Mpueleng Pooe LRC Oral History Project 10th July 2008

Int

MP

Int

MP

Int

MP

Int

MP

This is an interview with Mr. Mpueleng Pooe. (I think I got that almost right, but not quite: refers to pronunciation of name). Thank you very much for agreeing to be part of the LRC Oral History Project, we really appreciate it. I wondered whether we could start the interview by...talking about your early childhood memories, growing up in South Africa, what that was like, some of your memories, where your sense of social justice and injustice developed, and what were some of the formative influences...that may have led you into the legal profession?

Ok, I guess I must start off by telling you where I was born. I was born in Potchefstroom, itâ\200\231s a town in what is currently known as the North West Province, then was called the Western Transvaal, a relatively small town as compared to Johannesburg, for example, with a very strong Afrikaans culture and leaning. The main medium of communication officially and outside of home, of course, was Afrikaans. I went to the schools in and around what was then in the township attached to Potchefstroom, which was Ikageng, up to my junior high school years, and then I went off to attempt my senior high school studies in a rural village known as Hebron, which is in the north of Pretoria. Growing up in Potchefstroom in the sixties, because thatâ\200\231s really when I start to be...I spent a lot of time from, I think, ear ly age to
about standard six, when I was ready for school, we were with grandparents and so on, away from Potchefstroom and I only really went back to start school in 1966, I believe...

But you didnâ\200\231t go to school when you were with your grandparents, away from Potchefstrom...?

No, I didnâ\200\231t go to school.

So you started school much later?

I started school when I was seven, which then was...I think it was...ya, you...that was a compulsory age at which you...you could not start earlier in those years.

Right...

But, you know, Potchefstroom, as I say is small, is very Afrikaans, and tended to be isolated from the mainstream of activity. [mean, a trip into Johannesburg took you the better part of the day. These days it takes you just over an hour from Potch to here; it took you the whole day to get to Johannesburg. So, youâ\200\231re sort of removed from really what is happening in the main centres of the country, and of course, the biggest influence on you is of this deeply Afrikaans and religious culture that was prevailing at that time. Your earlier exposure to politics was obviously under, you know, at the heart of the apartheid years, I think, that one of the prime ministers at that time was (Hendrik) Verwoerd, I think he died just as I was starting to become

aware of what was happening. And the influence at school was, by and large, very Afrikaans, and nationalist politics, where you, you know, when a government official comes to visit, you all lined up and you had to wave little flags, and you, you know, and be polite for the day. So, not much happened really in my very early years, which you probably might have found interesting, but not very much happened. I was a normal boy who went to school, and ran around bare-footed and tried to do his best at school, if such a school existed. Of course, I mean, the schools did not compare to...even the schools we have now in the black townships, I mean, they were...there, really we survived on bare minimum. You were lucky to have a desk, you didnâ\200\231t have heating in the rooms, so in winter you bore the full brunt of the elements, but nonetheless, it was a school with a classroom, with a teacher and they gave us a certain level of literacy and, you know, and numeric skills, and one progressed from junior primary to high school. And again, not a hell of a lot happened, we were vaguely aware...and you must understand the context...I mean, you did not have access to the sort of reading that you have these days. My first book, and I think I was one of the few kids to have a book, in a language other than my home language, was a book with nursery rhymes when I was in standard two, and I remember it had â\200\230Baa Baa Black Sheepâ\200\231 in it. Which, you know, it was...if you look at it now, you sort of say: gosh, I missed out on a lot. But as compared to other kids, you know, at least I had a book in English, which I...which was some...the beginnings of getting me to start to learn the language and to converse in the language. And that was purely because my dad was a teacher, and amongst his many books there was this book which one afternoon, he said to me: read this. I mean, these days you probably, in standard two, you give your kid a book that is a little bit more sophisticated than nursery rthymes with â\200\230Baa Baa Black Sheepâ\200\231, so...So other than...I mean, there wasnâ\200\231t as much access to good reading material, so we survived with what we had, certainly no access to material that could help...from a reading point of view, that could help shape up your thinking, you know, along political leanings, one way or another. Vaguely aware of...you knew you were living under...in a society where you were segregated because you could see, you know, we go...we move from here to there to do shopping and as I move further and further away from my home towards where the other parts of, you know, you can see thereâ\200\231s a difference, you can see nicely kept...nicely mown, manicured lawns, you could see black people working there, and you knew that was them, and that was us, and...You knew not to stray into that territory beyond certain hours because youâ\200\231re not allowed to. You knew that you could be stopped at any time, certainly from when you were in your teens, from sixteen onwards and particularly if you were tall and looked strong, you could be stopped and be asked: well, by what right are you in this area, because itâ\200\231s a white area, and where do you come from, err, should you be...even be anywhere here, in the Potchefstroom district? Because of what was then the influx control laws and the pass laws and so on. So, yes, we knew that we were a different class of citizens as compared to other people. You know, there wasnâ\200\231t anything openly that we could point to, to say that needs resistance to that, I mean, you know, there might just against the passes, whatever, it happened a little bit before my time. Those things were not celebrated in those days, they were mentioned in hushed tones because if], you know, you believe that if you talk too much about it, youâ\200\231d end up in trouble. We knew that there was an agency which was in exile, but that was all very low intensity and certainly not spoken about too much. I didnâ\200\231t grow up in a political family at all, I donâ\200\231t have a political background in as far as my parentage is concerned; my father was a teacher, my mother was a housekeeper in some white personâ\200\231s home. And

Int

MP

Int

MP

Int

really the biggest exposure to the political situation really is in 1976, and then I was in junior high school and it just exploded. We were...Potchefstroom was, as I say, was removed, so we did not even have an inkling that that was going to happen. I think at that time we already had access to television, and so the first thing we saw, were images on television and images on, I think what was then the...it is a Bantu newspaper, it was called...I canâ\200\231t remember, but of...I think the first picture we saw
were of Casspirs and of that little boy who was being carried, Hector (Pieterson)...

1976...

1976. And that really is the beginning of: oh, this is happening. Because it soon spread to other localities in South Africa, away from Soweto, and that was then...from then on, that was the environment within which I grew up with, you know, â\200\23176, the aftermath of â\200\23176, and really heightened political activity in and amongst student bodies, generally, rural, non-rural, if there was an activity. When I finished my...I wonâ\200\231t say that I manned barricades and threw rocks or whatever, but certainly as a young person and as a student at that time, you know, we were aware, some of us were more involved than others, and some of us were, sort of, supporting from the sides maybe and from the back, and so forth. And I certainly was not the recipient of what was clearly then police brutality, I mean, Iâ\200\231ve had a few close shaves, Iâ\200\231ve had to
run away, as most other kids who grew up in black society communities, have had to do...have had to run away from those sorts of things. University was a boiling point, I went to the University of the North and this again was at the heart of political turmoil and student activism, I mean, Turfloop, the University of the North, is particularly known for that sort of activity. It gave rise to people like Tiro and so on, who went into exile and was then killed. And throughout my student years, that was life, I mean, you studied when you could and you marched some of the time, a lot of the time on campus, and it was mass meetings and it was...it was just a hive of political activity. Which probably started shaping...I mean my...how I came to be involved in law and what led me to that was, maybe at first, because I...that formed in my head when I was still very young, and it was more...quite frankly, I thought it was a glamorous job, and I said to my dad, I think I was still, sort of, senior primary school, I said to him once: I
want to be a lawyer...

