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This is an interview with Johan Roos and itâ\200\231s the 7" August (2008), Thursday. Johan ,
thank you ever so much for agreeing to be part of the LRC Oral History Project, the
SALS Foundation in Washington DC really thanks you. I wondered whether we could
start the interview by...if you could talk about your early childhood memories,
growing up in South Africa under apartheid and where your sense of social justice and
injustice may have developed?

My early memories really are...I was brought up in a home where apartheid was very
much supported, it was, as far as my family was concerned, the right thing to do, and
it was...I was brought up in that tradition. My family were fairly staunchly Christian
and so there was always an element of...that it has to be done in a decent way. Oddly
enough it never really...the decency element never really impressed itself upon me...I
understood from a very early age that this was hypocritical, that you cannot really do
something like that, decently. But that...I still believed that it was the right thing to d
o.

Pretty much because as far as I understood it, it was the only way to remain safe, and
it was the only way to be sure that my affairs would be presided over by people who I
understood, culturally. It really only started occurring to me for the first time that this
was wrong, when I was at university. And it happened in a strange sort of way.
Simply a person whom I had got to know well and who I respected very much as a
human being, remarked one day, sort of, fairly quietly, that he thought that the
National Partyâ\200\231s approach to things was, as he put it, a little bit extreme. And it
occurred to me then for the first time, that if a decent human being could have those
views, I ought maybe to re-examine my own if I wanted to carry on thinking about
myself as a decent human being. And that was...it was a gradual process, and I think
for many people it is a life-long process, changing from one extreme point of view
like that, to another one and disposing of all the baggage that goes with those
previously held views. It is not...in my experience it was not an overnight change of
heart at all.

In terms of...growing up, going to school, etc...when you say that your interest would
be protected by someone of your own cultural group, what do you mean exactly?

Iâ\200\231m not sure that, thinking back about it, I really know what I mean, other than t
o say
that one of the consequences of apartheid was that black people, coloured people,
Indian people, were all essentially foreigners living around us. And we had nothing in
common with people of other colour, and it therefore just struck me as fundamentally
a bad idea that people who I didnâ\200\231t know and with whom I had nothing in common,
should have any say about...over my future, over anything concerning government.
And, you know, these were views I held pretty much say as a teenager, and Iâ\200\231m not
sure that as a teenager you understand much more than that, that government is
fundamentally important and ja, it was this sort of stuff, there was nothing articulate
or intellectual about it at all.

So, Johan, in terms of going to university, etc, at what point did you think that youâ\200
\231d
changed your views...you mentioned the person you spoke to?

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I think...if I think back about it now, I probably changed my views fundamentally in the sense that there was never going to be any going back, pretty much immediately. But I had to, for myself, deal with the implications of those views, and the...it really happens...happens in instalments after that doesn't it? I mean, the...I was ready for example in my...towards the end of my first year at university, to argue that the residence should be opened up and not be...the residences should not be segregated. I'm not sure that at that point I would have been prepared to entertain the thought of a romantic relationship with a person of another colour, and even now the charge is made against white people that they may pretend to be particularly progressive, but that they are actually still fundamentally racist in their views, and often I think that charge is, in my experience, would have been justified in relation to me, simply because different perspectives dawned on me at different times afterwards. So I may well have fundamentally been a racist long after I thought I'd given it up. But it's...so it really is not I think for me to say, that at some point or other I arrived at a kind of view where I would regard myself as fundamentally pure, in relation to the person I had been.

Right. And then you get to university, did you decide that you wanted to do a law degree immediately?

I fundamentally was told that I was going to do a law degree in the sense that my parents were...they were not university educated, my mother didn't finish school, my father finished school and they were, I think, they were really the first lower middle class types out of their families, and the idea that the children should go to university was important to them and my father wanted to be a doctor and so my brother was going to be the doctor, I couldn't see so the...basically I had to do...to do the other thing which was to become the lawyer. And I never questioned that.

So you where did you go to university?

Which university you mean?

Yes...

I went to Stellenbosch University.

Right, ok.

