

Lavery Modise

LRC Oral History Project

25th July 2008

Int This is an interview with Lavery Modise and its Friday the 25th of July (2008). Lavery, on behalf of the SALS Foundation in Washington DC, I'd like to thank you for participating in this Oral History Project. I wondered whether we could start the interview...if you could talk about your early childhood memories, where you grew up, what were your experiences, and where you think your sense of social justice and injustice developed?

LM I'm told that I was born somewhere in Pietersburg. In Pietersburg my mother is originally from Pietersburg in a place called Khampahlele. My father originally comes from just outside Rustenburg at a place called Datani. My mother and father met in Johannesburg. My mother was a nurse, my father a nursing sister, they call them today. My father...my father didn't go...ya, my father did not have any qualifications, he was a self-taught person. I think he went to school up to...what did they call it...standard five. I think standard five now would be grade seven. But he was a very clever man who...he was, for a person who has not really gone to tertiary...did not receive any tertiary education, I think he was doing well. I mean, he read his newspapers, he influenced me in reading newspapers, and basically I think as far as being aware of what's happening around the world it was because of his influence. He then got involved in...he worked for an organisation called...it was a clothing union...ya, it was a clothing union, one of the very few unions that I know at that time...and probably there were no unions at that time, but he was working for that union. And out of his experiences I think my sense of social justice was inculcated and...and ya, and his reading of newspapers. Then as I grew up we were living in Weston around Sophiatown in Johannesburg...I remember at the time, I think I was about eight or seven years, I heard that we were going to leave Weston...we were calling, it was the native township...I was told that we were going to leave it. At that stage I was not very clear, because I was young, as to what the issues were. But I remember the day when we left there were police escorting us to Soweto. So we were removed from Weston to Soweto, and I remember that as we were driving to Soweto – I think the municipality or the government provided us with trucks to take us to Soweto where we now...where my parents now live – I remember the struggle song that were being sung, I think although I did not understand the issues of politics then because of my age, I could sense there is something wrong. I could sense that why are we leaving this place? Why are we being moved away from here to...why are they taking us away further and further from town? So from that I could understand and sense there's a problem. But obviously as I grew up then I knew that they...those were forced resettlements, you know, because they didn't want us nearer to town and nearer to where whites...white people lived. And then from that time I think I told myself that I want to become a lawyer.

Int Really?

LM Ya, from that time I said, no, I want to become a lawyer, not because law is a glamorous thing but because I thought that could be my way of contributing to the injustices which I was beginning to realise and get to know them.

Int Why law? Was there someone who was a famous lawyer or...how did you, as a young child know that law would be a tool that you could use?

LM Good question. I then got to know of people like Nelson Mandela that he was a lawyer and he used his law...he used the profession to defend people, to fight for social justice, to fight for what is good. Then I thought that through law you should be able to achieve what (Nelson) Mandela wanted to achieve. I just looked at the other professions and I said no, you know, I just thought that these other professions is just to amass and to make a lot of money. But I cannot see them, how they could contribute to making the plight of people better. And ya, then I studied, studied, I went to...I was in Soweto, and I went to all the schools that became historical. I mean, for instance the school that I was at, Morris Isaacson, which was a...I think I did grade...I went up to standard eight...no we used to call it Form three, and it was called JC then. I don't know what grade that is, but it...no, now I've got it, I think Form three JC would be your grade ten.

Int So standard eight?

LM Ya, that would be standard eight. The riots actually...let me not say the riots, but it was the whole debate of political activity in Soweto. June the 16th was planned from that school.

Int Right. And were you in that school at the time?

LM No, I'm coming to that. I'm much older than I look, by the way (laughter), you'll get to know about that as we go along. If I tell you the year then you'll realise that...it must have been '71, ya...it must have been '70, '71 when I passed my JC. From there I went to do my grade 11 and 12, at a school called Orlando High. I passed my matric in 1975...no, 1974. But in '75 I couldn't go to university because my parents did not have the money. Did not have money to take me to university. I then in 1976 went to the University of the North, which is now called the University of Limpopo. But whilst I was at Morris Isaacson, when I was studying to pass my grade 8, the school was joined by a guy called Onkgopotse Tiro. Tiro is the gentleman who at the graduation ceremony at the University of Limpopo, who stood up and made a speech on behalf of those who were graduating and basically some of the things are saying is that this is supposed to be our occasion as students but here our mothers and fathers are sitting outside of this occasion. We have white people who clearly don't have our welfare at heart, sitting outside. And it was basically the thrust or the theme of his speech was really to attack Bantu education. He was thrown out, he was expelled and whilst I was at Morris Isaacson he became one of the teachers. So I really felt inspired by him. And at that time we also had, at university that time, SASO, the South African Students Organisation. I remember the leadership of the South African Students Organisation was arrested, thrown into jail, and I used to attend the trial, you know, I used to go to Pretoria from Johannesburg by train.

Int This was during the year when you were not at university?

LM I think I was already at university then. Ya, I think I was already at university. And some of your accused persons in that trial, they called it the SASO trial, at that time the prevailing ideology among black people was Black Consciousness. The ANC was not really visible because it was a banned organisation at that time.

Int And the university you were at?

LM The University of the North, Turfloop. That was the university. So at that time, the Black Consciousness movement was very, very strong, and the trial...and some of the accused in the trial by the way were people like the current Minister of Defence, Terror Lekota...no Popo (Molefe) was not there...Cyril Ramaphosa was not charged but he was also arrested, he was in detention at that time. And the other guys who subsequently became members of the Black Conscious Convention and whatever. And I learned a lot from the trial, you know, it really influenced me, I was highly politicised by the trial. And then after, when I was at university, then there were the riots that broke out...