Did you know a lawyer, did you get a sense...?

[...Iâ\200\231m trying to think whether there were any high profile cases, and, I mean, Geo rge
(Bizos) with inquests and so...George Bizos with inquests and so on, had a...had quite a lot of impact and influence, but I think that was probably after Iâ\200\231d even formed the
view. Quite frankly, when we grew up, you know, at primary school, at senior primary school, there was no television, I mean, we listened to the radio, and I think one of the things I used to listen to without fail, on the English service, was a programme called â\200\234Consider your Verdictâ\200\235.

Oh, right, ok.

MP

Int

MP

Int

MP

Int

MP

Int

MP

Which was courtroom scenes condensed for thirty minutes and so on, where they took a case from beginning to end, and it was just something that appealed to me, you know...you know, they were articulate, they were clever...the cross examination was sharp and, you know, I think that was the first thing that, ya, ok, this is a nice job to do. Ok.

Some people listened to â\200\234Squad Carsâ\200\235 and wanted to become policemen...

Policemen and so...there was a time when I thought Iâ\200\231d become a soldier because I also liked, you know, macho things, and so on, but law won the game in the end. And then later on, of course, through media exposure to people like George (Bizos), again nothing face to face, just reading about what he was doing at that inquests, and so forth, that was just something that: wow, so this is what can happen. So, in fact when I said to my dad, I want to be a lawyer, he was terribly upset, he didnâ\200\231t talk to me for a
week, because he thought it was not an honourable profession, because lawyers lie.

Really. What would he...what work would he prefer?

Law was not one of those, maybe he would have wanted me to be a doctor or something like that, but I...it turned out that I was not that good at maths anyway, maths and science, so, I wasnâ\200\231t bad, but I wasnâ\200\231t that good. Ya, so, but really, you
know, later on you say: I can actually play a role through law. That there was a hell of a lot that was happening of, you know, just coming out of police brutalities and so on, you know, the whole...you become more and more aware of your dire political situation, you have seen George Bizos in action, and that is his contribution towards the struggle and so on, and that is how you say: this is how I choose to make my contribution to the struggle. We cannot go into exile, and a hell of a lot of my friends went into exile, some of them we never saw, and some of them survived, came back, didnâ\200\231t do so well, some of them survived extremely well, theyâ\200\231re still in politics, you
know, in parliament, and so forth.

What period were you at University of the North?

I was at the University of the North, it was a four year degree that ended in 1983, so, thatâ\200\231s â\200\23183, â\200\23182, 81, â\200\23180, ok? I lost time a bit because I left high school, having caused
some trouble there, we then fought government, we did have some disagreement and I was on the one side, and they were on the other side and...

When you say one side, you and the students, you were expelled?

Ya...not quite expelled but I...it was a situation where I wasnâ\200\231t going to risk going
back, because I knew that, having been that instrument, I mean, the closure of the school for a couple of weeks and so on, I was going back at my peril, I was going to be a marked person, so I lost a year, and then I went to varsity from â\200\23082 to *83. Legal
Resources Centre, again, I seem to have just moved from places which are removed

Int

MP

Int

MP

Int

MP

Int

MP

Int

from all activity, itâ\200\231s in Pietersburg, then it took us...you travelled from seven oâ\200\231clock
in the evening, until eight oâ\200\231clock the next day to get to Pietersburg, because, yo
u
know, the most reliable mode of getting there was on a train, which took that long. So, it was far removed from what was happening, you know, it was not at Wits, you know, Wits students had access to...But, I actually just stumbled onto the Legal Resources Centre through some reading, by chance reading in the library, and I said: wow, this is the work theyâ\200\231re doing. And I...it appealed to me that they were doing that kind of work, which I understood was public interest law, which to me didnâ\200\231t mean much, but the fact that they were giving legal services and assistance to the indigent and to the marginalised, was something that appealed to me, and I therefore applied for the position which I fortunately got. I was probably, maybe naive, maybe I was idealistic, because I actually fancied the idea of giving that service to people at no charge. For me, you know, it was secondary that I was going to maybe to earn a living out of it. So that then got me on the path of what I then practised for most of my professional life. Because I started off there in public interest law, I progressed into my Articles, in a law firm in 1985, and the natural progression was that I just continued to do employment law, it was then called labour law, I ended up doing lots of litigation relating to political...I was involved in the Delmas Trial with George (Bizos) and Arthur (Chaskalson), and all sorts of other public interest type work.

So you started as a Fellow in 1984?

Ya, I was a Fellow in 1984.

And then you did Articles as well.

I did Articles...

At the same place? At Legal Resources Centre?

No. Legal Resources at that time, did not have...Fellowship did not count towards Articles.

Right.

So, we did Articles, and then we went to do our two years, or however long we needed to do Articles, my Articles were two years, so I had...I had a three-year stint of internship...you...But it was time well spent, and quite frankly, if I hadnâ\200\231t been at the
Legal Resources Centre, I would have struggled to find good Atrticles, itâ\200\231s as simp
le
as that.

Really?

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

Ya. Because it counted for a lot that Iâ\200\231d been there, and that Geoff Budlender coul
d
speak to my ability or lack thereof, as could Arthur (Chaskalson), as could Mahomed
Navsa, you know, it was just something that counted in, it was difficult to find good
Articles, I think it still is for different reasons, it was difficult then for other reason
s, it
is difficult now, because there is just that lot more good students that come out of
university, so therefore itâ\200\231s become very competitive.

But, before, why was it difficult?

Um...Why was it? It was difficult...I mean, it was our perception, certainly, that if you
are of a dark colour, you battle to find Articles in the main stream law firms.

Right.

And, I scored Articles at Bell Dewar & Hall, which, at that time, the senior partner
was William Lane, heâ\200\231d been involved in the Aggett case, you know Neil Aggett?

Yes...

He was involved with the newspapers, and so doing a lot of, you know, sort of press
card cases to the extent that there was in those days. David Dison was very strong on
doing labour law, and doing it on the side of the unions and the workers, as opposed
to doing it on the side of the corporates, which was a difference. Ya, so, the firm
already had a leaning towards public interest type work and it was, you know...you
know, the fact that I had a bit of a foundation on that, helped, but I can tell you now, I
would have battled and really battled to get into firms, other firms, that you
mentioned, which were not...which did not have that leaning. Cheadle Thompson, yes,
you could get Articles, Bell Dewar, you could get Articles, other firms which did that
type of law...Priscilla Jana, I think Ayob and Associates, I think thatâ\200\231s what thos
e law
firms, though it was those sorts of firms which had a leaning towards doing political,
public interest type work.