Which is where I met Henk (Smith) and Kobus (Pienaar). And quite a lot of, I think, of who I became after that, was tied up with, in a sense, ending up in that group of people or as part of that group of people. And so what happened is that, I think as soon as I discovered that my political opinions were now beginning to diverge from those of the majority of the people around me, I started finding people who seemed to me to be more in tune with the sorts of things that I believed. And in that way, I

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suppose, thatâ\200\231s how I started forming my political opinions and my social relationships. Thatâ\200\231s it.

So when you say you became involved with that group, meaning...Henk Smith and Kobus Pienaar, I wondered whether you could talk a bit about...how that came about, and what sort of people they were when you met them, and the kind of progressive politics maybe that you got involved in?

The...itâ\200\231s sometimes, sort of, hard to remember...Iâ\200\231m trying to remember how it was, but in some ways it was through the student newspaper that I wrote for, and there was another organisation called SAAK which was an organisation which invited speakers to come and talk on campus, that was generally regarded as having been infested by the liberals and so it sort of brought people onto campus who were basically not all that palatable to the majority of Stellenbosch students, so, of course, it was a controversial organisation which did controversial things, in terms of the people in it. And so Kobus (Pienaar), I remember specifically from SAAK, and really from the after parties that used to be held at his house, because Kobus (Pienaar) was the sort of person who invited people into his home, masses of people. And so I think that a lot of people would probably say that they met him in...Kobus (Pienaar)...in his house.

Right (laughter).

And, ja, so itâ\200\231s...I mean Henk (Smith) I just assumed that I must have met there too, he was a law student, I was a law student, Kobus (Pienaar) was a law student, it wasnâ\200\231t a particularly big faculty and so...and Stellenbosch being a small town its people kept on bumping into each other, and probably identifying with each other over time, without really consciously almost, forming those affiliations.

Right. And so you do your law degree and what changes then?

Alright, um, I...after I...as I was doing my law degree, the LRC was beginning to take shape, and so together with learning law, you learned that there is this organisation who is a law firm but who just actually carries on doing what you...and doing seriously what you are, sort of, just reading and thinking and dreaming about at university. And I think for many of us there was an almost immediate attachment to the organisation and the ideas of the organisation and you certainly started thinking about your law degree as perhaps something with which you could carry on doing really interesting things. I mean, together with that, came...when we studied Constitutional Law, there was a man called Gawie Nienaber who taught us in Constitutional Law, who taught contemporary materials like the Pass Laws and the Group Areas legislation, and you suddenly started learning that Influx Control, which was essentially a political thing that you heard about on the news, actually had a very complex, if you like, legal infrastructure, and you start seeing how apartheid is law. Itâ\200\231s structured in terms which you are learning about at university and you can suddenly...itâ\200\231s like opening up a machine and suddenly seeing how it works, and to me that was fascinating, and I think that course in Constitutional Law made a big difference to me. We also...the...I mean, you do Law of Persons, for example, you

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start learning about this thing they call status, and your status is dependent on whether youâ\200\231re a major or a minor or whether youâ\200\231re married or unmarried and suddenly you discover that race has something to do with status in this country. And itâ\200\231s again just a way the kind of political system starts feeding into the things that you learn about. I think in many ways, look, just speaking for myself, I think in many ways, because I went to a boarding school for blind children, I probably came also...and because my parents were totally political without having any interest in politics, I had a very limited understanding of the world around me and maybe to the extent that that stuff fascinated me, it was also just my way of growing up.

Iâ\200\231m also wondering at university, you develop some kind of interest in doing Public Interest Law, but what Iâ\200\231m curious about is the fact that you say this is what youâ\200\231ve been dreaming of doing...could you tell me more about that?

Well, look, at that point your circle of friends...all they do is they talk politics, we drank and they talked politics. And we are, in a way, depressed about what is going on in this country, seriously depressed about it, because you come to university with the idea of making a future for yourself, and you suddenly think that what you are now seeing is a country in which you cannot possibly have a future, because whatever is going on here cannot last. And you see people like PW Botha and...trying to modify the system and you know that all that heâ\200\231s really doing is tinkering with it, drawing it out, you meet white people, you discover theyâ\200\231ve got serious issues with you just because youâ\200\231re not a black person. And it just...it...people forget...people forget very quickly, and I think what I saw in the Legal Resources Centre, was a way of actually taking what Iâ\200\231ve got, both in terms of what Iâ\200\231ve learnt, both in terms also of social connections with people who were similarly interested in doing something. And you had this idea of actually going on from being at the university and actually doing something about this...this society that you now discover you have...you have inherited.

