

Charles Pillai

LRC Oral History Project

9th July 2008

Int This is an interview with Charles Pillai and it's the 9th of July (2008) in Pretoria. Charles, thank you very much for agreeing to be part of the LRC Oral History Project, we really appreciate it.

CP Thank you, I appreciate being part of the project myself.

Int Ok. I wondered whether we could start the interview by...if you could talk about your early childhood memories growing up in South Africa, what your experiences were of that and where your sense of social justice/injustice developed, and also looking at ...formative influences? So, what were some of the things that actually...influenced you in terms of the particular professional pathway you took with regard to the legal profession, and human rights; public interest law issues?

CP Ok, excellent. My earliest recollection of...there obviously would have been the normal sort of childhood in an abnormal society, and if I can sort of put that in a perspective...my earliest recollection, and I come from a large family, you know, there were...at the time I was a kid, there were, what, there's six of us as siblings. So we'd sit around literally in our pyjamas on a weekend and play games, having moved into a new area which was one of those identified so-called Indian areas in Durban, and it was more central Durban, and us having chats about how we...I can recall the one chat: how we feared the Group Areas, because we're now setting up home and somebody may come and take us away. And it's of course early...talking eight, ten years of age, when you have that kind of image of what was going on in the country, because remember that the Group Areas Act came into being, I think, in 1953 or '54, shortly after I was born. But growing up, typically parent's home, granny's house, where you rushed off into the veld and essentially socialised mostly with African people because where I grew up it was a lot of African market gardeners and it was a fairly normal great set up to know that you could see this auntie or this uncle, sit down and have a meal with them because your auntie carried you on her back and took you to one of her friends and they were the market gardeners, and you really saw that as a normal society growing up. But very quickly a lot of that disappeared because people then moved quite rapidly, um, market gardens closed down, ah, people were moved away and there was this sense of fear that began to set in about: beware the black man. So...um, I'm trying to think, oh yes...um, '*pasop, bulala, shaia wena*', which means that the black man is gonna hit you. Ok. So I remember those things. And growing up we moved from that area now again to a virtually exclusive Indian township south of Durban, Chatsworth. And again, at age twelve or so, when you start now going to a school to which a lot of kids from all over, Indian kids, were being thrown, and I remember seeing hundreds of trucks carrying furniture, being moved into this vast township that had come up, and interestingly enough my father was a policeman, and he was the first Station Commissioner, and it was virtually like a status of a mayor of the town because he was now mandated to control crime in the area. And I remember the fear again that was being put into our minds to say, you cannot go out, you can't go and walk around in the streets, etc., etc., because this is a new area, and there were lots of murders and...it's the upheaval of a society coming

from Bayhead, from Clairwood, from the south coast, from...all being moved in terms of the Group Areas Act. That's why I did my schooling that I can remember, primary school, and then going back to the old area to do my university, that's now...again I was one of the first students not on the old Island campus but on the new campus in, what was called Chilton Hills, Westville, the University of Durban Westville. And that's where I did my first basic degree which was a...I started out doing a law degree, the classic BProc, which is a *Baccalaureus Procuratoris*, a four year degree that qualified you to become a lawyer, and I was one of the first students to enrol at that university to become...for the BProc degree. I then left university...no, I changed to do an Arts degree, a BA with Speech and Drama, and Private Law as the combination. And then moved from there to do my articles in a firm, again north of Durban, in Stanger. Sham and Company. Praveen Sham, who is was now the president of the Law Society, was my principal. That was about 1976 and we saw 1976 erupt. And I remember the discussions that we had in that office about how (John) Vorster should actually now, you know, take over the entire police department and start directing this to be done in such a way that, you know, there isn't anymore violence that has been perpetrated against people and you started seeing this mass of information coming through in those very difficult times about what is going on. It was...when I was serving my articles, I remember. And then from there I moved again back to Chatsworth to continue my articles, finished my articles in 1979 and was admitted as an attorney in 1979 and practised by the way in Chatsworth...back again in Chatsworth...and interestingly enough again, at that time you couldn't set up a practice in West Street Durban for example. You couldn't set up your practice in Pinetown, which was close to Chatsworth, because of white areas which prevented you from setting up office, so I set up in the township. And I must tell you, in terms of the kind of community I was dealing with it was essentially within the lower socio-economic end of the market, the social problems, the huge issues around people fighting over those little council homes. I remember having to counsel families, the divorce cases that would come my way...having to counsel...more of it was counselling than really law. You did your criminal cases, which is again arising out of the socio-economic compact that was present at the time, where you continually acted for people who were charged with crimes like assault and stabbings and theft and stuff like that. And in terms of the practice it was essentially the divorces, the winding up of the estate, and in the winding up of the estate, which related really one of those little council home, which at the time was valued between five and fifteen thousand rand, you had to deal with a whole host of social issues, as to who should get this house or who shouldn't get this house, or sons fighting with each other, etc, etc. A lot of cases around the impact that these large furniture stores, for example, have on the township with hire purchase. And rushing out and getting what we called, spoliation orders where you quickly got the furniture back by bringing an application to court and then said, now let's debate your account. And largely it was all messed up in terms of the debasement of the account and people getting angry and phoning you and threatening you that you can't be doing these kind of cases. So it was those kinds of things. Then the political upheavals, the 1980s, the student riots, the student uprisings really that continued. And I remember having a practice then in an area called Unit 2 or Bayview, and coming out of my office the one day because you heard the screams and kids literally being lashed and running down the road and falling because the police were chasing them. And I remember going to the police station then and taking up those cases on behalf of those kids, and a number of them had already pleaded guilty to damaging property, etc. I remember

we set up a legal team which was headed up by Zac Yacoob, who is presently sitting in the Constitutional Court, and we even appeared in court on a Saturday to...bring this application in terms of the new Criminal Procedure Act to change a plea from one of guilty to not guilty. It was a comprehensive application, a number of lawyers came in but eventually it was...I remember I was part of the team, there was a girl called, somebody Pather, and Zac Yacoob, I can't remember the others because a host of lawyers came in and then they filtered out and we eventually started running the cases. I think bar one or two where they allowed the plea to be changed, the rest was said, no, no, they're talking nonsense these kids, you know, they pleaded guilty because they were guilty, etc. And I remember having discussions with the magistrate, interestingly enough, who was such a friendly chap, but then when he saw that I was dealing with these kinds of cases, where he'd say, Charles what's this nonsense man, why are you guys doing this kind of stuff? Look at that guy and how he came and spoke to me in chambers. No, no, no, this is not right. And he mentioned some politicians who weren't very popular politicians in the grand order of things, as having the right solution for South Africa and that we were going the wrong way in taking up these causes on behalf of these kids who are hooligans anyway.

Int Were they Indian kids or African...?