Ok. So, by 1985, youâ\200\231d completed Articles?

â\200\23186.

86, right...

Two years. I did Articles â\200\23185, â\200\23186.

Right. So by 1986, then what?

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

I stayed on at Bell Dewar & Hall, worked my way through the ranks, I stayed on as an attorney, professional assistant, and my work was really labour. When the last Delmas Treason Trial happened, the State versus Baleka, and others, happened, I went onto that case and it swallowed me up for...right up to the time when it went as a special case, to the Appellate Division that was my life. I lived either at Delmas or at Modderbee, and then I did a bit of shuttling to Robben Island to consult and have documents signed by the clients. And in between all of that, I did employment law, on the side of the employees, the unions, mainly. I worked for most of the major unions, the Telecoms Unions, Food and Allied, Paper and Printing, most of the major unions that we...even some of the other unions we...I did work for. At some point, while at Bell Dewar, I had involvement in the Truth and Reconciliation Commission, representing the families of...the victim families...

So was that the big cases, like Biko?

It was...the Truth and Reconciliation Commission was...you know a bit about it?

Yes I know about it, but which cases were...the family cases, were they the cases that were against the ANC or were they those cases that were...?

It was the case...it was...we were representing the victimâ\200\231s families when the ex Security Services people were seeking amnesty.

Ok, so those were the cases?

Those were the cases.

So, it wasnâ\200\231t the cases that George (Bizos) had taken on, the big cases?

No, no, it wasnâ\200\231t the big...it was...

Chris Hani...?

Well, all of them are big, and all of them are important, but it wasnâ\200\231t those that. ..ya...it
wasnâ\200\231t those that George (Bizos) was involved in.

Yes thatâ\200\231s right...So you worked at Bell Dewar for a long time?

Ya.

...until when did you work there?

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

I left there...Iâ\200\231ll have to go through my notes and just see, when did I leave Bell Dewar? I left Bell Dewar in 1999.

Right.

So, I would have been there for about fifteen years, or so.

Thatâ\200\231s a long time.

Itâ\200\231s a long time.

And then after that, what...?

I got lured into the corporate world. I...John Myburgh, who had been the Judge President of the Labour Court...

John?

Myburgh.

Myburgh, right.

...had gone to join Anglo Gold as general counsel, and I had had a stint on the Labour Court as an acting judge, a couple of stints and...met John (Myburgh) and...when he got to Anglo Gold, he thought that I was the kind of person he wanted in the team, so he enticed me to go to Anglo Gold. So I joined Anglo Gold and I stayed there until 2003, I then left them to join, what was then known as Royal Bafokeng Resources, itâ\200\231s a company owned by the Bafokeng people, itâ\200\231s a community some...in the North West, in the Rustenberg Valley. They owned a resources company, and they have major relationships with Anglo Platinum, with Impala Platinum, around platinum mining activities, theyâ\200\231re the biggest shareholder in Implats currently, um...

The community has shares?

The community has shares. Iâ\200\231ve got...to give you a bit of background of where I'm presently, itâ\200\231s just inaudible and most other stuff is on the website. The resources company got...there were two companies, it was the resources company and it was a

non resources company they got...

...merged...?

...merged into what is currently RBH and Iâ\200\231m still...this is where Iâ\200\231m stil
l sitting.

Int

MP

Int

MP

Int

MP

Int

What do you do? Do you do legal work there?

I...the last time I did anything vaguely legal, (laughter), I guess it was while I was with the resources company, and I was...really I was an in-house corporate lawyer. And most of what I know about corporate commercial law, is really what I learnt when I was at Anglo Gold, John (Myburgh) took me and he said: youâ\200\231re not coming to do labour work, youâ\200\231re coming to go do work with the exploration team and youâ\200\231re going to help them on Trade Venture agreements, and those things. And that was my exposure and I continued to do that when I came onto the resources company...this resources company. When the two companies were merged, some people formed the view that I had talents other than legal, and that I should have a go at being the public affairs stakeholder relations executive, and I have since taken on a new curve in my life, and I do...thatâ\200\231s what I do. So I take care of the stakeholder relations, which is the community, mainly, and we estimate them to be about three hundred thousand or so, in a defined geographical area which you can go to and say: here, you can see them. And then of course, Iâ\200\231'm here, I mean, thatâ\200\231s where we place the emphasis of our, you know, our work, because we are a commercial company, but weâ\200\231re a people-centred company, which make money, and the moneyâ\200\231s supposed to go here, and to benefit that community.

Does it?

Ya...does it...are you asking me whether it does? Um, an example, in the last decade or so, two billion Rand has gone into infrastructure development for the community in the form of schools, clinics, roads, water reticulation, sewerage, and the like. So, going by that history as it has, has the community gone where it ought to be? No, and we realise that there are challenges, I mean, there are still unemployment challenges, HIV challenges, the literacy levels need to be jacked up, so there are still challenges, but we believe...but the community has a plan to address those through...weâ\200\231ve got a multi decade developmental plan to deal with all of those, and going into the future. Whereas, in the past decade, it was about infrastructure, thereâ\200\231s going to be a mixture of infrastructure but then also in people development. So, lots of money is going to go into health, lots of money is going to go into education, particularly maths and science, right, right across the community, so, yes, I think, on track.

Alright, fair enough. I'm going to take you right back. Itâ\200\231s a wonderful...wonderful narrative outline of your life, but I'm wondering...growing up in South Africa, you mentioned how you had a...you lived with your grandparents and then you came back to Potchefstroom, is that...?

Yes.

And you...you lived with your gran and, you know, you said that 1976 really was the, turning point at which you really became politically aware, where you saw what was happening in the country. Iâ\200\231m just wondering, before that...given the fact that your

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

10

father was a teacher, and Iâ\200\231’m wondering in terms of family discussions...and your mother worked, of course, for a white family, was there ever a sense of...the fact that thereâ\200\231s this apartheid system, and you couldnâ\200\231t do things? Did your family articulate it
or was it just something that you saw, witnessed and accepted?

That we see, witness and accept, I donâ\200\231t think that anybody in their sound minds, e ver
accepted it...

Not accept by seeing it as part of your everyday lives, but as abnormal.

We certainly knew that it was abnormal, and I have already said that my, you know, I wouldnâ\200\231t want to do an injustice to my dad and my mom, but they were not politically...we knew that the white people were, you know, we knew that we were living in a repressive society.

Right.

But my family was...we were not political activists, I mean, Iâ\200\231d be lying to you if I say
that.