So you were at university during the 1980s, early 1980s?

Yes...

Ok. So the Legal Resources Centre started in 1979 and the Cape Town office must have followed during the 80s, early 80s?

Yes, thatâ\200\231s right, thatâ\200\231s quite right. Then, when I graduated I didnâ\200\231t...I didnâ\200\231t go and practise law, I started an academic career...

Oh, right...

...um, that happened because I was, I think, together with my morbid interest in the actual infrastructure of the law that, sort of, buttressed apartheid, came...an interest in the technicalities as well, and in how it worked and how you built these structures,

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how you fight these structures, how you interact with these principles. And in...when I graduated, I was given the opportunity to be a tutor at UCT for a year, and so what that enabled me to do was to switch to a different cultural background. Iâ\200\231d also by then worked out another thing, and that is that if I ever wanted a serious career, I had to stay away from Afrikaners, because white Afrikaners, I had then the opinion, were fundamentally patronising. They were patronising black people, they were patronising women, they were patronising people with disabilities, and it seemed to me that if I was ever going to achieve anything with my life which I would look back on and respect, then I had to get away from the Afrikaners. And so for me the opportunity of going to UCT was a fantastic opportunity, because a) I was going to be able to get exposed to a different kind of world, culturally, b) I was actually going to learn English, because I couldnâ\200\231t speak English to save my life, and I was going to be able to work with this law that I found so academically fascinating. And I stayed with UCT eventually for nearly ten years.

Really...

During that time we were, sort of, then moving into the mid 80s, people I taught were being locked up and hiding from the Security Police and in a way, while I was at UCT, I got a far more intense exposure to what was going on in the country. The university was facing some very interesting challenges in terms of integrating, you know, becoming a better integrated institution. Again a white institution trying to live up to ideals which it espoused, but where the practice was lagging. And then I was with the university until about 19...well, until 1993, then I wanted to go and work for the LRC, but I had nothing to offer them, because they were lawyers in practice and I was an academic. And so I went into private practice for a while, with the idea of seeing, you know, waiting and seeing whether I stay in private practice, whether I go and work for the Legal Resources Centre at a later stage. Iâ\200\231d...I had a few friends in the Cape Town office, the Cape Town office did some work that I had been very interested in. Kobus (Pienaar), before he joined the Cape Town office, before he joined the LRC, did some work with illegal squatters that I was very interested in. I'd written two articles about illegal squatting going...attending Kobusâ\200\231 court case concerning Lawaai kamp. So, my...so then I went into private practice to just get away from the university, see which way my practice developed and that all went wrong, it just...the practice became very commercial. I did spend a lot of time doing liquidations, building work, and I really got to a point where I felt that I couldnâ\200\231t spend the rest of my life reading site...architectâ\200\231s site inspection minutes and balance sheets. Then I applied for the job at the LRC in Cape Town, and I was interested in working in the Cape Town office. Then somebody pointed out to me that there was actually a job advertised in the Grahamstown office, too. And I then decided that I had to apply to Grahamstown, because otherwise they were going to tell me in Cape Town that I wasnâ\200\231t really committed to the organisation. And so I applied purely for hypocritical reasons, to the Grahamstown office. I went to Grahamstown and within...by the end of my interview, certainly by the end of my...Mark (Euijen) had, sort of, more or less persuaded me that that is where I wanted to work.

This is Mark Euijen?

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Ja, ja, ja.

So you had to relocate everything?

I had to relocate everything, Nicky and I was getting our relationship together at much the same time. She was from Durban, I was from Cape Town, so we agreed weâ\200\231d just, kind of, meet each other half-way in Grahamstown.

Right (laughs), sounds fair enough.

And start things from there, you know?

Right. So this was...the period you started was 1998?

Ja.

Right. Could you tell me about those few years, well, five years, actually, that you spent at the Legal Resources Centre, and the types of work you did, etc?