CP They were Indian kids, because remember my practice was in an Indian area. So they suffered the same fate. I want us to be clear that these kids were suffering the same kind of fate. And the practice evolved and again going to court, fighting for hawkers who were being beaten up and chased from setting up a little vegetable stall. And I remember doing that sort of case where, again, you do these things pro...I remember doing more pro bono or *pro amico* cases than the ones where they really paid because you really battled to just make your rent and your staff salaries. Where you'd act for these hawkers and the council would send its officials who would then confiscate the goods and charge them for, what they called in hawking terms...what they called in by-law terms, for taking a fixed stand. Taking a fixed stand is setting up a stall and displaying your wares and having it sold to people. It was a successful market. So what happens, I keep going and defending them and each time the magistrate does a caution and discharge. A caution and discharge means really not going to fine you (laughs) because I pleaded each time, but look, inasmuch as they broke the by-law they were trying to earn a living. That resulted in the council eventually calling me and saying, look, let's come to a deal. I said, yes, well stop sending your guys there, because it's not going to help. They're going to get cautioned and discharged each time and my clients are prepared to accept that. Anyway, they then negotiated to set that up as a little market. And it's there to today. A little hawker's market where they come in and set up their stalls and sell goods. So those are some of the little stories that were around my practice, but essentially it was acting for the underdog. I remember being sent a case by the then Shepstone & Wiley, which was the city council lawyers to say that I should act as their correspondence in the area to do an ejectment matter where the client had not paid rent, and I said, no, I will not accept those cases. So it was that kind of...you know, throughout, those were the kinds of battles that we faced. Eventually I moved my practice to central Durban and then set up a nice practice in Overport. But practice for me was essentially collecting rent and doing those odds and ends and doing the odd case. It did not give me the satisfaction of doing real law. So I got itchy feet. I always got itchy feet when I was in practice.

I'd go and do theatre, I'd go and do a stint on the stage, and there's a whole history, there's a whole second CV, if you want to look at it at some stage, which says what Charles did as an actor on stage, and I'd go and come back. I flew off to Zimbabwe...oh, by the way the Zimbabwe story is an interesting one also. 1979 was when I qualified as a lawyer, there was a file that was this thick, as thick as the palm of my hand, where I go to virtually every law firm in Zimbabwe to say, look, I want to come and practise law there, because I was tired of South Africa. I was...it wasn't a life that one really needed. So we're talking about the development of a person's psyche or the person's ethos and the person's mind. There were moments when you want to escape it all and get away and do something else and carry on with the business at hand. And I remember that I must have done two things where I sought other paths, apart from running off and doing theatre, trying the Zimbabwe route...

Int Did you succeed in the Zimbabwe...?

CP The Zimbabwe thing, no. I tell you what happened. Each time they wrote back to say, there's another qualification that you have to do because they were part of the Commonwealth. So they were very nice letters that I had, but there was this other hurdle to...pass. And interestingly enough, my dad also studied law. The two of us wanted to set up a law firm together, but he had a heart attack in 1979, after I'd served the articles. And that's what caused me to come back to the township because I needed to be with my family and help. And in fact that is why I set up practice in Chatsworth essentially, to be a sort of second source of income for the family. And my dad died too in '82. So it also prompted me to remain behind and carry on, be a support for my mother and things like that, you see. So by and large, the issues around Zimbabwe were put on a back burner, the forays into theatre continued, and back to the practice, the...but the quest to get back into doing pure law, to do the stuff that really gave me the passion, the kinds of stuff that I did when I did the applications to change pleas, the kinds of stuff I did when I worked for the hawkers. And I think in 1990s I started really wanting to get out of private practice, as I knew it. And there were two attempts. The one was an application to teach law at the law school, to train would-be lawyers, and I must tell you that it was virtually accepted on the telephone and then again it was a move away from Durban to PE, and I said, no, no, I'm going to be teaching law but I'm not going to have a hold on honing my skills as a lawyer. Which was again what I wanted, and I remember asking, well can I also take on cases? And I was told, no, you can't, you have to be a pure principal of a law school. And then I turned it down. And the next offering was the LRC. When that came up and I typically sent my application on the day that I think I saw that it's the deadline, and I said, would you accept an application? And I remember phoning the LRC in Pretoria and speaking to a lady by the name of Bella Rangata, who by the way is still at the LRC Head Office. And she said, oh yes, please send your application. And I did. And I was phoned virtually the same day by Nic de Villiers, who was the then Director of the LRC in Pretoria, and he said: we'd love to have you come across for an interview and could you and could I then set a time, etc. etc. And I did that. I think it was a week later that I decided that I'd go and I had a daughter who was not yet a year old and my wife, and I asked her if she'd like to come to visit a cousin in Johannesburg. And we drove to Lenasia South and stayed with them, and I said, by the way I also have an interview on the Monday morning at the LRC in Pretoria, and I think it must have been probably my first visit to Pretoria. So I came there and at

Church Square I let them...my wife and daughter play in the park, there was a Church Square where you can sit on the grass, and I think she then did her own thing while I went off to an interview with a panel of about...I think it was about four or five people, I remember Oupa Marker one of the lawyers, Ellen Nicol, another one of the lawyers, Louise du Plessis, another lawyer, and Nic de Villiers, who was I think at the time the Director, or Acting Director of the Pretoria office...I think he was the Director of the Pretoria office. And this interview went on and I chatted about the work, very much like how I've told you about the kind of stuff I did as a lawyer in private practice. And by then I'd already pulled about, wow, about 16 odd years in private practice. So chat, chat, chat, and have this discussion about odds and ends in relation to the legal profession and what I did, and I remember ending the interview by saying to the panel, that you know what, I've done a number of auditions for roles in various plays and (laughs) films, but I've never done an interview for a job! Because I've always been on my own. And I remember Nic (de Villiers) responding quite humorously and saying: well, who knows, we might be interviewing our future Director. So I leave. And then wend my way through what was very thick traffic and unlike the Durban traffic, and I'm in the thick of Schoeman Street, driving to a friend's house where we were invited for tea, and I get a call from a friend and playwright by the name of Ronny Govender, who's written many novels and he wrote a play that I acted in called *At the Edge*, the story of Cato Manor and other Group Area...and he phoned me and says: 'Hey Charles, howzit man, these guys have phoned me'. I said: which guys? Because I put his name down on my CV as one of my referees. And he says: the LRC. I said: oh, oh, what do they want to know? He said: no, they wanted to know about you and I told them what a go-getter you are and how you ran a practice in Chatsworth. I said: oh, ok, ok. And that's history now. That's the way I got to the LRC and maybe three or four months after I got in I was appointed the Director of the office in Pretoria. And then I remember the work. For example, I very quickly finished my LLB – I just had the BA, the BProc – and the LLB I'd started while I was in private practice attending the Natal University, so I converted the whole thing to UNISA now and then I got the third degree called the LLB. And then whilst I was at the LRC I then enrolled for the LLM in Constitutional and Administrative Law, which I did through what we called Tukkies, the University of Pretoria. I got that with distinction. And it was essentially, as a result of the work I was doing at the LRC. I said very proudly that I did more law and studied more law and looked at more issues around the use of the law in addressing socio-political issues than I ever did in private practice, because apart from doing those cases that I did when I was in private practice, there's also chasing for rent and chasing for staff salaries and taking a little bit if you can to pay for that little bakkie that you bought, which runs you from point A to point B. So in terms of that work, I remember a lot of it dealing with the social welfare project for example, which I did essentially with Nic de Villiers, and he and I chatting very often till late into the night around the strategies in relation to some of these cases. And essentially we wanted to bring the class action, which we lost by the way in Pretoria – the judge there I think it was Southwood, was not prepared to grant us class action in the one case that we brought, and I can't quite remember the name but I'll remember it when I look at all those precedents, where he said this is not the kind of case that warrants a class action, and hedged it more around non Bill of Rights issues than on Bill of Rights issues. And I think he had it completely wrong. There's many articles that were written subsequently on that. But then the Grahamstown office pipped us to it because there was also this competition between offices, healthy competition between offices, to say let's see who's the first

to do this. Pretoria office actually did launch the first, if I remember correctly, class action which was not granted.

