

**Jason Brickhill     Constitutional Court Oral History Project**

**26<sup>th</sup> January 2012**

Int     This is an interview with Jason Brickhill and it's the 26<sup>th</sup> of January 2012. Jason, thank you so much for agreeing to participate in the Constitutional Court Oral History Project, we really appreciate it.

JB     Pleasure.

Int     I wondered if we could start talking about early childhood memories, what your experiences were growing up where you did, a bit about family background, and what were some of the formative influences that may have led you to choose a legal trajectory?

JB     Okay. So I was actually born in Zimbabwe to one South African parent and a Zimbabwean parent. My mother is South African and my father is Zimbabwean. And both of them had activist political backgrounds. They were both members of liberation movements. My mother, here in South Africa, was a member of MK, and my father was a member of ZIPRA (Zimbabwe People's Revolutionary Army) in Zimbabwe. And so we were living in Zimbabwe at the time, newly independent Zimbabwe. I was born a year after independence. I'm named after JZ Moyo, Jason Moyo, who was a ZAPU (Zimbabwe African People's Union) leader who died around that time. And we were living there because obviously South Africa wasn't an option at that stage.

Int     Was your mom in exile?

JB     Ja. My mom had been in Lusaka in exile and then was stationed in Zimbabwe. And, I suppose the major turning point in all our lives was 1987, when I was in grade one. I was in my first year at school, and there was an attempt on my parents' lives, using a car bomb in Harare, carried out by agents of the South Africa regime. My parents survived but we all ran off to England for four years, partly for my father to get medical treatment, but also just to be away. The people implicated in that attack were arrested and they ended up spending twenty years in a Zimbabwean prison, which is probably not something one would wish on anyone. They got released in 2007. One of them has now written a book. But I think, in terms of life changing moments, that was pretty much it. Ja, so we moved to England for four years but we then came back to Zimbabwe, and I continued my schooling and childhood there, up the end of school. But I think it's from my parents that I then obviously get a sense of social justice and a sense that there are some things in life that you have to fight for. Neither of them are lawyers though. And so, in that respect I'm very different.

- Int At what point did you come back to South Africa...?
- JB I came to South Africa on my own, when I finished school, to study, and to study law. At that time all of my family were still in Zimbabwe. I travelled on my own. I didn't really know anyone yet; a few family friends and so on. I travelled to Cape Town to study at UCT.
- Int Right. In terms of having activist parents and in terms of...political discourses, meeting people from the liberation movement, etc, what are your memories of making sense of what was going on at the time...?
- JB I think from a very young age, I had a sense of who the people were, our family friends were. I had a sense of my parents' political beliefs. The house was always full of political biographies and that sort of thing and from an early age I think I was already reading those. So they had me well indoctrinated already quite young. I mean, family friends included people...in England Trevor Huddleston played quite a part in our arrival in England and finding a safe place for us. People like Ronnie Kasrils, who, he played a role in recruiting my parents and he was always someone, and is still someone that we're in touch with. And various other people like that, Aziz Pahad, those sorts of people. And I think I was always part of the discussions with those family friends around the table, even as a child. And I developed an interest in politics and current affairs, I would say as a teenager.
- Int In terms of curiosity about South Africa, given that one of your parents is South African, what was your curiosity, and when you arrived did it somehow live up to your expectations...?
- JB Ja, it's a...I suppose I had different perspectives on South Africa. The one was living in England from the age of about seven to eleven. We were seeing major events like the release of Nelson Mandela on television and relating to them almost through English eyes, living as part of English society. But as a Zimbabwean the dynamic is different. And Zimbabwe has an attitude to South Africa that's a little bit more ambiguous, about South Africa being a big brother, a little bit of a bully, a little bit arrogant towards Zimbabwe. And the Zimbabwean attitude has its own arrogance. It's about better education system, at that stage. You know, "we're a democratic country functioning properly". So, you know, I think all of that fed into it a little bit. And there's this resistance in Zimbabwe to being seen as just a province of South Africa, so a bit of a competitiveness.
- Int I also wondered when you got to UCT, had you decided immediately that you wanted to do law and where did that interest emerge?