Ok.

We...I certainly was aware, I mean, even at an early age, you know, when...who was stabbed to death? One of the prime ministers was killed.

(Hendrik) Verwoerd...?

Was it...it was (Hendrik) Verwoerd, wasnâ\200\231t it? We knew that he had died because we were told so, we found it extremely funny that we now have to switch off our radios and be quiet, because (Hendrik) Verwoerd had died, but, I must tell you, there was actually...even as a non...we were not apolitical but we were not activists, I mean, as we said: oh, maybe things will change. But no, we werenâ\200\231t out there...you know, weâ\200\231re not from that ilk no, weâ\200\231re not.

Right. So, you went to school, and in 1976 I think you were in high school, if Iâ\200\231’m not
mistaken, in 1976, you were in...secondary school?

I was...Iâ\200\231ll tell you exactly where I was, I think I was in what is now standard ei
ght.

Ok.

It was form...I think I was in form three...it could have been form two.

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

11

So it was secondary school. And did you, after that time, it seemed to me from what you told me, you had disagreements with the Bop government, it seemed to me that you did become quite politically involved. Was it at high school or was it really at university?

[...it...my awareness...ok, my awareness...the awareness was always there, that, you know, this is an abnormal society whatever. It hit home fully with â\200\23176, and even though, I mean, for us, and you must remember, â\200\23176, the background of that was, you know, enforced medium, even though we were coping, we come from...I mean, Afrikaans was a second language and we were being instructed in Afrikaans, we did not have an issue at all, because we coped with it. But one got a sense, that yes, actually...itâ\200\231s fine for us because you can cope, but if you are enforcing it and ramming it down peopleâ\200\231s throats, thatâ\200\231s wrong. So, the awareness got heigh tened at
that time, that, you know, things are happening and things ought to happen to change, to change this. But I think most people, if you...if youâ\200\231d asked them then, whether they could foretell and foresee a change, I mean, we were...I mean, that...most of us thought this thing is never...this government is just...

Right, entrenched...?

...too powerful, too entrenched, how the hell are we going to...you know. And you must remember, you didnâ\200\231t...other than through Radio Freedom, which you didnâ\200 \231t
dare play too loudly, you know, because you never knew who was listening and who was going to tell on you, we didnâ\200\231t know, we had no clue what was happening externally, with the ANC and MK, and whatever.

Right.

So, yes, my sense of political awareness heightens at that point and remains at that level...at that level throughout. And as I say, my involvement in politics was not necessarily being at the forefront of barricades all of the time, but it was being part of that debates and that inputs by, as we were all growing up, of, thereâ\200\231s MK, some people opted to go, some people opted to stay and give logistical support, you know? I mean, I, at that time, I used to shiver because I, it was a stream of sick, you know, my house was a bit of a â\200\230safe houseâ\200\231.

Ok.

My parents were gone by then.

Oh right.

I think they would have probably freaked out.

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

12

Ok, so theyâ\200\231d gone back to the rural area?

No my parents had passed on since then.

Oh, I see...

Ya. So, you know, again lots of people knew to come and, you know, and then move on, so, ya. So that is...that is the extent, it wasnâ\200\231t...I mean the marches, I mean, we joined the marches, we did all of what normal or what aware, young people did in those days, yes, that was my involvement.

So you then...you went to University of the North and you mentioned to me the difficulties. Wits at that time was not open to black students?

You could get into Wits if you got special dispensation. It was a mission, it was a mission getting into Wits and...did I even try? I remember...no. I remember it was difficult to get into Wits if you were going to study something like law. Ok, I mean, it was...it became easier if you wanted to do...go in to medical studies and so on, but you still needed some ministerial consent to do that. And I think I took the view that I actually wasnâ\200\231t going to do that, you know, inaudible, I'm not going to go away, so just left it and I'm going to...ya. I went to Turfloop.

So after Turfloop, I remember you saying to me that you are sitting in the library and you noticed the LRC and then you decided to go to the LRC, but throughout that, you also mentioned George (Bizos), Georgeâ\200\231s name comes up quite a bit and clearly that was...?

George (Bizos) was not at the LRC...

He wasnâ\200\231t?

...at the time, he was at the Joâ\200\231burg Bar as...he was already a senior advocate. There was one particular...it must be...what newspaper was that...I canâ\200\231t remember what newspaper...is it The Star...but there was a full page spread of Georgeâ\200\231s (Bizos) cross examination of some policeman, or was it a doctor, one of them...and Georgeâ\200\231s face looming, you know, I mean, it was...there was George (Bizos), and there was this article and ya, it made riveting reading, and ya, I mean, ya. He was at the Bar but he had taken on that case at that time.

Ok. And had you heard about people such as Arthur (Chaskalson), etc, before you joined the Legal Resources Centre?

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

13

Arthur...Arthur (Chaskalson), I was aware of, but quite frankly and honestly, and I think it is because of the nature of the man George (Bizos), you know, George is...George is George, so we tended to be more aware of Georgeâ\200\231s...you know, what George was doing than what Arthur (Chaskalson) was doing...Arthur (Chaskalson) featured in one or other of the cases as well, but my lasting impression out of all of those cases those days, was George Bizos SC, you know, ripping into one or other...

So, when you joined the Legal Resources Centre, theyâ\200\231d just started in 1979, they had the Hoek Street Clinic, and also they had...at that time, I think, probably succeeded in the Rikhoto case, and then there was the Komani case, and these were key influx control/pass law cases, and as a Fellow, what were some of the things that you engaged in, what kinds of work?

Ok, I...I thought long and hard about that, because itâ\200\231s a long, long time.

Of course, of course.

But Hoek Street closed...

In 19847

In 1984. Mr Zimmerman, I remember they moved into the LRC, in Elizabeth House, with Pinkie Madlala, and so forth, she may still be there, but Zim has passed on.

She passed away.

Hey?

She passed away.

Has Pinkie (Madlala) also passed away?

Last year.

[wasnâ\200\231t aware, I wasnâ\200\231t aware. It was in the aftermath of Rikhotso (Rikhoto) and, in fact, Rikhotso (Rikhoto) featured in the article which I had read, imaudible at Turfloop, you know, there was a bit of a write up about it and it led...it was a dreadful

piece of legislation that, and could we just digress for a second?

Sure.

MP

Int

MP

Int

MP

14

Whenever I travelled from Potch to Pietersburg, you leave Potch at nine oâ\200\231clock in the
morning, you jump onto a train, you get here at twelve, ok, you then have from twelve
to seven in the evening to kill, and youâ\200\231re not going to sit in the station the who le day,
so, youâ\200\231re going to venture out into town, and, you know, sightsee and bypass
through, and do all the things that young people do, you were always exposed that
you may not reach your final destination, because you...if you get nabbed by the
police, and you donâ\200\231t have a stamp that entitles you to be in Johannesburg, you wer e
in trouble, so it was always just...phew!