Int Was it a land claim? What was it on?

CP No, it was on social welfare, where we said that there's this client that has the problem in relation to the administrative law issues around social welfare not being granted a pension, or having a pension cut off. And with her there's a thousand other people who've also had their pension cut off and the State has acted incorrectly in terms of the...I don't think the Administration of Justice Act had been passed at the time...but in terms of the Constitution we're drawing directly from section 33 of the Constitution, the right to just administrative action. And the judge in that case didn't see it as a case that warranted relief for that broad mass of people because he said that it's not identifiable, each one could have their issues dealt with separately and effectively dealt a blow to our need to want to bring a class action. So we then said goodbye to that, although we then had the individual relief granted to the applicant in that case. But after the Grahamstown office had actually launched and succeeded in a class action in respect of the social welfare project in Grahamstown, it became easy because I remember going to court myself and asking for class action relief in papers that Nic (de Villiers) and I had prepared around the issue of the social welfare cases. That was one type of case that we had. Of course being the Director of the office again threw me into a management position, and you grapple because you're now managing an office of about 18 staff with all the issues around HR and the cases that you deal with. We'd have a weekly meeting around what we used to call our case review meetings on what is going on and how we should bring some of these cases. But again I'm itching to get my teeth into actual cases and there's lesser and less opportunities because you're getting called to Exco and having to deal with the staff and running an office issues than actually running cases. But I'm happy to say that in fact the then...the National Director subsequent to Bongani (Majola) had actually said, of all the directors, Charles was one of those, and I...Mahendra (Chetty) or the other, who actually ran cases whilst they were running the office as well. So I then developed a sense of wanting to run a project, wanting to do work in relation to the actual work of the LRC around litigation. And I then got involved in what's known as the Children's Rights Project which had what we called the education arm hooked onto it. And under the Education Rights Project I then remember assisting in and then starting cases around education rights. The one I remember was here in Olivenhoutbosch, which is just west of where we sit. Within the east of Pretoria, this is the west of Pretoria, the area called Olivenhoutbosch. Where RDP, that's Reconstructive and Development houses started coming up, but there were a number of shack dwellers that had set up. And then I heard that kids who had graduated from primary school were now sitting at home because they didn't have a high school to attend and the only high school was miles away in another area and they were having difficulty even getting access to that school. So I went to interview that community with one or two of my candidate attorneys – I'd always take my candidate attorneys with me because I felt that they had to be integrally a part of what was going on and that was the only way that they would learn. And I remember going to a community hall where kids who had now graduated from primary school were sitting in that hall and literally having parents and a group of informal teachers talking to them, etc. I also remember going to interview the principal of that primary school who says, but

we're now trying to accommodate these kids in extended classrooms in my school, and this school is packed full of kids. And there was this huge confusion of parents, kids, in the school and he said: please, please, please we have to do something. So I sat down and crafted a letter to the provincial education department, which was obviously the department responsible for at a provincial level, because these things devolve downwards from the national. And then also wrote to the Minister, Kader Asmal at the time, threatening to take them to court if they did not ensure that there was access to education for these children, because remember they're now, I think in terms of the Constitution, it was up to age 16 or 14, I can't remember the...but I think it went up to grade eight or grade nine that they would be entitled to the state giving them education at state expense. The onset of all of this was that we then have a meeting very quickly because I think they realise that we're now going to look at launching a court application, and MEC for Education, a whole host of people, other departments...and I realised that the one difficulty that the new state or the new government had was that the one department was not talking to the other. And believe you me I see it as ombudsman even now. And they were saying but roads were supposed to come in and public works were supposed to come in, and somebody else were supposed to come in and they didn't. I said: well, please can you do something. And guess what? They put up a prefabricated structure which was what we had actually told them, and I remember going and taking photographs there, which is in one of the archival information or material that the LRC still has. So we managed to get those kids into the next level of schooling. And...another...and at the level of advocacy, another highlight that I can remember, which I'm really still quite passionate about, is going...or being requested by our then National Director, Bongani Majola, to attend the World Conference Against Racism, Xenophobia and related intolerances, which was hosted by the United Nations and which had as its counterpart the NGO coalition, SANGOCA, which had its own conference against Racism, Xenophobia and related intolerances. The consequence of that was that I got roped into the World Conference against Racism, WCAR offices, in Johannesburg. I remember a guy called Moshe More who was the Executive Director of that particular component. And then he said: Charles, would you mind going along with a guy...not from my institution, but a guy called Major Kobesi, who would take you along and we'd then start going and looking at incidents and interviewing people who are the victims of racism. It was such an exciting project. It was for me, the passion and having suffered as a victim of racism myself, going through this process of getting the views of victims. First stop, Palestine. I literally ducked bullets. As I said, my daughter was just a year old. And from there we were due to go to Switzerland. And I remember visiting the institution that took care of children of the crimes that were committed, and I remember crying because I saw just what was happening.

Int This is in Switzerland or Palestine?

CP Palestine. Because I thought of my own family, I thought of my own kid, I thought of what impact this would be having on these various families that are there and visiting families. And seeing the absolute horror under which they lived and the refugee camps, and seeing the absolute unbelievable horror under which they lived. And seeing the demolitions and having to interview people who were saying, that's the bulldozer that's pushing down our houses, they're making way for more settlements. So...and when I say literally ducking bullets, being shot at from a height whilst I was

in a taxi, because they were just shooting indiscriminately, not that they were shooting at me. They just opened fire on kids who were throwing stones.

Int This was the IDF? The Israeli Defence...?

CP Yes, yes. And going through those blockades and hearing stories of how from across the hill missiles would be fired, and looking at signs which say: please don't shoot here, there are children. That sort of thing. So it was one horrific experience. And then moving then to the United Nations, to the actual UN offices, and being part of the process of putting together the document, which would eventually become the NGO Declaration against Racism, Xenophobia and related intolerances. I was one of the draughtsmen with Major. Started in Botswana, through to Palestine, then to Switzerland, to Geneva. And my brother lives there in...Basil said: Charles just take your laptop, take a weekend off, come up and spend that weekend with us and we'll talk and I'll look at your drafts. And when he took a look at me, he said: you know what, you're absolutely unbelievably stressed, I can see it in your face! I said: yes, I can feel what is going on, because I was in the thick of meetings where people were called terrorists and working with the international community, and recognising just how difficult these battles are to get consensus on some of the issues relating to racism, xenophobia and related intolerances. Of course, it had its nice moments, one of which was going up to Basil and spending that weekend and coming back and continuing with my work. And then coming back to South Africa and then eventually going to Durban where we finalised that declaration with an expanded group of people, and eventually got out the document, which I still have by the way, I need to print it in booklet form, and eventually trying to hand that over to the UN commissioner, High Commissioner, who was Mary Robinson. And she did not want to accept it because she said the language is so bad, some of the things that have said here are so bad that I cannot accept it.

Int When you say bad, what do you mean?