- JB Ja, I had decided already. There were two options for me, the one was law and the other was languages. Languages were my great love at school, and all of my school leaving subjects were languages. So the choice was really either to pursue languages and a career as an interpreter, or something like that, or law seemed an obvious option also. And I think what drew me to the law was partly the intellectual challenge but also the sense that it's more of a political activity and exercise.
- Int Interesting. Did you get a sense, while you were studying law at UCT at the time that you did, that law could be used as an instrument of social justice?
- JB Yes, I think...I mean, I think I...I think I accepted that even before I started law. So I think that was...and in a sense my training in law pushed back against that sense that law can be used to pursue justice. UCT (University of Cape Town) is a fairly progressive faculty (reference to law faculty) in that regard, but there's still a sense that law is a system of rules and it's ultimately a conservative system of rules.
- Int I also wondered, in terms of constitutionalism, at what period did you enter university and what were the key debates ranging at the time?
- JB I started university in 2000. So the first few socio-economic rights decisions had already come down, *Grootboom (Government of the Republic of South Africa and Others v Grootboom and Others)*, *Soobramoney ((Soobramoney v Minister of Health (Kwa-Zulu-Natal))*, and those were very fresh I think as we were studying. *Makwanyane (S v Makwanyane and Another)* had already settled a little bit by then, and the earlier cases. I remember cases like *Prince(Prince v President of the Law Society of the Cape of Good Hope and Others)* being quite topical at that time, cases like *Laugh It Off (Laugh it Off Promotions CC v South African Breweries International (Finance) BV t/a Sabmark International and Another)* case about the t-shirt.
- Int And then in terms of your observations of the Court, had you at some point in your law degree, decided that this is where you're going to clerk? How did that come about...that process?
- JB I think I probably...constitutional law immediately emerged as my favourite subject, I would say.
- Int This was at UCT (University of Cape Town)?
- JB Ja. So I think I'd already decided that this was the area of the law I wanted to work in, and I probably learnt about the possibility of clerking in my

penultimate year. And at that stage, the class is sort of clamouring to apply to all the different law firms and there's quite an anxiety that builds up in the class. And I was clear that clerking at the Court would be my number one prospect. I did also apply for articles, but I was clear that that was what I wanted to do.

Int And then in terms of clerking at the Court, how did that process work in terms of the interviews, the judges, did you choose a judge, or did you have a pool who interviewed you?

JB So, I applied generally to all the judges and I since have better insight into the process. I know that they shortlist and identify and so on. And I also knew from people the year ahead of me that they'd had two or three interviews and so on, and there was obviously the feeling that that would increase your chances. I only got a single interview, which was with Judge (Kate) O'Regan. I later learned that she was also interviewing on behalf of three other judges. So it wasn't quite as dire as it felt at the time, but I suppose I was fairly nervous about it. And in terms of the interview itself, I'd read her judgments and I had a sense of who she was on the Court and her key interests, so I tried to prepare myself by thinking about those things, judgments that she might ask me about. But the interview itself was something completely different. She sat me down. All she really wanted to know was who I am, what my personal interests are, what my activities had been at UCT (University of Cape Town). I think it was quite...things like involvement in legal aid clinics and that sort of thing, seemed to be important to her. But we didn't talk about the law at all in the interview. We sat around a coffee table and drank tea. It was very disarming! Quite unsettling.

Int In terms of the year at the Court, I wondered whether you could talk a bit about the year at the Court, your relationships with other law clerks, the dynamics what the dynamics of that particular grouping was?

JB Ja, so, I think one of the highlights for me of clerking was the relationships that I built with the other clerks, and the interactions. A lot of my fellow clerks, I would say about seven or eight, are still close friends. We go to each other's weddings and spend a lot of time together. My year included people like Kate Hofmeyr, Adrian Friedman and Anshal Bodasing – the two of them are now married, Isabel Goodman, Amelia Vukeya, Andreas Coutsooudis, Khanya Jele, all of those people were co-clerks and also friends, and are still friends. In terms of the dynamics, it's a complicated collection of people and a lot of people come into the Court with all sorts of success behind them, and there are a lot of large egos and there's a sense of competitiveness also. People competing for the attention of their own judge, competing to impress other judges, competing to outperform the other clerks. So there's a competitive dynamic. But there's also a supportive one. So we would often...you know, if you run into sticky issues you would debate them with other people, and a lot



of my time, I remember, was spent trying to work out solutions to problems, or answers to problems, with my fellow clerks. We socialised a lot together, we used to go out for big dinners, twenty of us, in Melville or wherever. The other thing that we introduced in that year was soccer within the Court community, and that is something that I really love, so we got all sorts of people from the Court involved, from the security guards, people like Jeffrey (Makamu) and Godfrey (Disemelo) who are still at the Court, were key to setting up the teams. And we had teams involving people from the security, the clerks, and the cleaners and so on. And we had big soccer days. We'd invite the judges to come and support.