There...the time I spent at the Legal Resources Centre was really divided pretty much between Land-related work and Social Welfare-related work and Administration. Because just...more than a year after I got to Grahamstown, I became the Director of that office, Mark (Euijen) was no longer interested in being the Director. And so I would say that, that between Land and Social Welfare and Administration, those were really the three areas to which I had exposure. They were critical areas in this way that the LRC really, in my time, divided all of its attention between Land-related work and more constitutionally...more Constitutional Law oriented work, if I can put it like that. And the fantastic thing for me, was to have them...to understand what the Land Lawyers were doing and to understand completely what the Constitutional Lawyers were doing. And in terms of the sheer technical challenge, the Social Welfare work was constitutionally complex, and so it was complex enough for me to be able to draw parallels and understand the work that...And so although I say that there were, like, these three focal points for me, they were three very strategic focal points in as much as they gave me a very...quickly, a complete birdâ\200\231s eye view over what the organisation was doing. And because I had been the Director of the Grahamstown office I was part of the Executive Committee and that enabled me also to understand what the issues were in terms of how to direct the...you know, how the organisation should be directed, what it should be doing, what it should not be doing, what the advantages and disadvantages were of doing things in a certain way. And so I was very soon, after I arrived at the Legal Resources Centre, felt myself involved, sort of, very deeply involved with exactly the soul of the organisation at that point in time.

What is the soul of the organisation?

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No, you cannot ask me that question.

(Laughter.)

The Legal Resources Centre, um, has...had to re-invent itself, obviously...

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...post â\200\23494. And the difficulty, I think, with re-inventing the Legal Resources Centre was that, that people re-invented the organisation, not because they wanted to, but because they had to. And so the typical problem of lawyers who had lived through the transition, was that they were not, I think, many of them were fundamentally not committed to the new way of doing things. They...I suppose the way really to, kind of, look at it is to say that, that the new way of doing things was to the extent that it was properly implemented was a much more cerebral, almost academic attitude to the work. It was...first of all it had to do with, how do you make the maximum impact in terms of the number of people helped, but more fundamentally in terms of the kind of principle that you managed to establish, and also in terms of the coverage you got for your work. And there were people there who had a far more...almost a kind of a compassionate approach, for them the question was not how do you...was not what do you do, the question was how do you manage to get through all the deserving people who need help in a single day. And really the way...the new way had everything to do, I think, with how do you justify saying no? And you justify saying no by saying your work, your case doesnâ\200\231t fall within the parameters of my project. But, of course, the moment you started saying no, you stopped finding clients, and so the sustainability of that had a lot to do, or has a lot to do with how committed people are to those projects and to the kind of specialisation that those projects entailed.

Certainly...hereâ\200\231s always been that tension between...the person who comes in off the street and the focus areas, the high impact litigation, in terms of the Grahamstown office, what direction were you taking at the time?

The Grahamstown office...you see, we were lucky. Because when I arrived there, the avalanche was already in full flood in the sense that during the 1990s, the Welfare Department started cancelling...cancelling...

...grants...

...grants, left, right and centre. In the Grahamstown office we had...we remained committed to our relationships with stakeholders. And so there was still very much an ethos of, you go out to the advice offices, you find out what their problems are, and they all had the same problem. So, our real issue was that...that...or our difficulty was that we had such a pressing social issue in our province that it had to become one of the projects. And that was...had difficulties of its own associated with it, because nob... in none of the other offices...at the time when the projects were being conceived

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and shortly thereafter, in very few of the other offices did people see social grants as a problem. And so it was a hard sell to the rest of the organisation, in terms of, why our sectional interest really needs to be integrally linked to the organisation's strategic

focus. But, the...and so, yes, I mean, in a way, we were borne along by the wave of what was happening, but we understood that, politically, we had to play the game right internally, by selling our work to the rest of the organisation in a way which made it acceptable to them, and in a way which eventually got their interest and got some other people from other offices involved as well.

When you were Director, what were some of the tensions in the office, if any?