CP The language and what we were saying in terms...I didn't seem to think it bad. We put it together, we captured the experiences of the victims. And you can't...make the smell any nicer than it really is, and inasmuch as we tamed the language as best we could it eventually was not accepted by the governments – because remember they had a government indaba, which was putting its own twist to it, and then eventually America walked away from it, I remember, and we were there when that happened. And eventually we said, well, it's not being accepted, and I think we had our own meeting and said this is our Declaration. I remember fondly saying to Mary Robinson thereafter when I met her at the airport on another occasion, I said, here is the Declaration, you didn't accept it in an official capacity, but please take it and read it. I suppose she was in a particular position at the time and possibly couldn't take it on behalf of the governments of the world. So we said they have a different view and we as NGO, working on the ground, at grassroots level, with the people that we really interface with, have this view of what racism, xenophobia and the other **inaudible** are all about. So for me that was also a high point in my career as a human rights advocate, human rights lawyer. And I have not followed what has gone on, I think South Africa...oh, yes, I did go to the national conference as well. I think South

Africa still needs to host and the world needs to host a conference which takes a look at these things, so that human rights values, human rights principles, actually permeate our discussion points at every level. And that for me was something, which said it the way it should be said. But coming back to the actual practice of law, yes, I did other cases, I ran cases around Land Rights where I remember going to the land claims court and arguing a case where a farmer refused to allow the farm worker to bury his deceased on a farm where he lived and worked for years and years and years and years, and I remember drafting those papers, going and arguing this matter before Geldenhuys and Justice Moloto – he's called Justice Moloto because that's his first name but he's also a judge – and then being told, well, look, let them try and have discussion because the Land claims Court was wanting discussion to pursue and then appointing a mediator to mediate between the family who owned the farm and the farm worker's family. And guess what? That night, in the dead of night, that farm worker went and buried on that farm that deceased. Of course it violated rights, it violated court orders (laughs) and I came back quite shocked the next day to discover that this has happened. Then it's a question of do you now exhume the body and how much more must we push the pain? And I think it was eventually resolved between the mediator and the family but I remember the one argument that I raised to say that you're looking at literally a one and a half metre by half a metre hole on a piece of land and this is the level of objection that this family has, this farm owner has, to having this family buried there. Because their gripe was if we allow this it may give them more rights to the land. So this whole gripe about land was there. I still serve, by the way, on the Rural Legal Trust, which was again an offshoot of my involvement with the LRC, where we look at funding for farm dwellers against this kind of abuse. Another very interesting case relating to my education rights project, was where a farmer...and this was in the North West Province...had literally fenced off a farm, fenced it around, ring fenced it as it were, during the school holidays, and introduced to the other areas through which the children walk to get to school, introduced animals: giraffe, buck, and then said he's introducing lions and tigers. I drafted a set of papers, having gone there, having interviewed the government department because we said the government must step in because there's rights, there's definitions of farm schools and they are monitored indeed by the provincial authorities. And they were quite willing to come along with us. And I remember interviewing the principal of the school who talked about other horrors, like these guys coming in their 4x4s, doing wheel spins around the school and saying, yeah, you guys got to move. And these were Afrikaner farmers who said, we don't want the school here anymore. And the way in which they want to get rid of it is to change this into a game farm, introduce game, threaten the children that their existence there was not wanted because they have to make way for game. And then we launched an application, it was Patric Mtshaulana who was counsel, I drafted the papers, again he didn't alter a jot in those papers, he said they're perfect, let's go to court with these papers, and we did. We went to court and I remember the press was there, and took this farmer outside and said, no we just want to chat to you, and while the one journalist was chatting to him they took big pictures of him in front of the court and then published it in the papers. Because for me pushing these human rights cases also means you have to have the media with you to say...and media hooks on to human stories. So we used the human story of these kids who are now being denied access to education literally by being denied access to their school. Again the matter was settled at the doors of court where he said, fine I'll now fence off another area, give them another point of access to the school. And it turned out to be decently resolved. That was by the way my last case at

the LRC before I was appointed the Ombudsman for Financial Services Providers. And when I left it was resolved eventually and I saw it in the papers that the case was in fact resolved. Some of my experiences, nice parts to it, was the...seeing the relief, seeing the desperation, going to areas like the Winterveld for example, where we used to go to a clinic and take instructions from people who had their grants turned down, and hearing stories like: I need this grant because it's supporting five of my grandchildren and sending them to school. And it's now been stopped. And there was indiscriminate stopping of grants. Wholly not in compliance with administrative law. And then also seeing with that granny someone being brought in on a wheelbarrow, then you say: what happened here? His grant was also stopped. And again you saw the serious desperation and the absolute need for you to want to go out and shake someone and say, do something about this. Because those are the levels of desperation. And then chatting to people whilst you're waiting to consult. Young able-bodied men who say, but we too have no jobs, and we too were promised this, that or the other by the government – having come in as part of the freedom fighters who are now supposed to be amalgamated into the National Defence Force and at certain levels authorities are reneging on these agreements. And hearing stories like that and being told: do you want me to turn to crime? And you see able-bodied men who are saying: I have no alternative because I have a 30 year old wife and three children to support and I now have nothing. I was told to come into the country and that there will be a good future for me. So these were the difficulties that you start seeing and experiencing. Working with colleagues was always very exciting, I mean, my Masters thesis had numerous cases for example, around environmental law, and at certain levels, environmental racism which reared its head. And I remember talking to people like Ellem (Francis) and looking at those cases that we'd always look at, and saying these are wonderful cases to be part of my Masters thesis. And using those. Using principles that were used under the common law to turn people away from courts like the *locus standi* **inaudible** principle, and saying how this has been opened up with the new constitutional order in terms of section 38 of our Constitution where people can bring rights in terms of the Bill of Rights, not just on their own behalf but on behalf of other people. And using all those principles that I really, really enjoyed researching and actually running cases on, to say this is what my Masters thesis is all about. And maybe that contributed to the distinction in that particular area. But also teaching law to would-be lawyers, article clerks who were attending the night school at Pretoria and during the day. And using the actual cases that we had with blacked out names, and saying to the students and the lawyers there, take this, these are the facts, go and analyse it, and look at what principles of Constitution and Administrative Law we use, and let's come back and have a discussion. I can tell you those were the most...the best debates I've heard from young students who haven't even practised law yet, on how they could expand the Constitution to benefit ordinary citizens. My criticism of the Constitution is that inasmuch as you have all those laudable principles and rights emanating there from, the greatest difficulty that you had was that this government hadn't budgeted for it. And that's what needed...and it came out in many cases which we used. That's what this government needed to do. It didn't budget for the Constitution. It didn't budget for all those rights that needed to be exercised. So I don't know, apart from working at the Rural Legal Trust and occasionally chatting to Janet Love and sending her some of my judgements by the way, and I believe they're quite passionate about the work that we do here as Ombudsman for Financial Services; I believe that an institution like the LRC needs to filter into all these mechanisms that are in fact available and my office has always

been open to those kinds of things. I've subsequently been to talk at the Foundation for Human Rights on human rights and corporate conduct. And in fact I'm talking on the 25th on the ethical mind and the corporate citizen. So you bring in all those things and I go back to draw on my LRC experiences. So if you want to talk about this young lawyer that grew up in an institution, those five years were really, really an experience for me to share with the institution and with the world about what it was that I did there and what I enjoyed there. So I don't know if you want to ask me more questions, you may jog my memory on other things. I've spoken quite a bit.

Int Thank you, yes, you've given me a wonderful narrative, thank you so much. I'm going to take you right back...Growing up in South Africa, you mentioned growing up and living in a city centre before moving to an Indian suburb. And I was wondering, you also outlined a story about...a very wonderful memory about sitting in your pyjamas and talking about Group Areas...

CP Group Areas is going to come and get you, yes.

