards women in Australia, which was, you know, as long as you're a nice young thing, a sweet young thing, wait till you get married and that's your fulfilment in life. Well, it just wasn't mine. It certainly explained why I got married so early Unclear what I meant. Please eliminate.

Int I'm wondering whether during the Civil Rights Movement whether the urge to become a lawyer really resurfaced again at all?

JT Very much so. By the end of the sixties I had in fact had applied to law schools and Charles Fried at Harvard again said, what's a nice young lady like you wanting to read law for? Because of my reading medieval history. And he'd said, why don't you go continue with some Vatican studies. And it was no good staring and saying, but I

want to read law! And in those days certainly you didn't ever give a personal explanation of why you wanted to do whatever you wanted to do. Your scholarly work was your ticket. And he ignored all that and so…but anyway, Boston University did accept me and so did Northeastern. And unfortunately or fortunately, I did one week of work at Boston University and was offered a job in Frank Sargent's administration, which was a Republican with solid Democratic staff. And we all deeply believed in Frank Sargent, we really had a huge agenda of things with Massachusetts that we wanted to accomplish: in corrections, in youthful offenders, in the role of mental disabilities, the entire spectrum. Peter Goldmark was the secretary of human services…our equivalent of the HEW…Health Education and Welfare here in Massachusetts. And we had a wonderful staff and that was four glorious years of government, that I adored, and I really thought that we…he could change Massachusetts. But we were thrown out on the second Nixon election in 1972 and a Republican government came into Massachusetts.

Int The type of work that you took in that administration was that more policy driven?

JT Totally policy driven. I was in the governor's office co-ordinating with the human services, and my specific charge, which is why I got some reservations about Hilary Clinton, was I was also the only woman on the staff and in seconded to the governor's wife (Jessie Sargent). And so I accompanied here everywhere and she even wrote a book, which is one of the most unreadable, but terribly funny books.. But she was determined not to be dismissed by the governor's staff, and wanted desperately to play a role, …Now my sympathy is to all politician's wives or nowadays hopefully spouses, in that they do have a dreadful position, a dreadful role, and their staffs do want to control them. But again, you also learn the limitations that they are not elected and they are generally unelectable. And so the policy roles that I got into were very much on writing the speeches, helping the governor's wife understand what the policies were, I can't take any credit for being part of the actual formulation of the policies, although very often, nearly all hundred percent, I would agree with them, and very rarely…I mean, it was an amazingly progressive policy that the Sargent administration had and executed.

Int I'm wondering from there what you went on to do ?

JT To Boston University. The president of Boston University, John Silber, had labour problems with the faculty, they were trying to unionise because he was a very divisive, in many ways, figure. Extraordinary, he'd come from Texas, had been one of the most popular provosts of UT Austin but his methods were not the methods of New England, and his autocratic and almost, you might have said…some sad fascist, I would have said he was a bit too totalitarian, methods alienated the faculty and they'd determined to unionise. So I was hired to basically follow that entire process to both report on it and to act, in fact, in a legal fashion. There was no in-house university lawyer at that point. And I quickly used some of the things that I've mentioned earlier, my concerns for due process. I drew up seven volumes of policies and procedures for the university and I read through with a fine toothcomb. Because obviously a university has policies and procedures and if they don't like them they can change them. So ever single one I took and tried to make faculty understand that

they had recourse to something other than strikes that they did have these procedures that they could follow. And similarly I thought that the…the faculty had no problems on the whole recognising that, in fact it made John Silber understand that, that he couldn't arbitrarily fire, dismiss, etc. He didn't understand it, he surely could by the end, that for every act and reaction in a university, there are well-developed procedures. It didn't really take hold. I think the mentality has finally perhaps taken hold, but it's thirty years later. But we made some slow progress and I'm convinced that law is like that, and that there is no way it happens overnight. It's like a coral reef, it's a slow accumulation and then you use whatever those laws are, and that's why the LRC, to my mind, was so remarkable. Because that's, when I finally met Sydney (Kentridge) and understood the LRC, it dovetailed rather beautifully with thinking that it seemed logical to me as I worked my way through my life for that point.

Int I'm just wondering, prior to meeting Sydney (Kentridge), what was your knowledge of South Africa and how involved were you in any anti apartheid…?