There were tensions in the office and I am not prepared to discuss them because they were personal tensions between people who thought that they were superior to other people, and who, at times, couldn't help themselves from showing that. So it was intensely personal and...but, the reason I'm prepared to say that, is that I have to say

that people don't go work for the LRC because they are fundamentally team players and clubbable and because they have the old school tie in common. People work for an organisation like that because, typically, they are highly individualistic, they're

anti-establishment, they have issues with...some of which presumably are with authority. And so I think that from my own point of view, I was, although I found some of those incidents, some of the tensions in the office completely unpalatable, I was prepared to accept that those come with the territory, and so I do not...what I resent, I resent on a personal level, I think it was all related to the types of people who work for the LRC. And I think too few people understood that, because it wasn't only

in our office that there were these tensions. But I think that too few people understood the type of people that they had agreed to work with, and were too shocked and too astonished when these things...Because, you know, the tensions in the LRC...and it's

about as institutional as the LRC itself, the...What made it worse, of course, in later years, is that when the LRC started, a lot of it coalesced around the moral authority of Arthur (Chaskalson), and when that went, and when Geoff (Budlender) went, there really was never again a single human being who commanded people's universal respect, and I think that made it seem worse than it might otherwise have seemed.

What about Bongani's (Majola) leadership, did you find that problematic?

Look, Bongani's (Majola) not the first person I've worked with and will not be the

last person I've worked with who actually led by being fairly retiring and by being

actually quite low profile. Now, it's easy now to say that, you know, Bongani maybe didn't provide the leadership that should have been provided, etc, etc, but the truth is,

is that as a result of Bongani's leadership style, there was a lot of autonomy granted to

people who were interested in autonomy, as a consequence of that, and I never felt that Bongani was, kind of, looking over my shoulder, was criticising the work that I was doing, that Bongani had any problem with my office. In actual fact, Bongani was, as bosses go, probably one of the nicest people to have worked for, because he was always appreciative, he was never critical and if with that came a certain amount of reticence which might have been replaced by firm and stern direction, then that is just bad luck, you know?

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Iâ\200\231'm also wondering, Johan, in terms of the major cases that you took in that period, what are some cases that you could recount?

I mean, personally, I was lucky to be involved in the Richtersveld case which was one of the LRCâ\200\231s big cases from that time. That took me out of the office for quite a while. In the office itself I was fortunate again to be involved with the Class Action which was one of the LRCâ\200\231s other big cases at the time. So, again, it was probably in the time I was there the biggest Land case and the biggest Constitutional case that the LRC saw during that period, and I was helluva lucky to be involved with both of those. In the Grahamstown office as well, there was a case dealing with the Right to Reasons: what it actually meant, you know, when are reasons given by government for its actions, actually adequate reasons? There was a case dealing with the Right to Legal Representation in these Regional Authority Courts, in other words, the Customary Courts, whether the Constitutional Right to legal representation extended to those traditional courts. There was a case about the legal status of these Regional Authority Courts, whether particular ones in the Transkei were actually lawfully constituted, because, you know, these were institutions dispensing harsh justice there in the rural areas, and I think that the judgment we got there really provided some direction in terms of what was permissible and what was not permissible in the rural areas. Ja, those were, sort of, the highlights that I...Oh, there was another thing but that...we were subsequently overtaken by other developments dealing with evictions under the Prevention of Legal Evictions Act; these were urban evictions. We acted for the Human Rights Commission in the Eastern Cape, where we intervened in one of these cases. That was interesting but it didnâ\200\231t last very long before there were further legal developments. Similarly also, when we...we did work regarding farm worker evictions, there we got a Court Order over an Easter weekend where we basically petitioned the court by fax, out of our staff common room and...or the library, depending on whether or not you were having tea there at the time. But, you know, we literally sat around the table and came up with this idea that we should...that this was a very urgent matter and there was no way we could actually get there in time, because it was again happening somewhere out in the rural areas. And we petitioned the court by fax and got a Court Order by fax fairly soon after that. Now later the court actually made it clear that it would never again grant an Order under those conditions. But it was tense and it was, you know, there were moments of high pressure and moments of great relief and...but, ja, those are the sorts of things I would single out.

What prompted your decision to leave the LRC in 2003?