Int Yes, that's what you said, and I'm wondering, was that...a family discourse, was that something...your parents were talking about, or was it just...your brothers and sisters...?

CP Because I think, you know, you pick up snippets of information when you're sitting around, and literally we had a 2-bedroomed house and a gramophone player, and then eventually a radio. And sitting and listening to your parents talk to their peers and family discussions where they talk about this thing that, for example, we now need to go and look at Reservoir Hills as a possible area because they now opened that up for Indians. See? So you listen to this and as a child, what kind of image starts going through your mind...You say, ok, we moved here, now does it mean we now have to move there...and literally it happened to us. We moved into Asherville, which remained...well, traditionally was an Indian area and remains an Indian area...well, now it's an open area (laughs), with an Indian tradition because it was that sort of thing. And then moving to Chatsworth which was an exclusive Indian area, so you didn't know where next you were going to be shunted. That was my memory. And an interesting dynamic of that was me going to...and again, it's racial sport...going to Asherville grounds, the sports ground in Asherville and watching these guys in flannels play cricket. It was the Tulips cricket team and, I forget the names of the others but the Tulips was a famous one. And they used to wait for Charles, who as a ten year old, to come in and change the scoreboard. And the cricket match wouldn't start until I got to the grounds. Quick breakfast, or whatever's going, grab a few pennies because you're going to buy oranges when you're in the grounds, and they say, hey we're waiting for you Charles, we're waiting for you to start the scoreboard. Ok, I'm here guys. And these were all adults who were playing cricket. And I remember the names: Sweetie Naidoo, Guru Singh, all Indian names because it was typically an Indian area. And they played the best cricket. If they hit that ball in Asherville grounds it would land in the Balkuman swimming pool, and that was another municipal pool, which was literally miles away from there. And that was the calibre of cricketers at the time and they never got a chance. They became alcoholics, they died at a young age; the Khan brothers, I remember all that. So it's the

experience of a Group Areas. So you're talking about conditioning of the mind, what was going through, it was that.

Int Ok and you spoke about was that your father had a legal background, he was a lawyer, but he never practised and he was a policeman. And I wondered whether that in any way has influenced you in terms of the direction you took and in terms of your sense of the rule of law? Because, those two roles that he played really, the kind of legal, as well as the rule of law...and order.

CP Let me explain that very nicely because again you have those experiences growing up. He was an officer, a policeman, and he had a passion for policing...crime and all that sort of thing. Different calibre of people, where a black police officer would literally walk the beat armed only with a pair of handcuffs and a baton. And if there was any...and the respect they commanded. But interestingly enough, he couldn't break through from becoming what is called a non-commissioned officer to becoming a commissioned officer. And he would score ninety percent in the exams and they'd say, well, you can move from constable to sergeant, and he'd say, well, I'm now there three years, what's next for me? And they'd create another rank for him because they didn't have ranks for black officers. So they'd make him...well, we'll make you a first class sergeant, how's that? And they'd give him another exam. By which time his white counterpart would already be a warrant officer and heading for a lieutenant, which was a commissioned officer. And he then became a first class sergeant and then they'd say, well, *Jesus*, Pillai, you are moving too fast. And he'd then write another exam and score ninety percent and he'd show us this because he was that ambitious. And they'd say, well, now why don't we make you a special grade sergeant, and they made him a special grade sergeant. The next came and they made him a special grade chief sergeant. It was unbelievable and he said I can't become a commissioned officer. Eventually, interestingly enough, in (John) Vorster's time he became a commissioned officer. Huge media coverage to say he's now made blacks commissioned officers. And I remember him then saying, well, now they have to salute me. And then there was a force order that picked its ugly head. It said that a white constable cannot...is not obliged to salute any black policeman of a commissioned rank. A force order. And I freaked. Because remember now, I'm now maybe in my grade nine/ten, I'm thinking, but dad what is this! Ya, well that's the way it is. And the papers reported on that. So it's growing up in that hell of a racist society which was racist in so many ways, and seeing somebody who by the time of his death had a degree which the commissioner of the South African police services didn't have. And he said: I now want to become a lawyer with you. And as fate would have it, he had an early demise. He died when he was only 55. He would have joined my law practice because we spoke about it and we said, come in. And again you cut your teeth in doing criminal cases and I got the best kind of counsel from him and was seen as one of the criminal lawyers of the township, you know, because you went in and did cross examination, which helps you by the way in every other aspect of law in being able to stand there and cross examine and think on your feet and be able to demolish a state case based on what you got. And you didn't get much information. You got the barest essential, because that docket was hidden away from you, there was no ways...they could have cooked up a case and you wouldn't see it. And I remember eking out, during the course of cross examination, information from a witness where I said: you don't seem to recall all the details of who assaulted you.

And I relied on a case in evidence, which I was wanting to use to get out his statement, which was hidden in the police docket because you can't see that. And the magistrate stepped in very harshly and said: why are you asking him these questions? I said: why don't you give him a chance to answer. And he was getting angrier and angrier with me, because I said: you don't seem to be convinced about that information. You can ask the prosecutor for your statement. Now remember, if he got his statement, the moment he got it, it became public information, I could say, let me have a look at the statement, but look at all this other information that you've messed up on. And he didn't want that. So he put a stop to me continuing to ask him those kind of questions. There's many stories I can give you from private practice, which indicated that level of cloistering that existed in the ranks of the prosecutors and the magistrates. I mean, they were both speaking with one voice, really.

Int The other thing that I was curious about is that you went to university in the early seventies, if I'm correct?

CP Entered university in 1972, left that university in 1975, then the rest was correspondence, the next degree, or attending part classes for the third one and part classes for the fourth one.

Int So the first undergraduate degree, you really...were you at all politically involved at university, or was that something that you stayed away from?

CP Oh yes! No, no, no, no, no, we were part and parcel of all those meetings where you got in and then you realised, this is the way it's starting to unpack. We had no SRC to talk of, Student's Representative Council. I mean, the guys from the time, will tell you about it. People like Zac Yacoob were student leaders at the time. People like...what's his name now...I forget some of the names...Saths Cooper, Strini Moodley, Fatima Meer, coming to address us. I remember us being...holding our meetings then away from university because they banned us from having the meetings at the university. And having the meetings then in places like the Ghandi settlement. It was very much part of our culture at the time. Remember I spent three years there and then left.

Int And NUSAS was a multi-racial body at that time, I think, where were you positioned in relation to NUSAS?

CP NUSAS would have been one of those bodies that would have come and interfaced with us, but it was very much Black Consciousness. It was very, very much Black Consciousness. That's why I mention names like Saths (Cooper) and Strini (Moodley). It was the Steve Biko time. And also, you know, moving from there into practice. I remember the beginnings of the UDF, I remember the beginnings in terms of the legal profession, the lawyers' contribution, I mean, apart from the cases I talked to you about that we handled, being involved in the formation of what was the...then became NADEL, BLA- Black Lawyers Association, but it was the Democratic Lawyers Association, the DLA. With people like Zac (Yacoob) again, and Ravi Bagwandeen and Praveen Sham, and that whole group of people; we used to meet at

the Asoka Hotel and have our meetings. And then...and Archie Gumede and then you start filtering in with the rest of the community and get moving from there.

Int I'm also keen...to ask you because it seems to me that your private practice really did the front running of public interest work, so in some ways you seem to be the best person for the LRC job, and you had sixteen years of it. Did at any point, did you ever think...I should not do this and maybe I should do commercial law, corporate law... something that may have been more lucrative because you were doing pro bono work as well.