Int This was in '76?

LM In Soweto, '76. And we heard about it, I remember someone telling us when we were having our supper at Turfloop, saying that this thing is what is happening at home. Then we knew that there were problems. Then the following day there was a mass meeting that was organised by the SRC, we demonstrated, we didn't go to school, and the police came, broke the protest marches, the people were assaulted and we were sent home, packing. I think we did come back to school but because we had so many...we did not have many days at university when we went back. I didn't do well, I actually failed. No, no...ya, I failed my courses...ya, I think out of five I got two. Then in 1977 I went back to university again. Again there were riots, again I did not finish my studies for that year. Then in '78 I was at home, I wasn't doing anything. But at that time was very much involved in the Anglican church, and then you got inspired by people like...then I also heard knew...I heard about Trevor Huddleston. Bishop (Desmond) Tutu at that time became the Dean of Johannesburg; he was not yet the Bishop. And I also, when I was at university, at Turfloop, I joined...I used to go to church, the Anglican Church there so I became a member of what was called ANSOC, Anglican Students Society. I then became the chairperson of that organisation. And then there was also a federation of Anglican students called ASF, Anglican Students Federation. So they would have a conference, an annual conference, so all people who belong to this different ANSOCs would meet. And of course we would discuss issues of the days and whatever, and the one, during those days also brushed shoulders with people like Alan Boesak, we would call them as speakers, Desmond Tutu...political leaders from various organisations and whatever. I remember at one of our conferences I invited a guy called Tom Manthata. Tom Manthata was very much in the Black Consciousness Movement and he was also part of the Delmas Trial. I'll talk about the Delmas Trial a little bit later. I invited him to a...we were a multi-racial organisation then.

Int SASO?

LM No, no, our Anglican Students Federation, I mean, it was Anglicans...it was students...ANSOCs from different universities in South Africa.

Int Right, so it was completely multi-racial?

LM It was completely multi-racial. So I invited Tom Manthata, and Tom Manthata was one of the leaders of the Black Consciousness movement. Tom (Manthata) started off by attacking me for...at that time the Black Consciousness philosophy was that blacks should be allowed to organise by themselves and whites should organise by themselves, get their people right and then when we seem to be more or less on the same footing then we can all come together. So he started off by attacking me for being completely lost, what is this nonsense, and whatever. And those things of course...we had very interesting debates, intense debates about those issues at that time. That is all part of my growing, you know. And there were also Anglican priests, black ones, who we used to invite and they would be saying that we are completely lost, you shouldn't be taking this direction. Why don't you guys have your own organisations of blacks and...this guy...you remember at that time there was a time when we had SASO and NUSAS?

Int I was going to ask you about that?

LM Ya, there was SASO and NUSAS and they were saying, SASO was formed because, why don't you do what SASO and NUSAS did?

Int Split...?

LM Why don't you split from this nonsense? Well those were issues that we discussed. But then I still believed that...then I think, speaking for myself, I'd embraced the ANC's policy on non-racialism. So I did not move, although I felt very disturbed then by what these guys were saying, and those are things that I considered very carefully, that I may actually be lost, you know. But I still believed that if that is...if our most foremost of...and respected organisations believe that the non-racial route is the one to follow, why don't we start it now, why should we wait until later? Then in 1977 I did not write my exams again, I told you about that. And then in '78 I was not at any university. In 1979 my parents told me that, no, no, no, you have to go to university, you can't just be at home and do nothing. Then if you leave one university to an...oh, then I got a...when I asked for my testimonial from Turfloop, I was told that they're not going to give me the testimonial because they believed that I was a bad element. I didn't realise how...I was not one of the leaders, you know, but I was one of the people who supported the cause. I would not stand in a mass meeting and address a mass meeting. But I was very friendly to some of the leaders and one of them was actually a good friend of mine who I used to visit in his office, and I think also our Anglican church, I think they were aware that we go to this ANSOC meetings and we

don't necessarily agree with what is happening at the university and in the country. I had a relative who was a lecturer...actually, who was a lecturer who was married to...no, no, I had a cousin, my uncle's daughter who was a student at university and who was married to one of the lecturers. And why I mention that is because I then had to ask him to do me a favour to see whether he can't use his influence for me to get that. I was not supposed to get...I could not get it.

Int And you'd started studying for a BProc or LLB?

LM Ya, BProc, I think it was BProc at Turfloop. Then somehow by the grace of God, he managed to get it. Then I went to Fort Hare. Firstly Fort Hare was a completely different...although Turfloop is in a rural area, but Fort Hare is actually even more in a rural area. But I actually enjoyed myself at Fort Hare. I actually enjoyed myself, and it is far, it's further from where I lived, from my parent's home in Soweto. Turfloop would be about three-four hours drive from home. Fort Hare would be about 14 hours drive. And then I was there in '79, even my studies improved. I was there in '79, I passed that year, and then in '78...in '79...'80, there was a big, big blow-up within the country, and especially in the university on education issues, around education and issues.

Int That was the year of the boycott wasn't it?

LM That was the year of the boycotts. Fort Hare was affected big time. Big time, big time...Fort Hare became...you know, I remember we didn't go to school for about three months, we were again kicked out to go home. I think Fort Hare in a way has been of a great influence to me because, you know, the history of the Eastern Cape and the history of Fort Hare. You know, the Mandelas (Nelson), the Mugabes (Robert) you know, started at Fort Hare. And I learned quite a lot, especially from a political point of view. And we started an ANSOC again there, at Fort Hare. I started an ANSOC, I was still involved in the church, I was still involved in the ASF.