Risky?

It was always risky, so it was a dreadful piece of legislation, and it featured in that
article, it was in my final year, it featured...Rikhotso (Rikhoto) featured in that article ,
so that was one of the things that clicked to my mind. So when I joined the LRC in
â\200\23184, that...most of the work which we did, certainly in my sphere of operation unde r
Mahomed Navsa, was with the advice centres, and the Zola one, Reiger Park one, and
whatever, and most of the cases that we tended to take on, were Section Ten cases,
and really building onto Rikhotso (Rikhoto) because the officials were still...they
would still give the applicant a hard time because no-one, you know, men in the street
and women in the street, did not know, so our role mostly was to say: hang on a
second, but the court has said...We had almost a standard letter which...oh, ok, Section
Ten...,ok, give us a bit of your history..how many years...ok...and you being
back...ok...how many years...ten years...fine. And then it was almost a standard letter
which we used to say: take this letter, go give it to that official, ok, and see what
happens. So there wasnâ\200\231t a lot of litigation around that, but it was just...

It was affecting peopleâ\200\231s lives?

It was just pushing that...the court has spoken and thou shall obey. And Iâ\200\231m sure t he
LRC would have stats of how many people who got the Section Ten rights based on
the Rikhotso (Rikhoto) job. So it was...it was following from the courts, so that was
the bulk of...the bulk of our work. But we...the advice centres you also tended...maybe
just to, again just pause. I mean, Section Ten had an impact on a whole lot of other
things. If your Section Ten rights were suspect, you were exposed from a job security
point of view. I mean, it was the easiest way to get rid of an employee to say: ha, I
canâ\200\231t take you because youâ\200\231re not legal, so you go sort it out, when you so rt it out,
come back, maybe Iâ\200\231ll have a space for you. So, it tended to overlap onto the area of
employment law. It had impact on access to housing, such as, you know, it existed at
that time, so, you know, it was...not only did it entitle you to walk the streets, but it
gave you access to other things, so it was important that we did it absolutely right. We
could not afford to fluff that one. And then, of course, there was employment law
which I wasnâ\200\231t involved with extensively, I think Tim Bruinders and Mark Euijen
who were my other Fellows, those years...that year, tended to do more of the
employment law matters with Charles Nupen and Paul Pretorius and Karel Tip. Ellem
Francis did very much what I was doing, which was the advice centre thing. But then
you know, it was that, you know, when you go into an advice centre, itâ\200\231s a whole
range of things, itâ\200\231s Section Ten, itâ\200\231s...oh, my unemployment benefits are being
withheld, it is somebody who got injured at work and the employer isnâ\200\231t going to fi

le

Int

MP

Int

MP

Int

MP

15

a claim with, what was then Workmenâ\200\231s Compensation, because the employer is scared Workmenâ\200\231s Comp will say: ya, you must look at your safety issues, and so on. It was consumer protection, we had a lot of that, and one can understand the context then, of just, you know, people with no ethics who would sell you a piece of junk, you pay a deposit, even as you drive this thing, it packs up right in front of, you know, the dealership. Sorry, but thatâ\200\231s what youâ\200\231ve bought, you know? So we...we tend ed to do
a lot of those cases as well. There were resettlement cases, because at that time, communities were just being uprooted, you know, left, right, centre. Geoff Budlender did a lot of that work, and I had some involvement in those as well. More in...as a Fellow and going and seeing and helping with the consultations, and so forth, ya. I do not remember in our year, that there was any...it was really just a year where I'm proceeding of building onto the gains that had been made the year before. Certainly in my space there wasnâ\200\231t any new, ground-breaking precedent-setting case. Maybe other people may recollect...may recollect differently.

Ok. And then you mentioned to me that your Articles was with...?

Bell Dewar & Hall.

Bell Dewar & Hall, and you said that being at the LRC really prepared you, and I wondered whether you could really unpack that, in what ways do you think that it prepared you?

In a general sense it had taken somebody who came out of a fairly small town, went to a university in a very small locality, far removed from what real life in practice is, and really, I'm not going to say rough diamond, but just call it raw material, ok? And that year had helped shape you into...a bridge from tertiary education to real life situation, there had been that bridge. On a more specific basis, maybe an exposure then, as a Fellow, to the employment law environment, and so, you know, I went into Bell Dewar & Hall and I could produce documents which not many of my peers, quite frankly, could produce, because I had come through very good practitioners, such as Paul (Pretorius) and Charles (Nupen) and Karel (Tip) and Mahomed (Navsa). So, yes it had given me...it had...firstly, I think, it had prepared me for what lay ahead and secondly it had given me specific real skills that I could take in, you know, to my next...the next stage of my career, so to say.

Sure, sure. So you spent fifteen years at Bell Dewar & Hall, I wonder whether you could talk...you mentioned some of the work you did, but were there some key political issues, cases, the apartheid legislation that may have been overthrown that you took part in, apart from the TRC later on?

Well, if I did a search I probably could be able to talk to you a little bit more meaningfully about that, but the one thing that comes to mind, and really it was one of the very last political cases that I can remember, certainly...ya. It was a countrywide case, it was State versus Baleka and, you know, George (Bizos) was involved, and Iâ\200\231m sure when you speak to George (Bizos), heâ\200\231ll talk to you about it.

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

16

State versus Baleka?

Well, it was part of it. Yes, State versus Baleka. And it was 22 accused among...Baleka who was...the State versus Baleka because inaudible (Laughs). But Popo Molefe, Terror Lekota, Geoff Moselane, who has now passed on, there were 22 accused.

Right.

And it was to be...the case to beat all the cases. I think that the...it involved the UDF element, it actually sought to establish a conspiracy, taking the UDF, taking the Black Consciousness Movement, taking all of them, and saying there is a wide conspiracy amongst all of you, to overthrow the State. And I think that...

This was in the eighties?

Was it the eighties? When was State versus Baleka? Yes, it was the eighties, late eighties.

Late eighties?

Yes, and it went on for four years or so, which is why I say it absorbed a lot of my time. That was the case, I think, which was to sign the final death knell on political activity, you know, it was seeking to destroy UDF, Black Consciousness and just destroy in one fell swoop. So I..that was...and I think that it had far reaching implications and I donâ\200\231t want to say that, you know, when it failed maybe the writing was on the wall, because everything that had been found in the High Court by Judge (Kees)Van Dijkhorst was then undone in no time when we went to the Appellate Division, so, I think that that was a case of great import to...certainly given the political landscape in the country.

And you worked in conjunction with the LRC on this?

Uh, no, the LRC...

Or you worked on it privately with Arthur (Chaskalson) and George (Bizos)?

No, no, the LRC was not involved, this, no...

This was Bell Dewar?