CP There was a lot of...I qualified apart from as an attorney, I also qualified as a conveyancer, so that was an option. And then you had a number of banks that would...you would work with, that was an option. But no, there was always the quest (laughs) and if you look at most of my clients they were the underdog. I mean, even when I was interviewed for this job they said, oh, you acted so much for the underdog, wouldn't it influence you as the Ombudsman because here you're supposed to be independent, impartial, look at the issues in a way that doesn't bias you in favour of the consumer. I said: but hang on, there are judges currently sitting in the Constitutional Court, and at the time it was people like Arthur Chaskalson and Zac Yacoob and others that I can remember, who were sitting there and were very much part and parcel of the struggle and acted for the underdog against the regime. So I said, no, you'd rather have that person sit and administer justice so that the underdog does in fact understand that there is a decent assessment of my issue that came before you.

Int So the Pretoria office...you became Director shortly after you joined, and I'm wondering in terms of being Director....my understanding is that a lot of that is about managing, managing the office. If you were quite busy because you were also studying, you were involved in all these conferences that you mentioned, I'm just wondering in terms of the day to day running, how did you manage that as well?

CP I had very...fairly responsible people with me. And I must tell you it was fine. We had our ups and downs, we had our disagreements, we had our upsets from time to time. There were times when I had to stamp my foot down very firmly on some issues, but...it was a fairly responsible office and it did give me the opportunity to do the things that I did. Going away and doing the World conference, going and finishing my LLB, or the standard that I brought with, going and finishing the Masters and giving it that standard that I brought with. So I...oh, by the way, I finished my Masters when I was appointed the Ombudsman, my last examination (laughs) was written in December 2004, which is after I'd been appointed as the Ombudsman, and I had to finish that. And if you would like to know how it's influenced me subsequent to that in this job: one of the things I picked up, and I said to my staff here, the SNIF test...I don't know if you've heard of it...that the LRC developed – skills, needs, impact, finance. You've got to have the skills to do the case, there must be a need to do it, it must have an impact, and you must have the financial muscle to run the case. That's in a nut shell...

Int So it's SNIF?

CP ...ya, what the SNIF test was all about. I have shown my staff here how to SNIF cases that need to be made into a determination. Because remember in this job I write determinations which are considered to be judgements of the court. We lodge them in court. The first case that I did, Dennis versus Nedbank, the banks were continuously slapping clients with homeowner's insurance when you applied for a bond. So you borrowed money from the bank, be it a hundred thousand or a million rand, it automatically said you must take out insurance through our provider, with our company. It has all kinds of consequences, because they would then control the claims that would come in, A. B: it was proven to be at least thirty percent higher than if you shopped around and got your own insurance. Guess what? When I came in there were hundreds of cases like that, where clients would keep sending those things to you and saying...and then you'd approach the bank and say: what's going on? And they'd say: ok, no we'll consider it in this case, and then they would allow free choice. I said: this is not acceptable. We've got to have a precedent setting judgement which puts an end to this. And the opportunity came when one of them refused to settle. I made a recommendation and that's what I'm required to do in terms of my Act. I said, I recommend that you allow free choice in this and all other cases. They said, no, why are you telling this, because we're relying on a section of the short term insurance Act. I said, well, you're not accepting my recommendation, let me now draft a determination using constitutional principles, using United Nations principles or guidelines rather, on consumer rights, which is now in the Consumer Protection Bill by the way. I analysed that case and interpreted the sections of my Act to give the consumer free choice – section 16 says that you must explain the financial product to your client in such a way that the client makes an informed choice. I interpreted informed choice as being a choice from a series of choices and not a single choice. And using those principles I wrote that judgement. Which is there as a precedent and it has changed the law by the way. Banks now allow free choice.

Int Ok. I'm wondering, Charles...as you said earlier, there are always in organisations, there's always upsets, disagreements, etc, in the Pretoria office what was the main core of disagreement or upset do you think? What were the problems?

CP Um, I'll tell you what it was. Typically a project...you undermined, and I think this was what came through very often...you had offices situated throughout the Republic, let's say throughout the Republic. And the main centres. Then you had projects, which then overrode the offices. So you sit there as a Director of an office, and then you're suddenly being told but this project and the Project Director is telling me that I must do this. And then it cuts across what you as an office envisage. Ok. And that dynamic came through quite often where when I said I had to get nasty of an occasion it's when appointments were being made in my office of people that I said, but hang on, what happens about me running this office? Are you running this office or am I running this office? It was that kind of thing that cropped up. It was resolved.

Int Was the Project Director at national level?

CP The project director would have been coming from at a national level, yes. So it did create those tensions and I think you may find that with other offices or current Directors who may give you that, some kind of feeling, I'm not sure. Some of them would have been comfortable. I would have said, no, I'm stamping my particular view on this and that view is that the office takes precedence. So whether the office takes precedence or the project takes precedence was always a debate. And then you'd have people who are essentially accountable to you in one respect, then doing their own thing because they believe they're accountable to somebody else. And the accountability issue always comes in if you're running an office.

Int You were also at the LRC at a time where a funding crunch was really an issue and I wondered whether you could talk a bit about that?

CP I was roped into national office many a time to help put together narrative reports around funding. I was instrumental in bringing some funding in relation to the Children's Rights Project. For me, you know, I like to innovate, and one needed, post apartheid and into the new democracy, one needed to find very innovative ways to raise funds. And I'm again creative in that sense and like to...to give ideas around those things. The LRC was a model created in a different era, which found itself working in another era. And the dynamic that operated in that particular era was very different from the dynamic that operated in the subsequent era. Because I remember we were being phoned to say, look you want funding to run some of these political cases? You'll get it, it's not a problem. I'm talking about when I was in private practice. So it's not a problem. But it changed, and you now needed to find development models and models which took you into another dynamic. Because remember that South Africa then became part of the African Union, the African continent. It became an integral part of the system that we wanted to create into the rest of Africa. To give you an example, from my current position: I'm being invited constantly to speak in Namibia, in Swaziland, a Nigerian delegation came down recently, wanting me to have an MOU with them. Why? Because they want to have the models that worked in South Africa in relation to this kind of office for example, the ombuds office. So again the LRC was a harbinger of the kinds of models that could work into the rest of Africa in terms of...of NGOs. And I know that there was the SADEC initiative...is it SALC? What was that called, I forget now...where Bethuel Mtshali from my office in Pretoria used to go off to Zambia and Zimbabwe. And again the compatriots that we had in our SADEC region and other regions, had more serious difficulties than we were experiencing, not to underplay the kinds of hassles that we would be experiencing, but for example, you would say, we are taking the government to court because they haven't been giving people their rights in terms of social welfare. And your compatriot in Senegal or some other region would say: oh, you mean you have social welfare? We don't even have that. So you saw the deeper problems within Africa and you needed to use that as a model in my view. It may not necessarily have been the view of my colleagues within the LRC because they still saw the need to continue with their projects in which they were comfortable and developing, but you could take that to the next level. I still have that passion for it. I do it in my work here. And one of the things that I'm saying...we had a Namibian, Nomfiso, sitting here three days ago to learn about our work. So the LRC can do that. I believe that the donor funding would come and would continue to come

if you take more of a development model and use it to make forays into the African subcontinent.