Int Did they come?

JB Kate O'Regan and Pius Langa both came. Ja, that was a lot of fun and I think it helped build a bit of a sense of family and community.

Int In terms of working for Kate O'Regan, what was the work ethos, what was the nature of the chambers, in terms of judgments, what were the discussions that you recall?

JB So, Kate O'Regan is both...was both entirely independent and capable of operating without clerks, but also a very good trainer and always careful to include us in every matter. So, this meant that we had to move very quickly otherwise we'd get left behind by her. She could produce a draft judgment in a day. And if you hadn't read the papers you wouldn't be able to talk about it. But the way she would typically work was that there were two clerks and we would allocate cases between the two of us so that one of us would be primarily responsible for each case. We were both expected still to read everything. And we would have tea, a couple of times a week, to discuss the upcoming cases and the pending judgments. And I always did get the sense that she took our views seriously, and I think there were a few occasions when we were able to persuade her of a position or a point. I remember in particular my co-clerk, Amelia Vukeya, and Kate (O'Regan) asking her about polygamous marriage in the context of the *Bhe (Bhe and Others v Magistrate)* case, and Amelia is a child from a polygamous marriage. Her mother is one of several wives of her father. And I remember Kate (O'Regan) taking very seriously what Amelia had to say about her own experience, and I could see that that was making an impression, and I think it came through in Kate's (O'Regan's) approach to the judgment ultimately.

Int During that year, in terms of a key judgment, something that may have had quite an impact on you, I wondered whether you could talk about that?

JB I think apart from *Bhe (Bhe and Others v Magistrate)*, which I mentioned, which was something that really grabbed me, the *Metrorail (Rail Commuters*

*Action Group v Transnet Ltd t/a Metrorail*) case was argued and decided while I was there, and Kate O'Regan wrote the judgment, so we were heavily involved in working on that judgment. And I think for me what was exciting about the case was that it was a real triumph of a basic principle of justice over technical point taking, detail and volume of paper. Because the approach of Metrorail (*Rail Commuters Action Group v Transnet Ltd t/a Metrorail*) in...the case was about security on trains, and the approach of Metrorail (*Rail Commuters Action Group v Transnet Ltd t/a Metrorail*) was that in this twenty thousand page record there are simply too many disputes of fact to decide the factual questions necessary to impose a duty on Metrorail to protect rail commuters on trains. And Kate O'Regan was able to cut through all of that, find that it was accepted on the facts that there was a problem of crime on the trains, and really beyond that, you don't need to measure the scale of the problem or the details of it. Once there is that problem and once there's a statutory grounding for a duty to provide security, that's the answer to the matter. So, ja, I mean, it was both a really fascinating judgment but also I was really pleased with the outcome.

Int I also wondered, Jason, in terms of going forward, your experience at the Constitutional Court, how do you think that may have somehow come to bear on other things that you did subsequently?

JB I think sitting and clerking in the Court and sitting in hearings, I became convinced that what I wanted to do was what the advocates arguing the cases were doing. And I thought there could be nothing more exciting. So, you know, that became my, I suppose, my goal. I think clerking at the Court also obviously provides opportunities, so I went from there to do articles, and by a roundabout route, I am now an advocate practising, and I think I'm following through on what I felt then was what I would like to be doing.

Int I'm curious though, if you had wanted to be an advocate but you took the attorney route initially, I wondered how that came about, and what were the reasons for that decision?

JB That was mainly the result of Kate O'Regan's advice. I was still fairly confused halfway through. I'd had offers from law firms the previous year when I was in final year, and those were still sort of live offers. But I was confused while I was clerking about what to do next, whether...I had thought of trying to do my Masters, articles was an option, or going to the Bar. And Kate O'Regan's very clear advice was that she thought it would be best for me to go and do my articles, experience life as an attorney, understand how the profession works as a whole, build experience. I think it really was good advice, and I don't feel like that was time wasted or anything. I really learnt a lot as a candidate attorney and then as an attorney. And I think it's made me a better advocate for it.