Int For the sake of...people who would listen to this interview, I'm just wondering whether you could talk a bit about the history and the political development of Fort Hare, whatever you feel comfortable talking about?

LM Ok, what I know about Fort Hare is what I was reading in the newspapers. I knew that the...Fort Hare, some of our leaders, most of our leaders in Africa today studied at university. I know that **inaudible** studied at university, Robert Sobukwe studied at Fort Hare. Nelson Mandela, Dr Mangosuthu Buthelezi, **?inaudible**, ZK Matthews studied at Fort Hare. So Fort Hare was associated with our leadership, you know. And around Fort Hare we had Hilltown...there was a school called Hilltown and Lovedale. And we know some of the leaders like Thabo Mbeki...I'm not sure whether he was in Hilltown or at Lovedale...used to study there and I think Govan Mbeki also used to study there. So I was proud to be associated with this institution. Now, in 1980, as I have told you, we were sent home again. I did not write my exams, so I missed about four or five years of study then. And then in 1981, when I'd applied to go back, I got a letter to say my admission is subject to an interview with the Rector of the university.

De Wet, Mr de Wet, I think he's deceased now. Actually the person who came to escort me to his office was a guy who was actually in charge of security. I've just forgotten his name...I think he was Venter, ya. On that particular day I went to de Wet's office...I think it was the last floor in the administration block...then Mr. Venter sat there and de Wet asked me about my involvement at Turfloop. They only became aware after they'd admitted me that I was a trouble-maker at Turfloop. And they made me to sign an undertaking that I will not be a trouble-maker going forward.

Int Is that legal?

LM I don't know. I think they won't have accepted me but I think they were hard up for students. Because some students did not return to the university the following year. And then what then happened...I'm just trying to isolate important moments that I can think of...then I remember there was a day when I was approached at night by...there was a guy called Bheki (Mlangeni)...I've forgotten Bheki's (Mlangeni) surname...but Bheki (Mlangeni) was very much involved with the student organisations...was it SASCO? Was it called SASCO then?

Int I think so, I'm not quite sure. I know SASO...?

LM SASCO then, ya...no but SASCO is a...

Int Congress isn't it?

LM Ya, but it's at high school level. What was it called? I've forgotten, but Bheki (Mlangeni) was an activist, very much involved and there was also...one night he came to my room...Bheki's (Mlangeni) a lawyer who used to work for Cheadle Thompson and he was bombed. There was a letter that was sent to him and he was bombed and he got killed. Badly. He was involved...I've just forgotten which case was he involved in...

Int Dirk Coetzee?

LM The Dirk Coetzee one. He came to my room one evening with Chris Ngcobo. Chris is now the head of the Metro Police in Johannesburg. They came to my room and they said: look, we know that you don't seem to be very much involved in politics, but we know that you're the chairman of ANSOC. We want to have a prayer meeting on the 9th of August. For Women's Day. And we'll be having speakers there. So we wondered whether...our priest in charge there was Reverend Bishop Sobukwe. Bishop Sobukwe is the brother to Robert Sobukwe, but he was very apolitical. You know, it was all about, let's first pray about these things and the rest will go away and you will come right. He was very different from his brother. Now, I had to go and approach Bishop Sobukwe and tell him that there's this prayer meeting. Although they didn't tell me what the nature of the prayer meeting is going to be, I had an idea...I had an idea. And one of the speakers is the former Minister of Safety and

Security, he had just been released from Robben Island, Steve Tshwete. And we also had...there was also one journalist...you remember at that time we had the Workers Right...not what it has become, it was...I think it was the forerunner of MWASA, it was called **WASA** I think, Writers Association of South Africa, but it was Black Consciousness inclined. And then there was also one that followed...that was much more Charterist. You know what Charterist means?

Int Sure, the Charterist movement...

LM The Charterist movement. So one of its leading lights was Mono **Badela**, he was one of the speakers there. Steve Tshwete was one of the speakers. Reverend **Stofile** who was a lecturer then at Fort Hare was also one of the speakers. Whilst Steve Tshwete was addressing the crowd...no, it was a political rally, it wasn't a prayer meeting, it became a rally, I mean, it was an anniversary, I don't know what year anniversary it was of the march, of the Women's March. Whilst we were there and we were sitting in the podium...

Int So it would have been, maybe '81, this...?

LM I think that is '81.

Int The Women's march was '81...

LM Ya, it could be '80, '81. Between '80 and '81. The Ciskei police came. They came, they broke...they came with teargas, they fired us with teargas. Steve Tshwete, I don't know how he did manage to escape, they broke that meeting completely. We went out running. The following...and then Chris (Ngcobo) and Bheki (Mlangeni) were arrested for about three or four weeks. And thereafter, a day or two thereafter I was called by Bishop Sobukwe, to say the police had been to see him, they want to know what happened, how did it come about that this meeting took place, and he told them obviously that I approached him. And he told me that I should expect the Security Police to come and see me. I was very restless obviously. But after a month, Chris (Ngcobo) and Bheki (Mlangeni) were released and they told me that the police were asking me about me and they would be coming to see me. As far as I know, I don't have a criminal record, but in 1980 when we had those mass demonstrations at Fort Hare, we were surrounded by the police and we were arrested, and a court was convened where we were meeting, and all of us got suspended sentences. Later on, ya...and then what happened is that the...I managed to qualify ultimately...or when I came back in 1980 I then converted the BProc to a BA. And then when I...I finished '83 my BA...