JT Not at all. And I felt very strongly even about Mississippi, and where the really big demonstrations in America were in the Civil Rights, that you had to address what's on your doorstep first and you could not go off and march in Mississippi when you had police strikes and busing problems in Boston, when the most appalling things were happening right here. So my feeling was that I'd got to clean up what was on my doorstep before I even looked at South Africa. And South Africa really didn't even enter my consciousness at any point until probably '76 with (Steve) Biko's death. And then of course you couldn't not follow it through that period, I think, from the, well, middle, or the early seventies through the eighties. Surely that's the high point of apartheid, you know, and it took the world stage. By that time obviously things had calmed down here or they'd reached a different place.

Int I'm also wondering at what point you met Sydney (Kentridge) and how that occurred as such?

JT Aah. Well, '72, my marriage had fallen apart literally, as I met Sydney (Kentridge), and my husband had left and I was initially somewhat confused but, you know, decided that probably it was a very sane thing that he'd done, and…but I thought everybody around me had known all about this…it's one of those things where when you're aware of your unhappiness you assume everybody by osmosis has gotten the message. So when I was invited out to dinner at Lloyd Weinreb's, who was a professor at the Harvard Law School, of criminal law, and a friend of Sydney (Kentridge)'s, I arrived at Lloyd and Ruth's for dinner and they wanted to know, where was Lewis? I was just appalled and I burst into tears, not knowing how to say, oh, he's left, we're separated, etc, etc. And Sydney (Kentridge) was standing somewhere in a formal way and immediately after that just took me to another room, sat me down calmly and introduced himself and wanted to know what had gone on and perhaps I'd like to tell him. And so it was in that context. And I didn't have a lawyer or anything, and he said, alright, you know, you need a lawyer and he recommended one to me. Interestingly enough I went…the name of the lawyer was…he said Gerry Berlin. Now I'd married into a Wasp family and the only Berlin

anybody could tell me about was somebody called d'Andelot (Don)Berlin, who was a wills and trust lawyer, who after I'd poured out my story, said, no, no, I'm not the man you want (laughter). And I finally got to Gerry Berlin who was a well-known civil rights lawyer. Because we'd agreed that to divorce from the family that I was married into, I was going to need a civil rights lawyer. And so Sydney (Kentridge) really dates from that, but it was marvellous, but it was after that…I guess he was here for six months, and I saw him several more times and we discussed the LRC, discussed the whole notion of…because it wasn't yet formed, it was in…it was more that he felt that South Africa did have a remarkable body of law and that you could use that law to argue your case of the injustice of the case or the folly of the case or even the conflict within the law itself would in fact expose the totalitarian behaviour of the government.

Int So at what point did you…did you go to South Africa during the 1970s?

JT No, I never went till after…apartheid was almost over. I must say I think the first time I went has to be about '88, or '89. And apartheid was really finished by then.

Int Yes, of course. I'm wondering, it seems to me that your friendship with Sydney (Kentridge) started off in 1972 and I'm wondering whether you could talk a bit about that and how it then may have led you to the SALSLEP Board.

JT In '76, the Biko case, when I suddenly read it in the newspaper, that Sydney (Kentridge) was involved in the defence, I was so thrilled that I immediately wrote to him and said what can I do to help? And Sydney (Kentridge) said, help pay for the defence. So we raised money for that defence. But in '78 I…well, actually, yes…it was '78 that I left Boston University and determined that I had to learn Chinese, it was the only way that I could get out of my job, where there were no questions, because to have left John Silber, you're immediately attacked by the press, who wanted the inside story on this remarkable man. And equally to John Silber, he didn't understand why you could leave him. It was an impossible situation. So I determined that if I said I wanted to learn Chinese, everybody would just be so stunned they wouldn't ask me any more questions. And it was the best out that I could think of. But equally too, I had by then remarried, and when I told this to my husband he was stunned, and I said, but we can also go to China, and he said…a New York lawyer…go to China? I said, yes, they've just signed the Shanghai Accords. And he went back to his office and lo and behold they thought it was a brilliant idea that he go to China. So a week later, having made this decision, we took off to at least explore and see, a three-week trip, was there work to be done, could we do it? And the answer was, yes. So that's how we got to Hong Kong and up to China. It's also how I got out of BU (Boston University), and how Sydney (Kentridge) fits into this is that, when we went up to Beijing, it was right at the time of the Democracy Wall, and I was going around the alleys after the days of negotiation between the law firm in New York, Shearman & Stirling, my husband was a partner, and the Chinese government. They were working on different types of deals as China entered the international scene. I would sneak out….with Jerry Cohen (who read Chinese), who was in the hotel at the same time, and we would read these big posters, he would translate and I would just sort of be there, stunned at what was going on, stunned at the people who were