- Int I also wondered, you have developed an interest in public interest law, and did that come about as a consequence of being at the Court do you think, and the cases that came here, or was that something that had been quite early on during law school?
- JB I think, in truth, it was probably even earlier than law school. I think my sense of the law was always as a tool for social justice. And I'd never seen it as something that just neutrally plays out in society. I think it's something that can and must be used to achieve correct outcomes, and just outcomes. I think studying and then clerking just gave me more insight into how that can be done and the technical side of public interest litigation, as well as all of the other dynamics around profiling of cases and clients and those sorts of things. So I think I began then to learn the craft, but the intuition about what the law should do was already there.
- Int Jason, I wondered if you could talk about the cases you've appeared in...you don't have to talk about all of them but the ones that you feel have been quite important in some way, before the Constitutional Court, both as an attorney and as an advocate?
- JB So as an attorney, I think the one that probably stands out is the *Independent Newspapers (Independent Newspapers (Pty) Ltd v Minister for Intelligence Services and Another)* case. I was doing, at the time, quite a lot of work for the Minister of Intelligence, and the case was about whether classified documents are presumptively available to the public or not. And we were acting for the Minister of Intelligence; on the other side was a media group, and it was about trying to develop the legal test for access to these documents in court proceedings. We were obviously pressing for a more restrictive approach, and an approach that was more restrictive of freedom of expression. But I believed then, and I still believe now, that there's a legitimate place for security services in society and for intelligence in particular, and that it just needs to be handled appropriately; the institutions and the laws need to be designed appropriately. So, ja, I think ultimately the judgment in the case was a sort of balancing test that balanced both sets of interest - interests in openness and exposure and the legitimate interests in intelligence services in keeping things like the names of agents secret. So, ja, that was a fascinating case on all sorts of levels and ja, I enjoyed the whole experience of it, I think.
- Int In terms of socio-economic rights, there are key debates that the Constitutional Court hasn't done enough to satisfy socio-economic rights, I wondered what you thought about that argument and the criticism of the Court?

JB I think...I mean, there's criticism on a number of different levels, so there's academic criticism by people like Jackie Dugard and others. There's also media criticism and political criticism, the likes of MP Ramatlhodi and others have expressed political views about the failure of the Court to contribute to transformation. I think a lot of the criticism is superficial and pitched at too high a level to really mean anything. I think often the criticism comes from people who haven't even read the judgments, including often legal commentators or media commentators. I think the academic discourse is important, because it pushes the boundaries of what the Court considers possible, what we as a legal community consider possible, so I think some of the academic commentators have made valuable contributions. I may agree with them sometimes and on other occasions not. I think it's an important debate. Overall I don't think it's a fair criticism to say that the Court has failed to promote transformation or to deliver on socio-economic rights. The Court has pushed further than most constitutional courts around the world and it can only decide the cases that come before it. I mean, some people for example say, why haven't there been more education cases? That's not the fault of the Court.

Int Sure. In terms of your role as a public interest lawyer, and working for the LRC (Legal Resources Centre), how do you feel...do you feel that there's an engagement between the Court and the legal world in terms of socio-economic rights?

JB I think what's...one thing that's a little unfortunate is a trend that has developed in the Court, and it seems to be as strong as almost a rule, that the Court doesn't engage with academic authorities in its judgments. If they have been read, they're not often referred to. And I think in the first ten years of the Court, you would see much more engagement with the academic authorities. Cases like FNB (*First National Bank of South Africa v Land and Agricultural Bank of South Africa and Others*; *Sheard v Land and Agricultural Bank of South Africa and Another*), the landmark property case, talked about what every major commentator had said about section 25 of the Constitution, discussed all the possible theories and options, disagreed with all of them and adopted a different approach. But there was a real, rich engagement. And these days the Court no longer does that. I'm not entirely sure what the reasons for it are, but it does seem almost to be at the level of policy, and that the Court's judgments only refer to case law and references to the record and so on, but not to academic authority.

Int I mean, in your estimation, given the huge social issues facing South Africa, do you think that judgments have accurately in some ways, taken social conditions into account?

JB I think by and large, yes. I mean, certainly rhetorically there's always a strong emphasis on the actual social conditions in the country. Cases ultimately

though are often judged by outcome, and maybe that's not always right. There's been a lot of criticism of *Mazibuko* (*Mazibuko and Others v City of Johannesburg and Others*), which was actually Kate O'Regan's final, 'swansong' judgment. And I do disagree with aspects of the legal reasoning in it, but I don't think it represents some sort of failure to have eyes open to the social context. Ja, I think by and large the Court has demonstrated a sensitivity. I mean, I suppose my perception, and it's really more intuitive than anything else, is that members of the Court are fairly conservative in terms of a lot of social questions, even questions like gay marriage, foreign nationals' and refugees' rights, those sorts of things, and that personal views may sometimes be on the moderate to conservative side, at least among some members of the Court. But in terms of a sensitivity to the plight of the poor, I think by and large that's something all of the judges, throughout the period from the beginning of the Court, have had in common.