Int So you escaped from that...?

LM Ya, I escaped, I never got arrested. I was lucky in that sense. But some people who were very close to me were, as I told you, I was always in the background, but that

did not help me because it seems as if somehow these guys got to know that, you know, there is someone like me and I'm sympathetic. And then in '81...well, I left in '83...ya, and then I had to decide what I was going to do. I wanted to go and do LLB, and I knew my parents did not have money, but my mother always tried and at that time my father was also not working. But somehow my mother just managed to make things happen. When I went to Wits, at that time I think we were still applying for permits. Blacks still had to apply for permits to be allowed to study at Wits.

Int So you went there in 1984/85?

LM Ya. And the people who were at Fort Hare...I don't want to lose that one...and who I only came to realise now, some of them I knew, the former spokesperson of the ANC in the President's Office, Smuts Ngonyama, was there at that time. As I've already told you that the Reverend Stofile was there at that time, he was a lecturer. The current Premier of the Eastern Cape, who is now being removed from a position, was a student at that time. Balindlela, whatever her name is. And then (Vusumsi "Vusi") Pikoli was there at that time...who else...many of them. Many activists were there. And then the Turfloop connections, there was Ngoako Ramatlhodi, who became the Premier of Limpopo. There was Matthews Phosa, there was the Deputy Judge President of the Transvaal now, Phineas Mojapelo. Moroka was at Turfloop at the same time when I was there, but he's not aware of that, but I've told him recently. So, I was there at the time with people who now represent our leadership in all spheres of life...in all spheres of life. Then I went to Wits. Wits was also quite very interesting and I tell people you know what, I've not received education in my life, I've started receiving education at Wits. I started now knowing what is it to be a student, and how a student is expected to interact and to think logically. For the first time I was taught to think in my life. At Fort Hare and Turfloop you just had to regurgitate what you've read. For the first time now I don't get penalised for not regurgitating a text book. I get rewarded for thinking, for expressing independent views as long as they make sense. I then started to say to myself, this should have been my foundation. How can this happen so late in my academic life? But anyway, that was the situation and I enjoyed being at Wits. I wish I could have...I wish, I mean, that just told me what damage Bantu education did to us. And then whilst I was at Wits I got to know about the LRC...or just before I lose this one...the current Judge (John) Hlophe that we are reading about, we were in the same class at Fort Hare, he was very clever, very clever John (Hlophe), and he was very humble and quiet and...I'm surprised that...I'm really worried what I'm reading now about John (Hlophe). But that's by the way. Then when I was at Wits I got to know about the LRC. Some of the people I started with were in my group at Wits...was Patrice Motsepe, you've heard of Patrice Motsepe?

Int Yes.

LM I understand Patrice (Motsepe) is the third richest person in South Africa. No, no he's the richest person in South Africa...no, no, the third richest person. Patrice (Motsepe)...you've heard about the so-called drunk judge? Judge Motata.

Int Yes.

LM We were also with him there, a very nice guy. And others. When I was at Wits I got to know or hear about the LRC because some of the guys that we were at university with, some were...well, there was CALS as you know, and CALS had a lot of dealings and interaction with the LRC. And I'm not sure which year it was...I finished my LLB 1986. Wits at the time was also...I mean, at that time there were very few black students. And it was in the eighties and you know a lot of things were happening in the eighties, so there was also a lot of political activities at Wits. Lots and lots of political activities. I felt that because we're in the minority we could not sustain strikes and boycotts from classes or whatever, so whatever you did there you knew that academic life is going to continue, you are going to have to sit for exams, you know. You're not going to have the luxury of not sitting for exams. So those things...so it was study and political activities that had to be done at the same time. And also at Wits there were many other people who became very important figures in South Africa. Then I got to know about the LRC, and then some of my friends used to do vacation work at the LRC. I think in 1986, I must have done two vacation work stints there. Arthur Chaskalson was still there, Geoff Budlender, Paul Pretorius, Charles Nupen, Mahomed Navsa...

Int Karel Tip...?

LM Karel Tip was there...and I was still a vacation student.

Int Just before we go to that, I was wondering, you were the minority, but what was your relationship with NUSAS at Wits? Were you part of SASO?

LM Was NUSAS still there at the time? In '84?

Int Mmm (nod in the affirmative).

LM Ya, they were still there. No, you still had a NUSAS, there was no...I mean, the relationship was co-operation really. It was just co-operation between NUSAS...now at the time it was...that was the time when the ANC became well known and popular, the ANC became a reality. So even the student organisations that were there were named along the Congress tradition. SASCO for instance, South African Students Congress. So you no longer had your SASO and whatever. SASO was no longer there, because the Congress Movement was beginning to be on their ascendancy, so that...and the Black Consciousness Movements were becoming weaker and weaker and weaker by the day. So it was all ANC then. But there were also the days of the UDF, you know that was also one of the momentous moments...occasions. I mean, the UDF as you know was launched in Mitchells Plain in the Western Cape. So the tradition of the Congress Movement was on the ascendancy then. So it was all ANC and UDF at that time. So NUSAS was there, there was this co-operation between the SRC, NUSAS and the black student organisation, whose name I've now forgotten. So

Wits was also another eye opener. And there were also many leaders, many people who became leaders in government and other strategic positions in the country today.

Int You also mentioned that you knew about the LRC because you were doing LLB at Wits...

LM Ya.

Int But how did you know...did you know through the law clinics that Felicia had set up or was it through some other means?

LM It must have been through the law clinics and CALS. Must have been through, because I was also...when I chose the courses that I had to do I made sure that I choose a course that will also make me to work in the law clinic.