pouring into Beijing from the provinces, who were living in train stations, and it became very apparent that there was no due process about anything in China. It was all arbitrary, administrative fiat, and Sydney (Kentridge)'s…the conversations I'd been having with Sydney (Kentridge) came back and it became very apparent that as much as the Chinese did not have a high regard for law, they much prefer personal relationships, they badly needed it. And then in the daytime I would be going and taking notes for my husband of all of his discussions with the different Chinese ministries, and it was equally apparent that they needed law – they had no idea how to interact with the international community, whether it was on representation for membership in the major international institutions or whether it was for negotiating any of the big commercial deals, which were now beginning to knock at their door, and Shearman & Stirling was going to do a lot of that, but it was laborious, laborious work and it was very apparent that they were going to be taken for a ride – they were already being taken for a ride by Arm and Hammer and a few other American and international companies, because they didn't know what the terms were, they didn't know where to arbitrate. So it seemed a very sensible thing to perhaps adapt Sydney (Kentridge)'s ideas and start trying to train lawyers, Chinese lawyers who'd been trained in Moscow on the whole…this is not criminal law, this is all international law, commercial law…and eventually I got a big grant from Ford Foundation to do just that. and found a wonderful man called Randall Edwards at Columbia Law School, and we began the Chinese Legal Studies program. It then spread out across America and across Europe. Inaudible….we must have trained over, I'd say, three or four thousand, Chinese, JD, LLM, and just interns.

Int Wonderful. I'm wondering the period, was that somehow dovetailing with the emergence of the LRC in South Africa?

JT Yes, exactly. It was '81 through '89.

Int And during that period, when you were involved with the Chinese law world, as such, what was your link with South Africa? I know you were friendly with Sydney (Kentridge)…

JT Well, interestingly enough…obviously, my husband John Bullitt was important in this because he pointed out that there was already a program in the major law firms in New York anyway, having South African interns, who came over, generally from the top law firms, and they did a six month internship with the law firms, and it was…they paid for jointly. And John (Bullitt) suggested that why couldn't I devise a program that did the same thing with the Chinese lawyers, where it would be the law firm and the Ford Foundation, you know, fifty percent of each, so that some of these lawyers, let's say from CITIC, or FITIC…CITIC being the Chinese investment arm, or the foreign investment arm of the Chinese government, would send their quote "Moscow trained lawyers" to Shearman & Stirling, and White & Case, etc, etc, for six months. White & Case would pay them x amount and the Foundation would pay x amount. We worked out, you know, what was that structure going to be.

Int At what point did you then come on board at SALSLEP?

JT Felicia (Kentridge) had asked me for several years to come on, but in ’85 my husband was diagnosed with a terminal type of cancer….I saw them at every opportunity that I could. They were important to me, and to John Bullitt who also adored them. And then when John died in ’87, I felt…Felicia (Kentridge) asked me again, and there was no women at that point on that board, and I said, well, I thought it was important, a: they have a woman, and b: they don’t necessarily have lawyers. I’ve changed my mind now, I think they probably do need to only be lawyers but it seemed to me to be an arbitrary decision anyway, and not the only factor that should be given to why somebody was asked to be a board member.

Int So you were the first woman on the Board?

JT Yes.

Int Tell me about that?

JT Well, I don’t know, it’s…again, I think it probably helped to have no sense of reverence for any of these men at all, and some of them were wonderful and some of them were really…you know, they…their greatest weakness is they didn’t seem to understand that besides the very important aspect of giving international backing to the LRC, there was more to it than that. You didn’t just stand up and say we will defend you when necessary, which they would have and they were there to do. But they actually weren’t called upon, which was equally lucky. But I felt strongly that you can’t ever let something go there, you have to…if they call for money, you have to be able to raise that money if they are calling for…I don’t know, support in other areas, which I was to learn what was that to be, but I didn’t know at the time. They had to come up to the fence and be prepared to give. And I think that was where I had the greatest difficulty with them, as a woman. I think they just came from a very specific and precise point of where their obligations were, they didn’t come from a general principled sense.

Int Do you think…do you think that it’s just because you’re a woman or do you think the fact that you had a broader range of experience and you weren’t a lawyer that that may have influenced how you saw things and what needed to be done?