Int I'm also wondering, Jason, in terms of appearing before the Court on behalf of the LRC (Legal Resources Centre) etc, what your experiences have been, and challenges of... ..having your arguments heard with respect to socio-economic rights, for example?

JB That's a...the LRC (Legal Resources Centre) has been involved in a number of the landmark cases, including *Grootboom* (*Government of the Republic of South Africa and Others v Grootboom and Others*) and so on. And I think the LRC (Legal Resources Centre) is fortunate to have a high degree of credibility in the Court. There's almost a presumptive credibility that matters brought by the LRC (Legal Resources Centre) are probably well considered. That doesn't mean that we win every case and the *Juma Musjid* (*Governing Body of the Juma Musjid Primary School and Others v Essay N.O. and Others*) case last year was one in which...you know, the parties represented by the LRC (Legal Resources Centre) and the LRC (Legal Resources Centre) itself did receive some criticism from the Court.

Int What would those criticisms be and do you think they're valid?

JB Well, it was about the options...the case concerned the eviction of a school from private property, and we were acting for the school and resisting the eviction. I think that the criticisms may have been a little unfair, and they were about the failure to explore other options, other schools and so on. I think the LRC's (Legal Resources Centre) point of departure was that it wasn't in the interests of the learners for the school to close, and to go elsewhere. So there hadn't really been an openness to other possibilities. You know, often things become crystallised and clearer in the hearing in the Court to everyone, and options that weren't on the table become more apparent.

Int What do you think of the argument made by Theunis Roux, in particular, that the first Court was the glory Bench and it was known as the Chaskalson Court, as such, what do you think of that theory and the fact that subsequent Benches may not really come up to par?

JB Well, I mean, part of Theunis Roux's theory, the core jurisprudential theory, is that the Chaskalson Court balanced principle and pragmatism in an appropriate way. I see a lot of merit in that. I think I agree with that. It appeals to the realist in me, in thinking about law. In terms of the Court that followed, you know, I think, it's obviously a very different Court, but in many ways the overall profile is probably fairly similar in terms of the personalities and outlooks of the judges, their particular strengths, you know, how many strong technical 'black-letter' lawyers there are on the Court, how many sort of intuitive, gut-instinct 'justice' lawyers there are, and all the other types in between. So I think overall the Court has changed slowly and its culture is fairly durable, I think. So I don't think the differences are as significant as some might suggest.

Int I'm curious, coming back to the issue of principle and pragmatism, I wondered when you were a law clerk here, what you saw as the challenges for judges in adjudicating cases and balancing the issue of principle and pragmatism?

JB I think I didn't often feel that the Court was deciding cases because of a sense that it needed to adopt a cautious and limited role, and be respectful to the Executive and so on. That didn't come through very often. I mean, the one occasion when I think I did have that feeling at the time was the *Kaunda (Kaunda and Others v President of the Republic of South Africa)* decision, which was about the mercenaries who had ended up in Zimbabwe and from there were on their way to Equatorial Guinea. But at the time of the case they were in Zimbabwe. And then it was about whether the Executive could be compelled to intervene to assist them because of the conditions and the risk of the death penalty. And in that case the Court split, and (Arthur) Chaskalson wrote for the majority, and adopted what I felt was an overly deferential approach that required the Executive merely to consider a request for diplomatic assistance rather than actually to come to the assistance of South Africans in those sorts of situations abroad. Kate O'Regan dissented and as I recall a couple of judges went with her, adopting a more robust approach, saying that the Executive must...actually has a substantive duty in those situations to intervene and not merely to consider the request. So that was one instance. But looking back I think I also, as a law clerk, and I think it's common to many law clerks, felt that the Court should decide every question before it in the widest possible way. And I think I've since developed more of a sensitivity to the need for an incremental, minimalist approach. At the time those were dirty words to me when I was a clerk. But I can now see the merit in not deciding the unforeseen and the unforeseeable, if it's not necessary.



Int I'm also wondering, in terms of looking back on your experience of the Court, where you would place it in terms of your legal development? Did you take some life lessons away from it? Was there a particular work ethic that you felt that you actually engendered in your work further on?