Int Practical legal...?

LM Ya, practical legal, ya, I did that. I think that is how I got to know the LRC.

Int Right. So you started off as a vac student and you did two stints as a vac student?

LM Yes.

Int Could you talk about that, were you at the Hoek Street Clinic with Morris Zimmerman?

LM No, the Hoek Street was before my time. Hoek Street was before my time. I started at Pritchard Street, ya.

Int And did you work with Mr Zimmerman and Pinky Madlala?

LM Mr Zim. I worked with Pinky (Madlala), Mr Zim, Thandi...

Int Orleyn...?

LM Thandi Orleyn. Ellem Francis. Yes, I know all those people, I enjoyed working with them. I don't know where you want me to start now.

Int Let me ask about your experience as a vac student...?

LM As a vac student. I must say even at that stage I became very privileged to be associated with that organisation. And I told myself that this is what I wanted to do. This is why...this is what I wanted...when I decided to become a lawyer, I wanted to be associated with something like this. I'd never seen myself...I'd never dreamt of ever becoming in private practice. That is not what I really wanted to do. But I'll tell you how I found myself to be in private practice. I wanted to do the type of work that is being done at the LRC.

Int Public interest?

LM Public interest law and I just wanted to get a salary. That is how I was, I mean, I was not materialistic. If there's any thing that's called socialism, I think that is what I was, as a person. As a person I just...and I was also involved in the church and my politics...my politics and my...politics and the church influence told me that this is the way to go. The way to lead is just being simple and be caring and be do-gooder to those who cannot afford. That is what I believed I should be doing. So, I was very privileged...I don't think if I had not gone to the LR...if I'd not gone to the LRC I don't think I would be sitting here.

Int Really?

LM No, I wouldn't be. Because as you know, we are very limited in our education. I went to Wits very late. Just to write a simple letter, you know, even just take a pen and just write. You know, just take a pen and say, now I'm a lawyer and use all this legalese, you know...we were taught how to write a simple letter, just simple things that you take for granted. How to consult with clients. How to do things properly. It was another school. I mean, they did things completely different. You would be sitting in an office trying to write the letter, whilst you are sitting there, there will be Mohammed Navsa who comes and stands behind you and you become very, very nervous, and he was very...the environment was ok, but they expected us to do the best. You know, it was a very liberal institution, LRC, but when it came to doing well they expected us to really pull our socks and they did not nurse us, they wanted the best out of us, and they made sure that we become the best. It was good to work with people like Arthur Chaskalson, you know, a person that you know that if a person who is a renowned lawyer, very intelligent, a good leader in his own right, and I used to ask myself, this man is amazing, this man could be making millions, he decided to come to the LRC and set this thing up, and do whatever...I mean, it's not as if we did not have our issues as black students, as black young aspiring black lawyers. We felt some other things could be done better and there was always the suspicions about this and that and that. But there was always **inaudible** about things, but I think at the end of the day no-one did anything with any malicious intent, and at times we would see racism where racism doesn't exist. You know, that was South Africa for you, you know, not that the people were bad. The people I think were very good to us and they taught us, they wanted us to learn. I think you've heard about the cases that the LRC was involved in?

Int But I would like to hear from you. When you arrived it was really on the cusp of when the Rikhoto and the Komani cases had gone through in terms of pass laws, so you're dealing with Section 10...?

LM Those were some of the things that attracted me to the LRC, because when Rikhoto happened I was not yet employed at the LRC. But those were the things that made me to say this is an institution that I want to be associated with. And I mean it's funny now that...not funny...it's actually ironical, that the person who actually was the instructing attorney in Rikhoto, has now become a renowned labour lawyer, Charles Nupen. You know, which has nothing to do with the kind of work...I mean, Rikhoto has got nothing to do with labour law. But...I can't think of my own experiences of the work that I did, I mean, its many years ago. I mean, I was there now '86...I was there in...then I became a fellow, when I finished at Wits...

Int So in 1987 you were a Fellow?

LM I became a Fellow in 1987, and I shared a...I met and I shared an office with Dunstan Mlambo. We became very good friends and we still are. Dunstan (Mlambo)...I came from Wits, he didn't have an LLB, and he was younger than me, although at that time I pretended that we were of the same age, you know, he looks older than I am, I think you've met him. He wasn't even aware then, he only became aware three or four years ago. Mahomed Navsa loved him because he was a very good lawyer. And notwithstanding the fact that Dunstan (Mlambo) did not have an LLB...his letters, his letters, I mean, were far better than mine and he...he wrote a legal letter, but I knew what the trick was. The trick is that after he had finished his BProc, he then went to work for the State Attorneys Office in one of the homelands. And that was the time when I was being supervised by Thandi (Orleyn)...Dunstan (Mlambo) and I were supervised by Thandi (Orleyn), and we were in what was called the legal...the advice office. Dunstan (Mlambo), we had labour law people and we also had people who were doing consumer law, and we...where I was when I started, we were in the legal advice office and we used to go out...

Int To the advice centres?

LM ...to the advice centres, you know. But after some time there was a rotation, I went to the labour department and I still do labour law now. Ya, still labour law. I went to the labour department and we went to do these cases with all these good lawyers, you know, who really shaped and assisted us to be what we have now become. That was '87. I did my fellowship in '87. And one of the highlights of being at the LRC was the privilege that was accorded to us to attend national conferences...

Int The AGM?

LM The AGM, ya. At the AGMs we would meet these other people from other offices, you know...people like...I've forgotten his first name, Lyster...