Int I'm wondering also...in the Pretoria office you had what was called focus groups. You were very specialised. People did environment law...

CP Social welfare, children's rights, education...

Int ...and gender. I'm wondering whether there was a tension, and there always seems to be in the LRC, and especially in the other offices, with the impact cases and people coming off the street and, you know, with ordinary cases, and I'm wondering is that when you used the SNIF test?

CP Yes, there was. There was that difficulty because I would again coming as I did from a service level arrangement outside where you can't see a client sitting and waiting at reception. I used to call the guys in and say, why are people waiting at reception? You have to deal with them, you have to take these things on. And at least give them some relief. So, there was that tension. And then the projectising. The projectising at certain levels used to freak me out, because it said that there's this mass of people that need help and you want to see whether you can comfortably fit them into some project or the other. So in a sense we would try and metamorphise some of these projects (laughs) by saying, well you can fit it in here, and then it would be, well, what impact does it have? So, of course those tensions were there. And those tensions were there even at a personal level in terms of gender, because the gender activist lawyers would look at things in a particular way. And in as much as you would say, well how important is that to this, for example? And in a sense, coming as I did from the outside, I wasn't entrenched into the LRC system from its inception. I think it was a good thing. You know why it was a good thing? Because I saw life as I saw it in the streets and I didn't see it as this ideal of people saying, we want to achieve certain things without having had...and I'm saying it with due respect to some of the colleagues...without having had the benefit of that streetwise rough in the townships kind of approach. And I was told that by some of the colleagues, they said, Charles, you should be very fortunate that you came from outside, because you saw it in a different light. And maybe that was good.

Int Perhaps, yes. I'm wondering also the issue of race, I mean, this is South Africa and organisations all have...and the LRC's been in some ways depicted as a liberal white institution with white lawyers. I'm wondering...being of a different race...being black in a way in South Africa, how does that experience permeate itself? Were there tensions with professional staff and administrative staff, and you as a professional and a person of colour, how does that impact?

CP Ok, you got a sense of how I grew up. You'll also get a sense of how I think into the future and what I think in terms of how one should model these things. I believe I've had my personal experiences at the LRC. One of which was my secondment to the CLU. It was, I think, the wish of the National Director, that I...

Int That was Bongani Majola?

CP Bongani Majola. That I was material that could in fact run the Constitutional Litigation Unit. And I did serve at least three months of my time there. But there was a lot of pussyfooting in my view around whether I should be appointed or not. And my interpretation of that was that it came from white liberal forces that believed that Constitutional Law may just be the domain and should be mystified at certain levels and be the domain of white people. I didn't believe that. I studied Constitutional Law, I am a litigator, I believe I have the passion, and at the same time, have the clarity of mind and the ability to ably run such an institution, and I remember getting frustrated because I was at an odd dynamic at the time, and I'll spell it out so that it's there on record and I have no hassles about placing it on record: that I then, whilst I was there, started seeing certain things develop in the Pretoria office over which I would have had some degree of oversight, where certain appointments were starting to be made there which I was uncomfortable with. One of which was, for example, appointing a white articulated clerk, when the project itself said that this is a development for black professionals. And for very good reason. Because there was no skills in that area and white article clerks could very well find themselves, and they still do find themselves in big white firms, which give them articles and will give them that kind of opportunity to develop. So I saw these things happening and at the same time being told, Charles, you know, we're trying to get this through the Board, we're trying to get this through the Board, and I eventually remember sending a letter to Bongani to say, look, if this is not sorted out by so and such a date, and I don't know, and I say what I want to say because even here I was told in Parliament that the Ombudsman calls a spade a spade. I said, if this doesn't reach **inaudible** by that date, I have a responsibility in the Pretoria office and I need to go there. And if it's not sorted out I will just report there the next day and continue. And Bongani (Majola) came back and said, look Charles, carry on, go there and do it. So there was all those dynamics that were playing through, which in a sense struck me as white liberal forces having their own way of engineering how this organisation should go, and my very firm thinking is that it is an organisation that needs to...find its place in South Africa in a particular mould. And it's not to do with whether you're white or black, it's to do with your mind and how you think. And unfortunately at certain levels some of these things did come through. So, if you're talking about that as my exit interview, no, I still have the highest regard for the institution, believe you me. I left on an excellent note. I still have the letters that were sent about the work that I did whilst I was there. And I still have a passion for that work. I do it in my current employment. I use those principles, learnt not just from the LRC but from my upbringing, which I believe will always be there whether I'm sitting on the Bench or sitting here as a judge, it will always be there.

Int I'm wondering, Charles, in fact...it seems that you are very passionate and you really enjoyed your work, what made you leave in 2003 to take this job up?

CP Um, here it is. I wanted to get back to the institution in a different capacity. I had five years...you know there's a five year sabbatical rule?

Int Right. I didn't know that.

CP Ya. There is a five year sabbatical rule. After five years you can take sabbatical. I wanted to then go and serve a traditional pupillage like a pupil would because I was already starting to appear in the High Court. I argued cases around administrative law, opposed applications, which I enjoyed, and I said, wow, here's an opportunity for me to really go and now dedicate myself to these skills, come back to the LRC and allow my services to be used throughout the organisation, because I'm now almost there with my constitutional/administrative law, I know I'll finish that, it was July. And when Bongani (Majola) had left, or at the time he was leaving, I expressed my desire to go and serve pupillage. And he said, fine. I said, my sabbatical comes up, I'm not going to go and sit on the beach, I want to go and do my pupillage, which was a great opportunity. I'd already, I think, identified potential masters – you call them masters – and you go and serve pupillage. I discussed it with them. And then Bongani (Majola) left, there was a new Acting National Director...

Int Was that Vincent Saldanha?

CP Vincent (Saldanha). I then remember saying, hey, you know what? I want to now do this. And I think, in a sense, he may have felt that, yes man, I need people around me, I need lieutenants around me, and he said, Charles, not now. And I put that on hold. And with that there would have come levels of frustration saying, you know what, I now have to kiss goodbye to six months of sabbatical, and then this opportunity came up and I saw...I knew the role of an Ombudsman, and again like I'd applied to the LRC, literally the last day I sent in an application which had come in on the, De Rebus, which is our lawyers magazine, and I was phoned two days later to say, you know what? We're now looking at you as a short-listed candidate. I couldn't believe it. And I said, well, I'm going to pursue that. I would have wanted to go and serve my pupillage, I would have wanted to come back and serve the LRC. I really, really, felt that need. And who knows? I had a subsequent meeting with Janet Love and I think she also expressed that it would have been so nice to have had you or have you there, so it's not my loss of the institution or my lack of love for the institution and its work. It was just events start changing. So had I probably gone and done pupillage, come back, I would have said, well, now I can look at this, now I can start getting to the Constitutional Court, now I can start doing these major applications, and really I still have a passion for it.

Int Right. I'm also wondering what you think about...the Pretoria office closed in 2006 after you left, I'm wondering what you think about the closure and what's your sense of what went wrong as such?

CP I hadn't had much contact with that office in particular after its...after I'd left. I think personalities...in a sense I was also unifying a number of diverse personalities, very strong personalities mind you (laughs), some of whom were ready to kill each other, if you didn't intervene at certain levels. After I'd left...and these things tend to impact on work. I don't know what happened to the work of the office and its contribution. But I think it would have been a combination of that coupled with the serious impacts

that funding had, I didn't see a problem with funding. I saw a blossoming of the organisation into new and innovative areas, post '94 and into the new order. Whether that office particularly, and the organisation generally saw that, I'm not sure. Perhaps that may have led to it. Because if a cash crunch comes heads have to roll. It happens in all areas. Companies retrench. But I think innovation would have helped it to...and perhaps, you know, at certain levels, run adjunct as a professional law firm or whatever, I don't know. I wasn't part of the debates post that.