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

17

This was Bell Dewar, but we combined with a whole lot of other case...law firms such as Priscilla Jana, such as Ismail Ayob, we, you know, we tended to...a firm...we had as clients, people from the Black Consciousness background, (Geoff) Moselane and (Patrick Mabuya) Baleka, inaudible, and Priscilla Jana had the UDF clan, (Popo) Molefe, (Terror) Lekota, (Gcinumuzi Petrus) Malindi, who Iâ\200\231m sure you will speak to, whoâ\200\231s now at the Johannesburg Bar, Caroline Nicholls was the lawyer. Ya, so, we combined with a whole lot of other firms to fight in that case and then, of course, at advocate level, it was led by George (Bizos) and Arthur (Chaskalson). Karel Tip was involved, so it was...it was more or less the old LRC...

LRC?

...team combined, you know...

Thatâ\200\231s ....

...and Arthur (Chaskalson), Karel Tip, myself...who else was there, I canâ\200\231t remember, ya.

And the outcome? What was the judgment based on?

The judgment in the High Court, they were found guilty, somebody gave them the sentences outside, but the big ones like (Popo) Molefe, (Terror) Lekota, (Gcinumuzi Petrus) Malindi...canâ\200\231t remember who else...were sent to Robben Island, but they came off in about two years or so, after the Appellate Division overthrew the matter.

So, and then you...

No, no, no, no, no, I was saying, I mean, the...I had been involved in other precedent-setting labour cases but they donâ\200\231t come to me now, but you know...

Fair enough. I'm wondering....and this a question that is difficult to ask you because I just think...you had this dream of being a lawyer at quite an early age, but did you really think that under apartheid, if parliament was supreme, and that legal victories could be overturned by a parliament, did you think the law could be used as an effective means to actually challenge a system that was legalised?

I didnâ\200\231t start off as a disillusioned...(laughter), you know, I...and maybe itâ\200\231s just purely because maybe I was more naive than I care to admit. I mean, for me...for me, that was the vehicle, I didnâ\200\231t sit to think: oh, you know, but what is, I sit and question myself, what is the effectiveness of what Iâ\200\231'm about to do...of what Iâ\200\231'm d

oing? For me,
that was as much as trying to take on a whole battalion with a little, you know, bottle
in which you have some flammable material, and so on, you know, I mean, and as you

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

throw it they, you know, they shoot you, you know, to pieces. So I...no, it...for me it was an intellect...this was an intellectual gymnastics of...you know, of sitting and reflecting...because there, I mean, the option, I guess if Iâ\200\231d gone through that process the option would have then been: you know what, bugger this, wasting my time, leave this country, go to any of the other people and try and make an influence that way. I didnâ\200\231t go...this was...because for me this was going to be..how you...how you contribute, and there wasnâ\200\231t going to be one...one solution to this, but there was a need.

When you were at the LRC, did you think that the law could be used, did you get a sense...was there optimism for you that the law could be used to challenge apartheid?

Yes. I mean, a case such as Rikhotso (Rikhoto)...you know, you...it...those were hard fought victories and they were far reaching, and it really...it was...sometimes it was the roll of the dice, you know, what judge...which judge do you draw, and what sort of feel has he got for administrative justice, and so forth. I mean the Constitution was, you know, at that time, it was of no help, I mean there was no Bill of Rights or anything like that, so you really relied on a judge who was going to be able and willing to listen and see that viewpoint. And, you know, the sort of victories such as the one Rikhotso (Rikhoto) provided, gives you hope, that, you know, you make gains, you make an impact. Youâ\200\231re not going to free all of the South Africans by this, but youâ\200\231re going to make a hell of a difference to the lives of a lot of people, and that was all that...

...during the 1980s, it was a particularly rough time, how did you manage, as someone who was working in very difficult circumstances, whether it was at the LRC or at Bell Dewar & Hall, not to come under scrutiny from the Security Police?

I donâ\200\231t know that I was not under scrutiny...

Sure...

...because they would have not let you know.

Of course, but you were never...you werenâ\200\231t detained, let me put it that way...?

I was not detained...I was never detained. I guess they had bigger fish to fry. (Laughter). Sorry, excuse the...

Maybe, but maybe they...but, as you rightly say, you never know.

Ya.

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

19

Iâ\200\231’m also wondering when apartheid ended and...transition happened in 1990, if I interview people, for example LRC people in Durban, in the KwaZulu-Natal region, theyâ\200\231ll tell me a different story, theyâ\200\231ll say...things didnâ\200\231t chan ge for us, things
intensified. I’m wondering, in terms of your practice at Bell Dewar & Hall, were there changes to the kinds of laws you were practising...from 1990 onwards?

(Laughs). Most of our union client base from employment law, sort of, disappeared. And it was a mixture of the aid agencies said: ok, weâ\200\231ve taken you this far...

You can manage without it?

...now, you know, weâ\200\231re going to switch...

Yes...

Ok. So, and I know...and I said it...for me it was sort of keen to do these things free of charge but, you know, the reality of life is that you have to...Ok, so the unions, I mean, that client base disappeared basically, because there was no more aid. The political type cases ended because the people that we defended and fought for, were now in government, so yes, there definitely was a switch, there was a switch in that we needed to...as much as we sought to enable these people during the struggle days, we now need to switch and be of assistance and enable them in a different environment, so this is...this is a different ball game. And yes, we then tended to do lots of...I tended to do lots of work with various government agencies, and with time, you know, because of the grounding Iâ\200\231d had in employment law, I drifted back into employment law and I then tended to be acting against the employees. I tended to...I mean, | took on a more corporate outlook...

This was at Anglo Gold?

No, even at Bell Dewar. My last couple of years, maybe my last five years or so, I was doing employment law, but I was advising the corporates.

Was that difficult, that transition, because youâ\200\231ve had such a strong background in ...
grounding in public interest and in the interests of the underdog?

Um, was it? It...I wonâ\200\231t say it was difficult, because I probably, I mean...Iâ\200 \231d be lying
to you, I mean it was...you know, it was...it happened, and I think that it was a natural...a natural...it sort of seemed like a natural progression. It was not as unpalatable as it would have been pre â\200\23194. Um, because your employer, post â\200 \23194 and
later on, was different, I mean, they had learnt, I mean, we taught them, we gave them good solid hiding, you know, in the days when we litigated. I mean, and if you look at...if you look at how cases can later progress in the...you know, in the old labour

court, the employers were always on the losing side because they had not the faintest feel about workerâ\200\231s rights and industrial relations and employment law, and so on, so

Int

MP

Int

MP

Int

MP

20

they learnt. And their practices and ways of doing things got better and better and better, and we certainly, Iâ\200\231’m not justifying what we did, I mean, we sought to make sure that our clients did the right thing. You know, it would be: ok, now, you would have an issue with Dr. Patel, you want to fire Dr. Patel, you tell me why you want to fire Dr. Patel, ok, but I can tell you now you canâ\200\231t do it for that basis. Oh, and in fact...Iâ\200\231ve just told her to leave and go sit in the car...But you canâ\200\231t do that, you know that Dr. Patel...has to be heard on this matter, and let me tell you what happens if you donâ\200\231t do it properly, this is what is going to happen to you. And so, you know, we tended, because we...if you give your advice...if you give advice which sets the client on the path to do, I mean, thatâ\200\231s...itâ\200\231s of no use...so it was...it was, maybe a little bit more palatable because, I think, we were also enhancing the process of the employers and so on. But more importantly, we did not have a client base other than the employers, for whom to do the work.