I mean, that was purely personal, the...when I left the LRC in 2003, I became a librarian; I became the Director of the Library for the Blind which actually happens to be located in Grahamstown where the missionaries had started it in the 19th century. They were looking for a Director and Iâ\200\231m quite interested in technology as well, and so there was a lot of exciting technology happening which, it occurred to me could be put to good use by the blind community. I had never been involved with anything relating to the blind community, and it suddenly occurred to me that I had something

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to offer the blind community and that maybe I ought to do that. And thatâ\200\231s really why I made the change.

So, you stayed at the...

...the library...

...the library, and then how long after that did you move to SARS?

Not very long after that. What happened then was that...my daughterâ\200\231s blind, so we initially thought that we would mainstream her, and when she was about three, four, we started realising that actually we couldnâ\200\231t offer her much in the mainstream, things like music lessons and so on, she was never going to be able to...to do in mainstream education, it was just too complicated. And we decided that it was...that going to the library was really a mistake and that we should be thinking of her interests. And then...there is a school here in Pretoria, the option was either to send her to boarding school...we were both at boarding school, we decided that we were not doing that, and when she had to come to Pretoria, I decided that I had to find a job. I was not professionally connected in Pretoria at all, and so the only way to do it was to find a job in government, and thatâ\200\231s how I ended up where I am.

Right. Now what do you do now?

I work in the Interpretation and Rulings division which is a sub-section of legal and policy, which really means that we make...our division makes interpretation policy for the organisation and we issue rulings and interpretation notes and guides and brochures and things to make sure that all the offices really have similar understandings of how to apply the legislation, and that the business community is more or less kept happy with our, either because they agree, or because they understand our interpretations of particularly contentious provisions in the tax legislation.

Iâ\200\231m also wondering...in terms of...the current situation, thereâ\200\231s attacks on the Constitutional Court, and I was wondering, given your interest in Public Interest Law, what your concerns are for how an organisation like the LRC can function within that milieu?

Look, I think that the LRC...the LRCâ\200\231s difficulties are peculiar to, obviously, to the countryâ\200\231s difficulties, and Iâ\200\231m not sure that all of us really have a similar understanding of whatâ\200\231s actually going on in the country at the moment. So, maybe to say that...I think that whatâ\200\231s happening in the country is actually what happened to the LRC, itâ\200\231s the same thing, exactly the same thing, is that there is no moral authority at the moment in the country. Itâ\200\231s nobodyâ\200\231s fault, but what that comes down to

is
something probably comparable to a place like England in the Middle Ages, where
you had this king, this contender for the throne sitting in this part of the country, that

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contender for the throne sitting in that part of the country, each one with his army. And so if you look at it from that point of view and somebody says to you, well, let's close the Scorpions down, it's closing down one potential army which can support one potential contender. If you're interested in stability maybe that is the thing to do, but if you're talking to the LRC who thinks that, you know, crime is a high priority and maybe one should oppose the...not that that is what they're doing but...

Sure, sure.

...you know, you can understand people who say: for Christ's sake, crime is serious and how can we possibly just stand by while...And they're both right, they are both absolutely right, and until...and so how you then, as a Public Interest organisation, position yourself...I mean, assuming that I'm right, how do you then position yourself

so as not to alienate at some point or another, some or other of these factions, who all really are competing for their values to assume some kind of level of supremacy in time to come. And which no doubt will happen, you know, but how you then, in that kind of moral chaos, do your work, is really interesting because...And one way of doing it, may actually be to become a little bit more, again, more justice focused, if you like, sort of more individual justice focused, and maybe a little bit more interested actually in helping communities, than in pursuing big high-minded principles. Because I think that's what the land unit, land programme, or whatever you'd like to

call it, whatever they manage to do, is that...is that their focus was very much more community-centred than law-centred. And in actual fact they did, from some perspective, you might say that they did too little to really make law in the time that they were having their heyday, they were hardly ever in the Land Claims Court with farm worker evictions. They just never really pursued the big principles there, but, that skill may be the sort of thing that actually really would be the sort of thing that the LRC should be concentrating on. The other temptation of course, is the environment, but I think that's like, that's already becoming so mainstream that I'm

not really sure how they would focus themselves. Also the funders who funded environment related work did a lot to damage the...I mean, their funding terms, did a lot to damage the organisation. Or maybe it was the...you know, whether it was the funder or the people who did the work, but, the...environmental experience was not a good experience. And I think maybe also the reason was that there was not...that the organisation centrally, never bought into the environment, so, it never dedicated really senior and well respected lawyers to that work, it sort of, almost allowed them just to...allowed the environmental lawyers to start the work but they were never given the benefit of the sorts of skills that we developed in the welfare project. Because it's

actually, ironically, much the same type of legal thinking that...that would inform both types of work. But nobody was interested in really nourishing that environmental work from the inside.