JT Yes. I mean, I’m frequently convinced that it’s got nothing to do with gender, quite right, it’s got to do with what’s been your experience and I really have had, I think, a much broader, both education and experience…experiential background, than almost any of them.

Int Was your first trip to South Africa, in 1989, I think, prompted by the fact that you’d come on board the SALSLEP board …?

JT I really hadn't wanted to go there under apartheid. I mean, my reason for concern was really one of principle rather than, you know, affection. Affection would only come later. How can you love people half the way around the world unless you love your neighbour? So, I'd been always involved with my neighbours and my own family. And…yet, you know, once you're hooked, then I had to go. Luckily it coincided with the collapse of the system. I guess I was there the year before the elections, and then the year after the election. And it was obviously electric, it was a sort of amazing time to be there.

Int I just want to take you back, on your first trip what were you expecting and what did you experience?

JT I think I expected a police state, not unlike China. I was prepared for arbitrary behaviour on their part, and therefore I knew that a little bit again like China not to act in arbitrary ways myself, but if they asked it, do it. And nobody asked me to do anything, it was much freer in fact than I had anticipated. I think the thing that to this day does disturb me more than anything, but…there was less of it then I guess than later, because certainly neither Sydney (Kentridge) or Arthur (Chaskalson) or any of the people whom I actually visited and stayed with, in South Africa, lived the way, I was to find on the next two or three trips that I took, which was behind these big walls with the broken glass. I had seen that in other countries and I disliked it every time I saw it. And the idea of staying with people who had locked gates at the top of their stairs and alarm systems and people walking around their houses with guns, Latin America is like that and you…you know, you suddenly felt, good lord, that's really what South Africa is, is a variant of Latin America. And I suppose the answer is yes. I mean, again, it's such huge…gap between real wealth and poverty and…but still it's no way to live.

Int I'm also wondering, you had access to people such as Arthur Chaskalson at a very crucial time in terms of the post apartheid transition and to government of the Constitution, were there certain discussions that occurred that you were privy to about the way in which rule of law was going to be set up in post apartheid South Africa?

JT Not that I can remember. I mean, there were always discussion about the Constitution, the fact that they were using a German model, rather than the American. I can remember us discussing how…whether it was Albie or whether it was any of the others that were reading the different Constitutions. I came from such a different tradition of…I was not entirely sure, so I kept on questioning why such faith in the written word? But there was tremendous commitment on all of their parts to the fact that it was going to be written, and it was going to be the broadest possible statement. Again I was so surprised by details such as the right to a name and the extension of the UN Convention on Rights, which I don't know that I knew that much about it, but what I did know I sort of was always surprised at all of the social rights that were incorporated into that UN Declaration. And here they were again in the South African Declaration. Inaudible and I thought they were…it was too much. But still an amazing statement, it's sort of a little bit like the Book of Genesis, you want to say, yeah, incredible that this has been written.

Int You were privy to the LRC long before it started in terms of the idea of public interest law in South Africa. I'm going to ask two questions and you can choose to answer (laughs) or however you please. Did you think a public interest law organisation like the LRC would work in South Africa and did you think that if under apartheid Parliament was supreme, that even if laws were implemented and legal victories were garnered by the LRC, that they wouldn't merely be overturned by the apartheid regime?

JT I'm not sure that back in '88, '89, I had even…well, it's not totally true, because I had gone through Columbia where there had been…at Columbia Law School…great discussions about the…either the capacity or the right of legislators to overturn legal decisions and how the legislative was supreme on that issue. I don't think I heard anybody ever argue that it was the wrong way or anything beyond a pity, but that you had to be able to take people with you, and law couldn't separate itself from that political process.

Int Quite soon after the LRC began, 1978/79, by '81 they'd garnered significant legal victories against Pass Laws, Rikhoto case, the Komani case, etc, and I'm sure you've discussed this with Felicia (Kentridge) and Sydney (Kentridge), I wonder what you thought about…before that, before those victories, did you think a public interest law organisation would work in South Africa?

JT Certainly it had…they had here, they had some significantly important roles that they'd played in this country, and in fact it's amazing looking back to the sixties because you'd never hear about public interest law firms now having the same level of success, they had in the sixties. Whether it was Vera, the Justice Institute, etc, I mean, every state seemed to have their own public interest law firm, and all the young lawyers, it's what I would have done if I'd gone to law school, that's what you did do, there was this tremendous social commitment to use the law we had, and there was belief that that…it was consistent with legislative bodies, certainly at the state level. I would have thought that it certainly was…I didn't know enough about South Africa to be able to make those judgements, I could only listen to them, and it was consistent with what I knew domestically.