Iâ\200\231’m wondering...now that weâ\200\231re in a post apartheid situation, the LRC...thereâ\200\231s of course the funding issue, the crunch factor in terms of funding, the other issue that it comes under...there are lots of other smaller public interest law organisations that have opened up, so where...what do you think...where would the LRC be positioned within this new milieu, what do you think it should be doing in terms of the kinds of work?

(Laughs).

Just your sense of it....?

Yes, itâ\200\231s not a considered view at all, and itâ\200\231s difficult, having been away from the mainstream of...I mean, Iâ\200\231’m aware that the LRC has, more or less, shifted into taking cases that tends to give weight and effectiveness to the Bill of Rights. Is it an issue? Maybe itâ\200\231s not an issue, maybe...you know, maybe when they were doing Rikhotso (Rikhoto), you know, there wasnâ\200\231t a Bill of Rights but, you know, that was a certain...

Rights based issue?

It was a rights based issue. Um, but, I mean, I think the challenges are such that, certainly for the emerging public interest law institutions will not, I mean, are just too vast, I think that the LRC could devolve some of their experience and learnings, which they gained over the years, to those smaller emerging public interest law institutions, and hopefully those are dispersed as widely as possible, deeper into our communities, reaching down into the rural, you know, deeply rural communities, and so on, and thereby maybe seen to reach much wider than what it would do, I mean, even as it is currently constituted, with an office in Durban, Cape Town, wherever, I mean, you know, I think that you need that to filter down. Because I think that â\200\23194...post â\200\23194, and the coming of democracy solved one thing, but it also just presented a challenge in that you now have to be...have to ensure that democracy reaches out, and is being informed to people broadly. So, I think that thatâ\200\231s probably

is the one way. Devolve some of your learnings and experience to other institutions.

Int

MP

Int

MP

Int

MP

Int

MP

21

Ok. Iâ\200\231’m sitting here in very nice offices, youâ\200\231ve obviously done very well , and there
are other people whoâ\200\231ve been at the LRC, Mahomed Navsa, Charles Nupen and Karel Tip, lots of people, have done extremely well, and theyâ\200\231ve all seem to come from th e
LRC. What do thing makes the LRC this kind of base from which such amazing people; if you counted the number of people on the Bench who have come from the LRC, whatâ\200\231s your sense of that?

You mean apart from the fact that when they pick their candidates, they pick the cream of the crop (Laughter).

They do, yes.

That sounds immodest,

It does. I would have said that.

That sounds immodest and I by no means call myself the cream of the crop, ok. But, they probably, I mean, all of those people in their own right, that you mentioned, I think are very solid people, I think, theyâ\200\231ve had solid backgrounds even before the y
got to the LRC. I mean, Charles Nupen was in NUSAS, so, they...Karel Tip, I mean, they are all the people, firstly who have always had, I think, a sense of...well grounded in social justice. I think they are intellectually gifted, much more than what I would ever, ever, ever pretend that I am, and I think that, having come under the... you cannot help but just, when you come under the influence of somebody like Arthur Chaskalson, just be fired up and it sets you on the right path. Youâ\200\231re not going to take
in anything that Arthur gives you, and you should not, because Iâ\200\231’m sure he has bad traits, but you pick up a hell of a lot of good from somebody like Arthur Chaskalson, I think.

Ok. The problem...the dilemma that the LRC now seems to have, appears to be facing is that itâ\200\231s unable to attract good, high quality lawyers because...and particularl y black
lawyers, because they will be at the top firms... black lawyers are highly sought after, they can command a good...very good salary, certainly not one that the LRC can manage to compare with. Whatâ\200\231s your sense of what would happen in a situation...what could possibly be a solution...?

Well, the solution is very much...I mean, there are two difficulties that immediately come to mind and, you know, you spring these things on me, I havenâ\200\231t...(laughter). The one thing is that the LRCâ\200\231s probably unlikely to compete with the big a) corporates, b) other law firms, thirdly, you know, weâ\200\231ve become global citizens now and skills are readily...you know, you can take them anywhere you like, even as a South African qualified lawyer, and fourthly, maybe not many...ya...people donâ\200\231t necessarily...they study law but they go off to do...what...public affairs, something like that. Young people certainly, the world is their oyster. If it had been in my time, it is, I mean, it was a lot more easy for me to go to the LRC, because for me there was

Int

MP

Int

MP

Int

MP

22

this clear...it wasnâ\200\231t...it was an ideology...I donâ\200\231t think I was that ideo logically driven,
funnily enough, but it was just a sense that, this is where you take your skill because there is just so much happening in our country, where you can make a bit of a contribution, ok? There was a clear distinguishable enemy, then, which we all needed to...it was probably...it was easy to go in there and be...and do leftist type of law, than it would be now, I mean...the LRC is, I think, probably has gone a little bit under the radar screen.

...why do you think thatâ\200\231s the case?

I donâ\200\231t know whether it is in the nature of the cases they take...I donâ\200\231t k now whether
they...but that ought not to be, I mean, if...they probably need to do a little bit more work in...in selling the kind of work theyâ\200\231re doing now, I mean, I think that they did a
pretty good job then to solve the kind of job that they would do. I think that maybe there isnâ\200\231t enough of that currently. But then itâ\200\231s a host of things, again like I said, I
mean, itâ\200\231s going to be a combination of the remuneration, the same thing like what the
Public Defender, I mean, they also face difficulties like that, where, you know, they canâ\200\231t get good people to go and do Articles with them, because they go to the good law firms. And the good laws firms will pay them slightly better than the public...you know, a state agent is going to pay them, and so itâ\200\231s a combination of pay, itâ\200 \231s a
combination of, you know, I donâ\200\231t want to use the word branding, brand this thing a little bit differently, and do a bit of a more steady job about the kind of work you do. I think they still do a good job, good work, because, as I say, you know, the gains that we make on a, just, democracy point of view mean nothing if they donâ\200\231t translate to socio-economic rights, and so on, and so theyâ\200\231re still doing a fantastic job.