What about issues around respect for the rule of law, because what you find, I'm given to understand, is that the LRC does its work, but the government departments responsible don't always adhere to those judgments, and so there's lots of Contempt

Orders and...I wondered whether you could talk about that?

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Ja, that was my experience, certainly in the welfare cases, is that once we had that order, to actually secure compliance with the order was almost more than we were capable of doing. Now, the...whether that has to do with disrespect for the rule of law or whether it has to do with incompetence or whether it has to do with poor strategic direction in government, I don't really know whether that's for me to speculate, but what I am saying is that it is easy to say that the problem is a respect for the rule of law issue, whereas the problem may be a lot less complex than that. The problem may simply be that the guy at the top has no real interest in making sure that the guy at the bottom understands what he or she has to do. Respect for the rule of law, frankly, is a big issue in this country, and I think that is one of the...one of those issues which I would say has to do with values that have not yet firmly been established. (Sorry, can you just switch that off?)

Sure. (Interruption. Recording switched off and then resumes again after a while).

So, the...if the LRC decides that respect for the rule of law is something it needs to focus on, it has to accept then that it has entered the fray on behalf of certain...it has entered the fray for the sake of certain values, and whether the LRC actually feels capable of taking sides, never mind who their bed-fellows are, because make no bloody mistake the LRC has been politically cautious. I think not without good reason. But so what the LRC, I think, now sits with is the question as to whether it is still interested in political caution, whether it can live with the fact that it has an ANC member of the National Executive Committee as its National Director, and what the consequences are of the way things have turned out. Personally, I thought that her appointment was a good idea. I thought that there was a lot that the LRC could do and that if it had...if it could retain the goodwill of government and the ruling party that was a good idea. And also the woman was connected, politically, socially; she was fundamentally the right person to appoint. But things having now turned out in the way that they have turned out, there really are some hard decisions to make, and whether the LRC's prepared to go it alone, so to speak, it's an interesting question, I don't really know.

What are some of the difficult things, do you think?

The?

The hard questions and decisions that the LRC's facing, what's your sense of it?

My sense of it is that people have written off the LRC on many occasions, and for reasons that are not always that easy to understand, it remains there and it remains operational. How...whether the LRC really ought to carry on in...as an organisation of the size that it is now, is a good question. It's...one of its options may be to break up into smaller groups. The other thing is that the LRC used to be supported by very dedicated people from overseas who managed to raise serious money for the organisation at a time when it mattered very much. I'm not sure that those people are still committed to the LRC as much as to their own memory. And I suspect that one of the reasons this project is being put together now, is because people are now

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beginning to think that it's starting to close the door on all that stuff, and they want some sort of an archival point of reference with which to write their memoirs, and that sort of thing. So I..you know, when the..when there is no longer this kind of uniformity of commitment to a kind of universally accepted cause, it really is difficult, and then really, I suppose, the hard questions all really relate to whether there is still the...the spirit and the interest to do anything at all. And once that's been established, then I suppose the question is to...what do you do, is the next one. Personally, I could go back to the LRC tomorrow, I am utterly convinced that there will always be work to do, and I think...I think that's the one thing that's not really in contention. And so the real issues are just...you know, what do you want to be? Do you want to...are you happy to be in opposition to government's...um...and in this country you see the...in this country these are important questions because it actually matters. It actually matters if you are associated with the wrong people, and with what people perceive to be the wrong causes. And I don't think it will always be like that but I think at the moment it matters. Ja, so there aren't like, four or five hard questions, the real issue I think, the fundamental issue is...are their relationship to government. And it will not do to say: well, you know, we're not against government, we'll just take on this...we'll just take on the right cases. I think it is a question one has to deal with. We in the Eastern Cape, had great difficulties with the fact that we were clearly irritating the Provincial Government, because the next thing was going to be, well, how does the National Government feel about the fact that we are irritating the Provincial Government? In the end that was resolved, but it...I would say that from experience, these are not easy...I'm saying that these are not easy decisions to make.