Int Sure. I'm also wondering... at some point in the interview just now, you mentioned something about how the LRC had really been initiated in a different order and things have changed and how it needed to in some ways, what you were saying, needed to rethink itself as an organisation, a post apartheid context. The LRC had fought cases, pass law cases, etc., during the 1980s and I'm wondering...in a post apartheid context when the ANC is actually in government; this liberation movement, now it's in government, what do you think were some of the difficulties of operating against places such as Department of Land Affairs, etc., against an ANC-led government?

CP I think at certain levels they saw it as a white liberal organisation that is coming here and just being *erre gat* and they saw it as that kind of battle. I think we still have a battle, for example, at the Rural Legal Trust where we wanted the Legal Aid Board to take over the functions of the Rural Legal Trust, because having come this far it was in fact done in conjunction with the Legal Aid Board and the Department of Land Affairs where we said, look, we'll help but it's essentially a task of government to eventually take it over. They see some of these areas as areas of interference, etc., but I always maintain that the bottom line is the rule of law. The bottom line is that if there is...or if there are these difficulties...and one saw it in, for example, the TAC case! I had lunch with Bongani (Majola) not long ago, and I said, why aren't you coming back man, Bongani, why don't you join the Bench? Because you'd be wonderful. He's doing fantastic work where he is. And he says, I did the Nevirapine case. I said, what does that mean? No, Charles...so I think it had that kind of impact.

Int Which Bongani is this?

CP Majola. Because he was part of that team. And he saw it as him having dug at the Achilles heel of government maybe. And I thought that was an interesting comment and...maybe in a sense, currently there is an aura of selfishness in the new order which thinks we are, A: above the law, B: we can get away with all kinds of rubbish because we were a liberation struggle that's become government now. But, if civil society fails, then we have failed. And as long as civil society is strong we're going to have government being held to account. It doesn't need to happen in Parliament only. It doesn't need only the opposition parties saying, you are wrong, or you need to investigate this, you need to investigate that. It needs a strong union movement, it needs a strong civil society movement, which says, we're holding you to account.

Int You've also mentioned that you don't think funding is a problem but the LRC of course considers this a huge problem. I'm wondering what you think...what the future of the LRC is, particularly in a context where there's smaller, non-profit public

interest law organisations that have sprung up doing interesting work, how does the LRC then have to become creative do you think?

CP Well, the leaner and meaner is starting to happen I believe. The innovation and the development work. Development work is so important. It's being funded all the time. I don't know, I'm not in that space currently and I don't know the real areas where they feel the pain, but at the time I left I saw this as a way going forward. My visit to the UN and my proudly sending a letter to Bongani (Majola) from there to say, listen they've given me status to sit in at these debates at an observer level, as the LRC – because I didn't go under SANGOCO, I went under the banner of the LRC – for me was a proud moment and I'll tell you why. It started opening the doors to saying why can't we take it to that level, where as a human right's law firm...I mean, Amnesty International still exists, Greenpeace still exists. Gosh, there's so many other big international organisations, LRC has the potential to be just that. If I say that I managed to get that and sent it across to National Office and say, wow, look at us, we've now got status in the UN, means we could have got status in the UN beyond just being an observer. So it's those kinds of things that need to take us forward, that we should be playing on the world stage and not just in the South African context. If we think in the terms of the South African context then we're thinking in a very limited sense.

Int Ok. I'm also wondering, I've asked you a range of questions and I was wondering whether I neglected to ask you anything that you think ought to be included as part of your Oral History?

CP Relating to...?

Int Just generally.

CP Look, I think I've covered it, I don't know what else I need to say.

Int Well, you've given a wonderful interview and...covered everything so lucidly. I'm wondering whether we could end the interview with, perhaps if you could share a memory, whether it's with a client or a staff member, a particular moment of the LRC that you treasure.

CP Well, I think I've mentioned a number of things...

Int Sure, sure.

CP But (laughs)...this was also interesting, I remember doing a case for the gender...the women's rights movement, Louise (du Plessis) asked us to do it and I said I'll go and argue the case in Lydenburg. Now Lydenburg is kilometres away from here. You've got to leave at five in the morning, there's a girl called Deneo Mankwe who was a candidate attorney at the time. I had a correspondent in Lydenburg and I think we

wanted a particular outcome because we wanted to take the matter on review eventually. And I'm trying to think what that outcome was. We wanted the magistrate not to grant the order that we were seeking, or something to that effect, I forget the nitty-gritty, but what I remember is I asked Deneo to come and stay over at my house the night before because we were going to leave early in the morning. And I remember my daughter saying, no I'm going to go and sleep with that auntie, I want to sleep with that auntie, because she became a friend. And we then left at five or four thirty in the morning, and driving in the mist. And I'd arranged with the attorney on the other side that the matter must stand down, meaning that he must wait until I get there because I said, I'd be there by ten. And we couldn't drive any further because it was so thick with mist, and we drove into a garage and waited until the mist cleared a little bit and then drove on. We eventually got to this court, it was one of those courts in the real platteland, the remote areas, and...obviously looking at the colour of my skin and knowing that my name is Pillai, the magistrate immediately recognised me when I came into court, because he was standing and the court had not been in session at the time. And I'm going to say it to you in Afrikaans and then I'll translate it for you. He says: Meneer Pillai? So I said, ya. He says: Ooh, jy is laat. You are late. Ek het jou sag van die hande gewys. I scrapped your case from the role. I struck your case off the role.

Int Because you were late?

CP And I got the biggest shock of my life. I said: but why? Because he explained it in Afrikaans and I asked him in English, I said: but why? I said: I had made an arrangement with the attorney. He says: ya, he was here and he didn't talk to me about any such arrangement. Because they were hell bent on stuffing us up and then I remember phoning from my cell phone to the correspondent, I said: don't you remember telling me that I could be here at ten o'clock because that was the arrangement? I was there at quarter past nine. He says: of course, that was the arrangement. He says: I'll give you myself on record that I made this call to this attorney, and he accepted it. Whole long story. We eventually had the judgement rescinded by the way. And we went and we got it sorted it out. But the magistrate became my friend, he invited me for tea and had long stories with me after that. So, I suppose in all the harshness there is lightness as well. But, you know, you see these things and you realise, even post apartheid that there's those corners or those little enclaves which existed. And you can imagine what it was like under apartheid. I mean, I practised law under apartheid. I used to go to...I remember going to court to have a guy released who was in custody, and going to this warden who...I had an affidavit, my personal affidavit, it was an application to have him released, it was like one of these *habeus corpus* orders and I said: can you please help me, captain, to sign this. He didn't look up at me and he pulled a form and put it in front of him and he then signed it and he then said: hey – he spoke to somebody else – how do you spell commissioner? He was wanting to spell commissioner of oaths. So these anecdotes come not just from my practice at the LRC but from my history as a lawyer.

Int Sure. And your experiences.

CP Ya, they're very interesting.

Int Charles, thank you very much for a wonderful interview. And we feel very privileged to have it included as part of the Oral History. Thank you.

CP Thank you, my pleasure.

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