Int Richard Lyster?

LM Richard Lyster.

Int What about Steve Kahanovitz?

LM Steve (Kahanovitz). I used to work very closely with Steve. Steve, Mahendra Chetty, Chris Nicholson who's now a judge, somebody Myers, who's now in the Eastern Cape...is it Eastern Cape or whatever, I don't know where he is now. That was your '87. Now you remember...when...to do a fellowship, it meant that you have taken a decision, it is a choice that you had to make, because at that time fellowship did not count towards your articles. But it's something that I feel I had to do and I wanted to do. And if I hadn't done fellowship I don't think I would have cracked it in articles. I wouldn't have.

Int Why do you say that, Lavery?

LM No, that 1987 was a very good year, it's a year that I will not forget in my life. I think it was a turning point in my life...you know, we were taught **?inaudible** at school and it built me as a person, as a human being, as a lawyer, and if I hadn't gone to the LRC that year, I don't know where would I have been now. I don't think I would have been anything in life. That year actually made me what I am. If I hadn't been there I wouldn't be what...in all respects we were taught to be professionals, you know, do your work properly, be a professional, be ethical, try to embrace what the LRC stands for, even after you leave the LRC. So that year was very critical in my life. And then, the time came when one had to decide, I now have to go...time is...my stay at the LRC is coming to an end, I need to do articles now. I've got to apply for articles. And articles were very scarce, very, very scarce. And I didn't even know where I would go. Dunstan (Mlambo) got his articles at Bowman Gilfillan, a big firm. I then applied at Bell Dewar & Hall. I managed to impress them at my...at the...during my interview. I'm a shy person and then I was even smaller than I am now. And I'm told that it was one of the best interviews that they had. I mean, the senior partner said, when he was talking to other people, that he met a very solid young man, he made a very great impression on us. And it was all because of the LRC. And it is a pity that many people have not had that experience of being at the LRC. Then of course I did my articles in with Bell Dewar...

Int Were you there with Mpueleng Poee?

LM I met him there. He's younger than I am. (Mpueleng) Poee. I met (Mpueleng) Poee...

Int He was also from the LRC...

LM ...so impressive, but when I was at the LRC he wasn't there, he had already left. I met him there, actually the senior partner called him and he told him about me. And there

I met (Mpueleng) Pooe. You know, at the LRC we were taught how to write and how to draft, so when we write a letter you don't take it for granted, that one day I just made sure that I get to see some of (Mpueleng) Pooe's letters. Now that I'm in a law firm, is there any difference to how I was taught to write a letter at the LRC and what they're doing now? I read his letter and I said, you know what, this is a letter of a person who was trained at the LRC. I've got no doubt. Then I compared this letter with other people, his letter with other people, then I could see that you know what, there's a difference here. This is an LRC trained person. Ya, then I...and he became a partner at the LRC. Then I was...then I served my articles, I finished my articles...

Int ...at Bell Dewar & Hall?

LM Yes. I finished my articles at Bell Dewar & Hall. Then I became, you know in these big white firms, you'll understand that a person of my background, and especially having been from the LRC, the only law that I know at the time, or that I've practised, is public interest. So as time when on I found myself in the public interest law department and where I was doing work almost similar to what I was doing at the LRC. And then, one day, I don't know which year it was in my articles, there was a week or two weeks where I actually did not have any work to do. Then one of the partners who was doing labour work came to me and he told me that, look you've been sitting here for, I've been watching you, you don't seem to have work, are you interested in doing labour law? Then I started getting involved in labour law work until today. What then happened is that in 1991 I was admitted as an attorney, Bell Dewar offered me a position as a professional assistant. I stayed at Bell Dewar for two years. But then, that must have been 1992, 1993. Our public interest law department was getting into trouble because we no longer...the work that I was doing was funded by overseas organisations and whatever. So funds were drying up and so the department of us got into serious trouble to the extent that they had to retrench and I was one of those who were retrenched because we no longer had work, the other departments were fully staffed, so most of the people who were in the department were retrenched. Then I went to the LRC for two years.

Int Oh right, so you went back there as an attorney?

LM I went back to the LRC, ya.

Int That's interesting...

LM Yes, I went back to the LRC.

Int So you were there in '94/'95?

LM Yes, I was there '92, '93, '94. When I came there at the LRC, George Bizos had already joined the LRC. Mr Zim was also there, Mahomed Navsa was there. Yes, Thandi (Orleyn) was there.