Int Right. Having access to Felicia (Kentridge), she's credited with being the brainchild behind the Legal Resources Centre, I wonder whether you would talk a bit about that and perhaps really elucidate her excitement about a public interest law organisation in South Africa?

JT Oh certainly…well, she was passionate about it and I think that it was the dynamic of having Arthur (Chaskalson) and Geoff (Budlender), and there were other people who I really didn't know in those early years, that what must have been quite extraordinary to work with. I think she certainly felt as if she was the nuts and bolts person who operationally held it together. I don't think she saw herself as the advocate. But you're absolutely right, she in the end, what is any institution, if it doesn't have that person

who's working out the systems, who's making sure that the advocates can do their job properly, or choose the right job or the right moment.

Int From its conception the LRC, and largely credited to Felicia (Kentridge), I think, was very successful in getting huge sums of money from Ford, Carnegie, Rockefeller…

JT Absolutely.

Int And I'm wondering at what point that funding situation changed for the LRC?

JT I think it definitely has to have been the end of apartheid; it was absolute…it was brilliant for South Africa but was an absolute crisis in many ways for the LRC. And I think people in America, and this is true not just for something like apartheid, I mean, it's true for the idea of welfare mums, you have welfare reform and therefore there are no more welfare mums, and you want to say, one second, that's just an appellation, that's given to a situation. The situation doesn't necessarily change just because you've determined you've had just some legislation that said it doesn't exist anymore. That was certainly true for apartheid. And I always loved, I think it was Lord Alexander in London, who was on the LAT Board, who said, they've built the structure of apartheid and it's like the bamboo or the steel scaffolding that goes up around the building, and then when the building is finished and you take down the scaffolding, you take down the (scaffolding) of apartheid, but you're still left with the building. And I don't know whether that's true of South Africa or not. I think it's been true in America. I will say that generationally in America, and maybe it's true in South Africa generationally, the racial issue decreases with each new generation. And things that were unthinkable when I arrived are positively neither thinkable, doable or taken for granted now in America, and I suspect the same thing is increasingly happening in South Africa. What was once shocking is now conventional.

Int Realising that we have to leave, I wondered whether we could pick up briefly, because we're almost towards the end, and set the stage now in terms of talking about your reflections being on the Board, you know, when you came on, etc.

(End of first interview)

Second interview

Int Judy, we stopped really at the point where, I'd left you with a thought about perhaps talking a bit about your reflections about the people at the LRC that you came across, including Felicia (Kentridge), Sydney (Kentridge), Arthur (Chaskalson), Geoff Budlender, and others, in terms of what you thought about their lawyering capabilities, but also what they brought to the idea of public interest law in South Africa?

JT I think…we've both discussed, there are two periods, there's during the apartheid era, and there's the post apartheid era, and maybe there's three, there's transition and now post transition, because I think anything that's now fifteen years away you're on route to being post the transition. You may still be working it out. Certainly the lawyering of the eighties was remarkable, it was a very high calibre, well focused, and of course it's always easier to fight a well-defined enemy. In the transitional period, certainly what I noticed was that it was the rise of human rights law that hadn't really existed in the eighties, thinking back to the Helsinki Accords, etc, it was all very tenuous, it was the intellectually "in" thing but it didn't really have strong routes in different legal systems, including the American legal system, it was more an international objective. I think the European Union's rise and the World Court's rise has emphasised it more, but you know, the fact that the United States doesn't even belong to the World Court indicates that human rights law, I don't know that there is such a thing in the States, even within precedent. And so Sydney (Kentridge) and Felicia (Kentridge) and I were talking one day about the British situation, what you really wanted was lawyers who couldn't think any other way, and that's as much training and bringing up within a society that only could understand the fact that the work basically now is the norm not a specialised part of law. However in terms of the LRC, was it going to go in the direction of public interest law, labour contracts, government relations, pensions, AIDS, marital law, etc, or was it going to be just concerned with human rights? It seemed to me that's what the transition was all about, trying to work this out. Certainly Felicia (Kentridge) was very against it becoming just a human rights law firm and was very worried that it would move in that direction. I think Sydney (Kentridge) probably because his own legal tradition was very much grounded in the solid stuff of case law. watching it now, it seems to me that it's become much more concerned about the basic facts of how do you live in South Africa, whether it's still the issues of land redistribution or provision of health care under the Constitution. The issue of human rights has been subsumed within Constitution. So it's no…doesn't seem to be any longer an issue. But I would agree with some of the other criticisms that I've heard from the SALS Board that there doesn't seem to be as tight a focus as there used to be, so my suspicion is that within this post transition phase, that's going to be their big challenge, to focus more narrowly, to be the leaders of whatever area that they choose, wherever their experience and their expertise leads them.