JB Well, I've always said I think that it was and remains the best job I've ever had! I remember saying it...there was a function when we were leaving at the end of the clerking year, and I was asked to say a few words on behalf of the clerks, and I remember saying how all of us felt that it was a dream job and how lucky we were to be able to engage with the most interesting questions in our law, to have such close relationships with the judges and our fellow clerks. I think what I really took away was a sense of inspiration. In terms of work ethic I think I learnt things about attention to detail and intensity, especially from Kate O'Regan, because I think she exemplifies those characteristics. And also the sense that principle and pragmatism aren't always in conflict and you can achieve just outcomes. So, ja, I think I probably did develop good habits. Technically it improved things, like memo writing skills, research skills, that sort of thing. I still cite Kate O'Regan, as authority for some rules of grammar that I now accept as rules of grammar. So ja, I think I learnt an enormous amount on all sorts of different levels.

Int Jason, in your observations of the Court, what are some of the key challenges the Court faces and what are your fears and concerns for the future of the Constitutional Court?

JB I think one of them is perhaps what you were touching on earlier, and which maybe I didn't answer entirely directly, or fully. But it's the sense of the Court's standing. The sense that it's standing is somehow diminished or diminishing in light of the recent appointments to the Court. I think there is a perception in some quarters, including among constitutional lawyers, that some of the recent appointments are not of the calibre of earlier appointments. And I think that is a challenge. It's a challenge for individual judges and it's a challenge for the Court as a whole. And I don't have an answer to it. I think it's one of the challenges that the Court faces. I think the other challenge that the Court faces on a more sort of jurisprudential level is dealing with its earlier decisions, and the precedent that they've established in the face of new cases that come up now before a Court that is composed entirely differently. And how the Court is going to deal with its earlier judgments. Next month a case (*Minister of Home Affairs and Others v Tsebe and Others, Minister of Justice and Constitutional Development and Another v Tsebe and Others*), in which I'm involved will be heard, which concerns an attempt by the State to extradite or deport Botswanan citizens to Botswana to face the possibility of the death penalty, to face capital charges. And that goes all the way back to *Makwanyane (S v Makwanyane and Another)* and the later *Mohamed (Mohamed and Another v Republic of South Africa and Others)* case, and I think the Court has a big picture challenge of how to deal with its earlier



decisions. The US Supreme Court is notorious for gradually eroding earlier victories as the composition changes, and the US Supreme Court is obviously an overtly political court in many senses, with the political appointment process. And I think the challenge for our Court is what happens when it begins to go down that road with new appointments and the question whether appointments will be influenced by the likelihood that judges will decide cases in a certain way. Which I think was not the case with the early appointments.

Int Jason, as a young lawyer, what do you think are the greatest achievements of the Constitutional Court?

JB I think just its existence, symbolically, is very powerful. This building, the Court building, has a sort of iconic value for South Africans and for people visiting the country, to help to understand the birth of the Constitution. You know, the building itself is infused with all of that history, so I think just the existence of the Court building and the Court as an institution, is itself a massive achievement. In terms of its decisions, you know, I think its landmark decisions in terms of the death penalty in Makwanyane (*S v Makwanyane and Another*), its decisions in socio-economic rights cases, and its growing body of jurisprudence, are something to be proud of, and I think are looked on with great respect across the world. I also think that the Court has done quite a lot to challenge the legal culture in South Africa, both in terms of the way it operates, the egalitarian nature of the Court, the way that the judges operate in an egalitarian and inclusive way. The culture of the relationship between the judges and the clerks and the staff of the Court which is also, I think, different from the sort of old-style civil service working culture of pre-democratic South Africa. And then in terms of legal culture, I think the Court has challenged things like the use of language; so it promoted the use of plain language, the idea that law should be accessible to all the people in the country, that the Constitution should be accessible and understood by everyone. You know, that sort of thing is symbolised by the transparent glass in the courtroom which is open to the outside world. So I think the Court also challenges legal culture, and there's resistance to that in the profession, and old school lawyers think the Court perhaps is too loose with the law sometimes, doesn't operate in the way a court should, whatever that may be. So I think the Court plays a significant role also, not just in terms of its jurisprudence but in terms of the legal culture of the profession.

Int Jason, is there something that you would like to have added to your oral history, that I maybe have neglected to ask?

JB Well, I suppose just to say that I'm a believer in history and I think this is a really valuable exercise. And I hope that something is produced from it, from the overall collection, because I'm sure there must be all sorts of amazing stuff that's come out of all of the interviews.

Int     Thank you so much, Jason.

JB     Thank you.

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