- Int Arthur Chaskalson was about to leave or was not around very much?
- LM I think Arthur (Chaskalson) was not around, I think Geoff (Budlender) was now the regional director. Ya, I think Geoff (Budlender) was the regional director but Arthur (Chaskalson) still became a trustee. Ya, then I worked for those two years, and I still wanted to stay. What happened is that Dunstan (Mlambo) then left Bowman Gilfillan and set up his own firm. Then he started phoning me, man, he started phoning me. He really started phoning me to say he wants me to join him. He started putting me under pressure and then put me under a lot of...he really demanded...I was no longer looking forward to receiving his calls because he was putting me under pressure and I didn't want to leave the LRC, and if I was to resign what was I going to tell Thandi (Orleyn) and George (Bizos) and whoever? But eventually I relented, then I joined Dunstan (Mlambo) towards the end of 1994, and then we had a firm called Mlambo Modise. And...ya...Mlambo Modise...Dunstan (Mlambo) was with me until 1998. He then left me, he went to the Bar. And then late in 1998 I came here.
- Int Right. So when you came here it was known as Routledge McCallum?
- LM Ya, there was a firm...at that time they...I mean, this firm has traded under so many different names. There was Routledge McCallum and the McCallum part of Routledges was based in Cape Town, they were based in Cape Town. But that partnership is no longer there. That association is no longer there. So then it was called Routledges when I joined. And then as time went on it became Routledge Modise. So when I joined this firm there were only six partners, I became the seventh partner. But now I think there are about over a hundred or...well, partners I think we're about just under fifty, ya.
- Int When you joined this firm, in terms of black lawyers, or partners, were you the only one?
- LM I became the first black partner here. I became the first black partner here, ya...I became...well, during my stint here at Routledges, what also happened is that I had an opportunity also to act as a judge in the Labour Court. But it's all because of LRC. I mean, if you look back and try to trace where people...people who started in the LRC, where they are now, you'll see that they've done well, that they've really gone to the to of the legal profession. So that says a lot about the LRC.
- Int Yes. When you went back to the LRC for those two years, what sort of lawyering did you do? Were there areas of specialisation?
- LM I think I was doing mostly...I did labour law, I also did simple work. Simple work claims against the Minister of Police for damages suffered by individuals who were mostly assaulted in detention and whatever.

- Int So that was probably the apartheid regime that you were...?
- LM It was still...ya, ya. Because remember I started in '92. And I left in '94. Ya, it was still under the apartheid days, ya.
- Int And then... the LRC as you've mentioned the same problem with Bell Dewar...once transition started happening, funding started drying up, and so the LRC is now in the situation where it often says that it's unable to attract young lawyers, particularly young black lawyers, because...they're snapped up by the corporate firms who can pay them so much more. Do you think that's really the case or...?
- LM We also have...we have that kind of problem too here.
- Int Really?
- LM Ya, they will come and serve articles, once they finish their articles they get snapped up by the corporates who pay them what we can't afford to pay them. Ya. And the LRC has to continue, the legacy of the LRC should continue, the LRC should continue to be there, it has got a role to play. You can't leave everything in the hands of politicians. The LRC has still a role to play in the democratic South Africa.
- Int Speaking of which, not being able to leave everything in the hands of politicians, during apartheid the LRC had a very clear focus...the enemy was the apartheid state and it could bring cases, but now with an ANC led government the lines have become a bit blurred...hat do you think are the kind of causes of concern, particularly the current context where the Constitutional Court is under attack, the judiciary is under attack, what do you think in terms of rule of law and the respect for the rule of law?
- LM Look there will always be att...there will always...as one grows and...we were naïve then, you know, we were really naïve young militants and believed that if we're going to get a democratic government in place there'll be no tension between the different organs of state, the judiciary, you know, the executive and the legislature. But politicians will always have problem with the courts, especially if they're very independent. They won't have problems with them if they are subservient. But now, that's where the role of...that is where the LRC, organisations like the LRC have a role to play. I mean, this separation of powers are not there by mistake. Power is something that is easily abused in the hands of any individual. No matter who that person is. So you need these checks and balances, and an institution that is better placed to play that role is the judiciary. And there is now fairly great tension, and some of us are very much worried. Especially after Polokwane. The Zuma case is not making things easier. The politicians are beginning to say...are trying to dictate how this matter should be handled. There is no doubt about it. The Constitutional Court has made some decisions which I don't think have pleased government. But the government has been able to live with that. But I think this Hlophe thing is very worrisome. My own view is that the Constitutional Court judges made a mistake by first going public when there was actually no complaint. It was all of us thought there

was a complaint. But when we realised that they just went public...maybe they could have gone public, there is still a debate, I'm still not sure whether...I'm still not sure in my mind whether I support the idea that they went public about the matter. That is apart from the fact that they had not even lodged the complaint. But once they have lodged the complaint I just think they should...well they've lodged the complaint now. My only concern about what they've done is that they shouldn't have gone public before lodging the complaint. Now, it's very interesting that the cause of this problem centres around (Jacob) Zuma. You know, I'm not sure whether this is a...I'm not sure whether it's a coincidence that Judge (John) Hlophe became interested in the (Jacob) Zuma case. I mean, I've been reading, I've read his affidavit. I don't know why he particular have interest in it, and why didn't he mention any other cases that were in the respecting judges. You know, I don't know. But as a lawyer, I ask my question, I have to ask the question, why did his eye necessarily catch those...the files that were in the two judge's offices and they happened to be cases that were with the Zuma matter? Now, I think that the judiciary should stand firm. It should ascend its authority but they must also be very careful how they handle things because they cannot allow to open themselves to attacks which they could have avoided. The judiciary should try to maintain its integrity and even...and it can only maintain its integrity if they behave or they behave themselves. Because immediately the fight...if there's a fight within the judiciary, then they're going to open themselves to some justified criticism.

Int What do you think an organisation such as the LRC, which is a public interest law organisation...if there are concerns about rule of law and the respect of law especially from government, how then does a public interest law organisation, which has to take action against government in certain departments, how does it then function effectively? What's your sense of it?

LM No, there...I mean, there's still socio-economic rights of the people. Housing, people still have problems in claiming for their pension, claiming their pensions. There's unemployment, I'm not sure how much the LRC can contribute to unemployment, but at least many socio-economic rights, which in terms of the Constitution have not been provided to the extent that they should have been, at least now, in our democracy, we don't expect things to happen quick-quick, we know that it takes time and then there's the legacy of apartheid, and there's lots and lots of backlogs, you know. While you're saying this **inaudible** in the background of acknowledging that the government has done very well. They have done very well within the time that they've been in power. But there have been areas that have been utterly and utterly disappointing, which could have been handled better. Ya. So there is still room for an LRC here. You still have many poor people whose rights can only be asserted by organisations like the LRC. Many, many poor people can't afford to go to assert their rights because they don't have money to pay lawyers. So that is where an organisation like the LRC comes in.