Int I was also wondering, in terms of people such as Arthur (Chaskalson), people describe him in various ways, I'm wondering what your experience of Arthur (Chaskalson) is?

JT I agree with you, I think he's…even over here everybody treats him in a…especially lawyers, in a very awesome way. I must admit I've never felt that in the slightest. It seems to me Arthur (Chaskalson) is a very nice chap.

Int That's true.

JT And, it's…I think one has to probably be a lawyer and here is where I'm missing the…the sense of awe because I have never seen him practise and be up there at the Bar, never saw him in the court when he was at the court, all you can say is that somebody's got to be right, that he was head of the Supreme Court, Chief Justice, I mean, that must say a great deal about the esteem that he was held in.

Int You came on board at SALSLEP really…and correct me if I'm wrong…when Jim Robertson was the president?

JT Right.

Int And I'm wondering what are some of the dilemmas, challenges, that you've had to deal with as a board member from that time onwards…so there was Jim Robertson and then Peter Connell and then of course Harvey Dale...?

JT I guess it was the survival of SALSLEP, which then became SALS. Over time, especially with the end of the apartheid era, with the end of the period of just advocacy, where it became more important now to actually fund and find funds, which were hard to find and still are hard to find, for a public interest law firm, which is no more interesting than a poverty law firm is in America. That's really what public interest is in South Africa. The board and Jim (Robertson), I think, all became much less interested and felt that it really had got to now be funded by South Africans themselves. I felt that that may be so but we simply couldn't disband them without asking the LRC is this what they wanted? And there was a group who felt that under no circumstances should we ask them, it was none of their business, that we had formed it here in America, we were an autonomous separate group as you must be by tax law, and that although the LRC was in the forefront of our interest we had also supported other groups, including the Black Lawyers Association and some training aspects, which is why we were called the South African Legal and Education Fund. I felt that that…that was an arbitrary statement on their part, so when Peter wanted to resign and they wanted to close down the 5013c, and just hand the money over to the LRC, I took up a fight to basically say, you can't do that. And inaudible while I was in the bathroom passed a motion that I should become chairman of the board, and when I came back from the bathroom, the assumption…everybody had voted me as chairman, and I said, don't be ridiculous, a: I'm not a lawyer, and b: I'm not going to take on that burden, but what I will do is agree to find a chairman, and Peter's (Connell's) got to stay at the helm until I build a new board. And give me year or two to do that. Which is what I then set about to do with a…Reuben Clark was absolutely wonderful and we'd basically, with Sydney Pecker and Reuben (Clark) and Clint (Clinton Bamberger) , found new blood, young people, all lawyers I will say, in the

end, but that was fine, I mean, that was where we had to find our material. And wonderful Andy Sillen, whom I don't know whether you've talked to Andy or not?

Int Not yet, no.

JT You really must. He was terrific, and essential in this process. Helped us find Harvey (Dale) and that was really a major turning point. And the rest is history. That's the current situation we can talk about. But I will say I think that it was important…I assume, I've never actually gone back to check with the LRC, I only checked with Felicia (Kentridge), but who was already quite ill and it was very hard to get any response from her, was this worth doing or not? Is this what she thought was important for the LRC's health? And I just…I still sort of think, it's up to them, when they're ready to get rid of us, we can go.

Int Right. Well, it doesn't seem that they're ready any time soon.

JT Right (laughs).

Int But I'm wondering, there is this constant discourse about how the…SALS is not regarded as doing very much, by SALS members themselves, and that it's a good bunch of good people who come together and have dinners. Do you see the role of SALS as much more than that, or exactly that?