Absolutely. I'm wondering Johan, you mentioned earlier that the LRC in some ways, mirrors and is a microcosm of the larger society and the transitional, kind of, difficulties, and you spoke about the moral authority of Arthur Chaskalson and I suppose one could then say, the moral authority of a Nelson Mandela, for example. But what does one do then to regain that moral authority? Is it possible for an organisation to survive having had an excellent stewardship for a very long period of time, but then having to move on in a new era?

Well, you know, the LRC's been without Arthur (Chaskalson) for about the entire...the duration of democracy, and the LRC...I have written off the LRC, only to see it survive. I think the reason is that ultimately, the donor community probably relates better to our problems than we do. Because the donor community, I don't think are asking the questions in as penetrating a manner as we ask them and I think that the donor community doesn't have the experience and the understanding of asking those questions. And so, at some level, the donor community accepts, not without justification, that the LRC is doing good work and so...to the extent that we raise these questions about the LRC, we are probably taking a sort of an apocalyptic view towards a situation which in the end will...may well wind down much more quietly and much less spectacularly than we think. The LRC isn't going to exist forever and the real question is this: when is it going to come to an end, and is it time to jump overboard or is it...or can you still realistically join the organisation? And those...the market will decide that, I suspect. Ja that is maybe all that one can say about it.

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Johan, I'm aware that I've asked you a range of questions, perhaps exhaustingly so, I'm wondering though whether I've neglected to ask you something which you feel ought to be included as part of your Oral History interview?

Um...not unless you...unless the detail of some of the work matters, in the sense that I have said things, which probably pre-suppose some background. For example, I made the remark about having obtained a Court Order, the difficulty became the implementation of that Order. Now, I don't think really that I could do...I mean, you could have interviewed me for two hours about the welfare cases...

Absolutely.

...and so, no, you didn't ask me about the substance of the welfare work, but then again you can't ask me everything.

Yes, due to time constraints...I'm wondering whether there's a particular memory, whether it's a client, a particular case, and you might get your wish here, of a welfare case, or someone you worked with, or maybe Arthur or Bongani, or anyone...a memory that you've treasured from your experiences of having been at the LRC?

Oh, there are many of them and I might just list a few. The one is that, just from the point of view of professional...professional achievement, I was very lucky to have been able to work with Wim Trengove, with Gilbert Marcus, who are both very well-known advocates. I think working with Henk (Smith) and with Kobus (Pienaar), who are also at one level, probably the best experts in development work that you can ever hope to work with, was a great experience. Then, working with Mark (Euijen) was...who you're also going to interview, was a wonderful experience, because he was...he was extremely good at litigation, he was...he just understood litigation so well. Now, I mean, I mention him because I worked with him on an ongoing basis, and so we discussed a lot of things, we were the two senior lawyers in the office, we had many discussions about things and it was...just in terms of having, I mean, if those...if the work is important to you, to have...in a little town like Grahamstown, to have been able to work with a man like that, was a wonderful experience. The last thing...the memory I would mention is that we also had some young lawyers who came into the organisation. Two of them in particular, the one went off and became quite a respected labour lawyer here in Johannesburg, a man called Tembeka (Ngcukaitobi), the other one, a guy called Mzu Maseti, who went off to work for the Social Security Agency. They were...just to kind of see the way in which their...in which their skills developed over the time they worked with us, was probably one, sort of, two of the more gratifying experiences I've ever had in my life. And so...and so the calibre of person, the types of issues, the spectrum of, sort of, things that I saw during that five-year period, it was immensely...had an immensely high impact on me, as a person.

Johan, I want to thank you very much for a very thoughtful interview and really appreciated your analysis, in particular.

JR

Thank you.

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Legal Resources Centre Oral History Project

PUBLISHER:

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

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DOCUMENT DETAILS:

Document ID:- AG3298-1-159

Document Title:- Johan Roos Interview

Author:- Legal Resources Centre South Africa (LRC)

Document Date:- 2008