Int Lavery...earlier you mentioned that you really didn't want to leave the LRC and it was...because of Dunstan (Mlambo) and the idea of going into private practice, but you really wanted to do public interest law. What was it really that motivated you to leave?

- LM You know, I felt that the work that I was doing was making a difference in people's lives. It was making, you know after you've been to an advice centre and we'd been able to help a person to recover his leave pay or whatever, you leave that place being fulfilled, that you know what, I've been able to add...I've added some value in a person's life. And for as long as we've got these problems, we won't have a happy society. And they say the poor will always be there, I'm not sure about that, but with our history of apartheid, there's still a lot of work to be done to help people, especially the rural areas.
- Int Right. I've asked you a range of questions and I'm aware that you do need to go to another appointment. I'm wondering whether there's something that I've neglected to ask you that you feel ought to be included as part of your LRC Oral History interview?
- LM How is the LRC doing now? What's happening? I know that funding has been a problem, I know some stuff has been late. What's happening? Where's the LRC now? Do they still have...I know Pretoria office is no longer there. Which other offices have been closed?
- Int Port Elizabeth (PE).
- LM PE is no longer there? So there is no longer an office in the Eastern Cape?
- Int There's Grahamstown.
- LM Oh, Grahamstown is still there. And what is actually the problem...they're also no longer getting as much funds as they used to from abroad.
- Int Well, it's very difficult. Funding, especially when countries undergo transition. The fact that you're asking me these questions is very important, because it seems that in terms of being in touch...people have not...kept in touch with the LRC, as such?
- LM Ya, ya. You know what, I think as a person who's been at the LRC, those of us who have had the opportunity or the privilege of being at the LRC, have got to start ploughing back. Start ploughing back in assisting the LRC to survive, use our contacts, talk to business, talk to the law firms that are there to make whatever contributions that they can make. Even as an individual we should also try to contribute as much as we can. Because most of us wouldn't be where we are. Including myself.
- Int I was wondering whether we could end the interview by...if you could share a memory or memories of your time at the LRC, whether it's with a client or an advice centre or with a particular lawyer, something that you treasure, that you might have valued..?

LM I remember going to...there was the Delmas Trial...

Int Yes, you were going to talk about it...

LM Ya, Arthur Chaskalson was involved in the Delmas Trial...

Int Peter Harris...?

LM Peter Harris was involved, as well as George Bizos. I know that was not typical LRC work.

Int This is when you were a Fellow, 1987?

LM 1987?

Int Or was it when you were an attorney?

LM No, I was an attorney...I attended an application for the recusal of the judge who was hearing that matter, and that application was being argued by Arthur Chaskalson. He was there addressing the judge, a very difficult judge who was giving him problems, who was very aggressive towards him. He stood there...he stood there, very calm, and I was listening to him, you know in his manner, and I sat there and I said, you know what, I am very proud to be associated with an institution that this man headed. Even the way he was making his presentation, and I said, you know, this is the style I want to emulate when I'm in practice. To be able not to allow myself to stoop to the level of the judge even when he's nasty to me, but to present my client...represent my client effectively and to the best of my ability. But the other moment that I remember, I think it was the Maryville case, in front of Judge (Richard) Goldstone, it was also argued by Arthur Chaskalson, then our courts didn't know anything about labour law. Labour law was a new thing.

Int And you were at the LRC at the time...?

LM I don't know whether I was at the LRC, but I had this tendency of attending court, you know, when I know that there's an important case coming, an interesting case, you know. And you know, the Maryville case was quite **?inaudible** case in terms of labour rights. Judge (Richard) Goldstone who was one of the best judges that we've had, and very clever and capable judge...(Arthur) Chaskalson was presenting this area of law that he doesn't know, but (Richard) Goldstone had the patience and the humility of being prepared to be educated. And I mean, Arthur (Chaskalson) was presenting this case to him, and that case also was a turning point in terms of labour rights to employees. So the LRC has contributed a lot in the lives of many millions of people. And it is something that we should not allow to just disappear.

- Int Lavery....given that you've shared your history with me, your personal history, it's a remarkable journey, because you're now, you know, a partner in one of the leading law firms in the country, and I think has an international reputation as well, and your name is there.. How do you feel reflecting on your life? What's your sense of all this in terms of achievement and...? You have to pinch yourself...
- LM Ya, you know, I...but I still say I owe all this to the LRC. I don't know, maybe I'm exaggerating this thing, I just think I had a good foundation. And good foundation, I mean, from the time that I started at Wits, and I was fortunate enough to be introduced to the LRC, you know. I was very fortunate.
- Int Are you a lucky man? (laughs)
- LM I'm lucky. I'm lucky. I was lucky in that sense. And I've seen the guys who've been there at the LRC, the black guys who've been there...they're good lawyers. They are good lawyers. I don't say there are no other good lawyers but they are good lawyers. Especially who were there during my time.
- Int Well, I wanted to really thank you for your time and your generosity in sharing all of the background, and a very interesting...
- LM I know I was rambling, I'm sorry...
- Int Not at all, not at all.
- LM I was rambling there, I mean, maybe if I was asked to prepare myself I could have been much more articulate than I have been.
- Int I beg to differ. I think it was a very wonderful interview and very thoughtful as well. Thank you very much.
- LM Ok, thank you very much.

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