JT No, they've continued pretty much as being more advocates for the…the rule of law in South Africa, that would be the bottom line. They're all people who have care desperately about the rule of law. And they are not just concerned about international transactions or corporate law at all. They see the larger focus of what is law in society. And I think it's hard to find people who are expats or who have a long history with South Africa, who are only interested in law and in public law, poverty law. I don't think there is a large cohort of people to choose from so you take what you can get. Now in terms of what can you do, the bottom line with all of these NGO organisations, is you can stand ready with an intelligent board to in fact guard the quality of what the operation… I think this was important over Zimbabwe, and there was a great deal of reluctance to even do as little as we did do But I thought we had a fiduciary responsibility and it was larger than just looking after their money. we had never hesitated over South Africa to stand up, if that's what they needed, and they requested from us. And it may happen again, I don't know. I think that the…as we've seen in this country inaudible where the…law comes under threat all the time, and the rule of law has been subverted here horribly in the last eight years. South Africa is a much weaker structure.

Int It's certainly a younger democracy and it's something that's come up constantly in my interview with Felicia (Kentridge), the importance of the rule of law.

JT Absolutely.

Int One of the things that is a bit of a concern is the fact that the LRC in its current state might in fact be concerned about taking on litigation against the state, and I'm wondering what your thoughts are about that?

JT I think one always should be ready to litigate against any state. And I strongly support it in this country from the ACLU, and almost any other organisation I can get my hands on. I think, the notion of a state free from untrammelled consequences is a dangerous state, so it always needs to be aware that there are other groups looking at them and have the right to take them to court. Do you think that's the culture within South Africa or not?

Int Well, I think that the LRC is, certainly, my sense is that it's been very brave in taking on cases against the ANC, but I'm not sure whether the state might necessarily see that in the vein in which it is, which is really implementing the rule of law.

JT Right.

Int I'm wondering in terms of, there is this dilemma in a public interest law organisation, does one have the system where…and the LRC had it earlier, where even though they were doing the test case approach, they had these law clinics that Felicia (Kentridge) was instrumental in, where it was a person coming in through the door and then attending to it and then when you spoke about the LRC really having to narrow its focus, what happens to the average South African person who walks through the door with perhaps a small problem, whether it's repossession of goods, etc, and then you have these major cases, whether it's the AIDS case, or land…forcible removals, etc. So I'm wondering what your sense is of that?

JT Again, I'm really not the best person to answer a lot of the in South Africa issues, because my assumption is that certainly other groups should be being formed over time, if they're not already there, who would take up specific areas…you mentioned earlier about family law, I can imagine there being groups of people who are very concerned about, let's say, inaudible and therefore labour law. The unions should absolutely be concerned and therefore be supporting perhaps some of the potential public interest labour law focused group. If that starts to happen, I think, as quickly as possible, the LRC should be sloughing off the areas that have now got sole focus for specific interest area or group. And perhaps in the end they might be left with the one thing that is the most dangerous, which is the Constitutional Law Division And keep that as their focus. I don't know.

Int I'm also wondering, in terms of actually retaining really good lawyers, the LRC has had a high turnover and lost a lot of the key people who have gone up to government with transition, and I'm wondering what your sense is of how can the LRC continue to attract really highly skilled lawyers, irrespective of race…I mean, funding is such a crucial issue and where corporate law firms are now taking on corporate social responsibility?

JT I think again, small might be beautiful. I find myself feeling this…ninety percent of everything, from going into space to law firms, I think the era of the mega, whatever, we've just sort of seen the implosion of mega capital and mega banks, and maybe one day we'll see it over mega law firms, you know, which are just growing beyond, to my mind, anything that makes sense. I would have thought especially because in the LRC's case funding is coming from the outside, makes most sense to raise the salaries, to draw the people in that you want for a smaller cohort, who are doing a more focused effort.

Int I know that you've been involved in lots of causes and devote your time to a lot of things, I'm just wondering where in this spectrum your involvement with South Africa per se, as well as SALSLEP and LRC, resonates?

JT Well, I think that there's no question that Sydney (Kentridge) hit a chord within me that I resonated with and that I was able to take to the China experience, and which I…it's the prism through which I see a lot of my life. But you're right, I mean, the…it's not the top of my list any longer, which is why it makes sense for me to actually leave the board, and although I don't ever want to leave those friendships, which are absolutely wonderful, I'm not sure that I would ever go back on to the board…

Int At what point did you leave, Judy?

JT Just this last meeting.

Int Right, ok.

JT So…and it was something that I'd been telling Harvey (Dale) for two years that I should go and finally he agreed. When things looked like they really were stabilised.

Int What do you think prompted the decision?

JT I think…I just had felt as if I too had to downsize and do everything that I've been saying that the LRC should do. I'd got to focus more on one or two things rather than five or six. I mean, I was spread between being an Australian who had a focus on China, who was living in the United States and involved in enterprises here, and married somebody from the UK and having to live in London and Scotland, and now I was also involved with South Africa. I was all over the lot. (laughter) And although the principles of support organisations are always the same, you know, they need money, and normally I know how to get money. But the older I get, again, the narrower the field is of whether I know where to get money from. And you, again, have to just keep ratcheting in to the most effective way you think you can be most effective. And although I'm not entirely sure I'm being effective about anything particularly at the moment, I know that this is the right direction to go in.

Int I've asked you a range of questions and I'm wondering whether there are things I've neglected to talk about which you really think ought to be included in the Oral History at the LRC?

JT No, I think the only thing that always overwhelms me is, what a fantastic role model it has been, and I think will continue to be long after it may change into and morph into something that is more effective for both the operators and the clients in South Africa. It was…what it was for that amazing almost twenty-year period, deserves to be recorded. And I hope in some way that it is a casebook study for other countries at other times. I mean, it's a fabulous one, as we've mentioned, for Tibet. It's a fabulous model for many countries in the Middle East that are struggling to come through to a different place.

Int Absolutely. Thank you so much for your time. Before we stop, I'm just wondering whether there are any stories to be told? (laughs)

JT I don't think so. I mean, there were many wonderful trips where you formed the most …friendships with Geoff (Budlender) and with Steve (Kahanovitz) and…I think you always came back from South Africa feeling more alive. I'm curious whether you would now because here we have a great crisis in this country, and as angry as one is, anger is also a great stimulant to feeling alive, and I don't know whether one necessarily feels that anger in South Africa anymore, because now everybody's part of the problem or part of the solution.

Int Sure. One of the things I just neglected to ask you and I suddenly recall, the LRC at some point was accused by, for example, the Black Lawyers Association perhaps, but that was in competition for funding, and then all the time about being a very elite white lawyers' association, and I'm wondering what your sense was of the discourse of race then during apartheid and particularly now in post apartheid South Africa?

JT Certainly the…I met with some of the Black Lawyers Association people on several occasions…I mean, there was a real problem of…no question, of quality. They were not as well trained, they were much more the equivalent of country lawyers, here they were up against the big city slickers. I think there was…if, you know, race doesn't help, nor does class on, let alone education. They were just outsmarted and outfoxed. Now is that a good or a bad thing? I mean, I think that there was a place for both and we're obviously increasingly seeing first grade black lawyers emerging, and they'll get even better over time. Look at how difficult it's been, John Payton being almost one of the first partners of Wilmer Cutler, Pickering. And I can remember in most New York law firms there were no women partners, if there were they were in real estate or family law. And now I just take it for granted. Senior partners, women, no problem. That's…we discussed at dinner, how women had leapfrogged over the African American, but, you know, the African Americans are coming into their own absolutely. Not enough, absolutely not even enough within the percentage of the population. But they're no longer seen as 'we're helping them along aren't we dear', that's over. These are people who come in on their own two legs. And that, I think,

surely is happening isn't it, in South Africa? I mean, I thought Bongani (Majola) was absolutely first rate, and nobody was helping him, at all.

Int I'm wondering what you think will be the legacy that's left behind of the LRC? What's your sense?

JT That South Africa comes through, it's South Africa did it, but the LRC was such a quintessential South Africa product. It's not a product of American or British patronage or law, it was, I think, absolutely a homegrown entity and it will be remarkable. And I think that that gives me the greatest hope that South Africa will pull through, that it just had a longer history of law than any other African country. And that's what will save it. And it's got a hell of a road ahead of it to incorporate…what do they say in South Africa is now…thirty million? (The population of South Africa at the time of the interview in 2008 was 48 687 million)

Int Yes.

JT Out of which what, fifteen million are sick (Estimates indicate that about 12.4 to 15 percent of the population are reported to have HIV-AIDS). So, you know, it's a totally tragic future, but if they pull through I swear it will be because of just the native goodness and law will do it.

Int Judy, thank you very much for your time.

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DOCUMENT DETAILS:

Document ID:- **AG3298-1-180**
Document Title:- **Judy Thomson Interview**
Author:- **Legal Resources Centre South Africa (LRC)**
Document Date:- **2008**