...during apartheid the ANC had a clear enemy, in a way, the LRC actually had the sense that it could fight the apartheid state using legal means and on the principles of the rule of law. Iâ\200\231’m wondering, in terms of now...theyâ\200\231ve taken on some ca ses against
an ANC government....thereâ\200\231s a difficulty to do that, to attach the...to take on ca ses
against...a former, in some ways, ally, or a closely ideologically-aligned organisation. What do you think are the difficulties there...or should there be difficulties? Whatâ\200 \231s
your sense, as a lawyer, in terms of a public interest law organisation in post apartheid South Africa?

Look, I mean, I donâ\200\231t think that they can escape from...I mean, they are a public interest law organisation and I donâ\200\231t think that they can escape having to do what a
public interest law organisation has done, and you are always going to be, as that type of organisation, on the side of the marginalised.

Ok.

So, are there people who might look at this and say: oh, hang on, but now, suddenly youâ\200\231re fighting us? I mean, probably...probably will be, but thatâ\200\231s their j ob. Could it

have an impact on people wanting to go and be part of the LRC? Maybe, but I donâ\200\231t think that...may play...may be a factor, but Iâ\200\231m sure you will still find people who find
it attractive and desirable, that they should be involved in that way, to enforce what

Int

MP

Int

MP

we gained and what is in the Constitution, to try and enforce it. So, itâ\200\231s...an LRC-type organisation is not wunique to South Africa, I mean, in other...you know...established...long established democracies, you have...you have lobbying groups, you have people who take on class actions, you have...so, weâ\200\231re no different, quite frankly.

Ok...particularly when I interview people abroad, they always comment on...that the LRC is probably the greatest public interest law organisation in the world, and the second thing that they say is...an important thing they say is that the Constitution is an extremely advanced document, probably the most advanced in the world. Having come to South Africa recently...I hear stories about how there are problems...attacks against the Constitutional Court, and politics gets involved in the judiciary. As a lawyer, whatâ\200\231s your sense of how that impacts on rule of law issues, the legality of the judiciary, ultimately, and for the future of the country?

(Laughs). Um, I mean, I guess maybe, I mean, the general comment is that I, as a lawyer, I clearly subscribe fully to the independence of the judiciary, a clear separation, and I think that we cannot have anything but, a society where those institutions are separate and independent and so on. We...I mean, it is...just to be sentimental, it is unfortunate...the recent events are unfortunate, in that they seem to suggest, I mean, the utterances from the new brigade at...within the ANC, and so forth, are unfortunate in that they seem to suggest that there is likely to be a threat on the independence of the judiciary. Do I personally think that weâ\200\231re headed down that road? I believe in the long term, no. I think...I think thereâ\200\231s probably lots of posturing at this point, and itâ\200\231s unfortunate that people who posture around an institution as important as, you know, as our Constitution and the Constitutional Court, but there is a lot of posturing, leading...you know weâ\200\231re coming up to elections quite soon and I think people, by no means inaudible, you know, thereâ\200\231s quite a lot of inaudible mentioned here, and itâ\200\231s unfortunate. The goings on at...within the courts themselves, between...as between and amongst judges equally unfortunate, it is...I think that it is a matter which maybe puts a bit of a blot on our judicial system, and it is a matter which, personally, you know, I believe could...should have been handled differently.

In what way?

I donâ\200\231t think that this was a matter for, you know, the first example about this was in the newspapers, and much as, of course, the press has its job, and so on, but I believe that the custodians of our judicial system have a duty to ensure that they donâ\200\231t do anything that compromises that. Iâ\200\231m sure there could have been better processes of handling this and, you know, if it transpires that there is a charge then, of course, then it comes out, there is a charge against a particular judge, but this thing was out long before there was even any complaint formulated. And then it took four weeks or six, I donâ\200\231t know how long it took, before anything concrete came out, I mean, by then, this country had been whipped...and the country...and overseas, had been whipped into a frenzy about the, you know, whatâ\200\231s happening with the South African judicial system, and so forth. All of which are...are unfortunate, but I donâ\200\231t think that the situation, itâ\200\231s a personal thing, is beyond redeem, I think that we will come out of this. And maybe

again, Iâ\200\231m just a naive who believes...who believes what he wants to believe.

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

MP

Int

24

Maybe an optimist. (Laughs). We need more of those. I wondered...Iâ\200\231ve asked you a range of questions, and I wondered whether there was something I neglected to ask you, which you think really ought to be part of your Oral History?

No, I donâ\200\231t think so. Iâ\200\231ve spoken too much already, and Iâ\200\231’m not ev en sure what Iâ\200\231ve said...

Well, you prepared. (Laughs).

No, I just picked out a couple of...no, I just do that...bit of a road...because it was...I thought...â\200\23194, what am I going to tell you, and I was, sort of...ok, what did I do? Who was there? You know? And I had to think hard about some of the people who were there, you know? No, I donâ\200\231t think so, but, I mean, if....equally, I mean, if you... this is not...you know, I hope this is not about me...this is about me...this is about me, in the context of the LRC.

Absolutely.

Ok, the approach we take with my current company is, we donâ\200\231t talk about ourselves, we talk about the company, as a peopleâ\200\231s centre, we talk about our stakeholders, which is the community, and so forth, we donâ\200\231t do interviews about what you had for breakfast and...what...

Sure. (Laughs).

...you know, do you take part in sports, we donâ\200\231t do that sort of thing...

Ok.

...but I guess I will have a bit of will to panel beat it if possible...

..maybe we could end at the point of...do you have a particular memory... I know you spent a year in the LRC, but before and after, I think youâ\200\231ve come into contact wit h people such as Arthur Chaskalson and George Bizos, etc, I’m wondering whether thereâ\200\231s a particular memory of a client, or a colleague, or something about the LRC , that you hold dear, thatâ\200\231s memorable, and I wondered whether you could share that

story...?

A story or a friend that I hold dear, or an event...Um...there are too many memories and theyâ\200\231re all muddled up.

Ok, fair enough.

MP

Int

25

Um...and I mean, really, all of the people that I came into contact with then, from the other Fellows that I served with... Tim Bruinders, Mark Euijen, Ellem Francis, Tim (Bruinders) is at the Bar, Ellem (Francis), I think, is at the Labour Court as a judge, Mark (Euijen) I think is at the Bar, but â\200\231'm not sure, I mean, had a tremendous imp act
on my life and you know, one could just not help noticing what unique individuals they were. They certainly enriched my experience because we all came from different backgrounds. Mahomed Navsa who was always a very supportive...sometimes, you know, an explosive kind of fellow, he didnâ\200\231t mind letting out an expletive or two i f I
got onto the wrong side of him, but he taught me well. And then, of course, I mean, Iâ\200\231ve mentioned the impact of Arthur (Chaskalson), Geoff (Budlender) in his quiet way, Paul Pretorius who contributed a lot to my writing skills and just how he conceptualised things, I remember he gave me a letter to write and I wrote it and he says: oh, your English is very good, but your letter is a load of shit. Um, (laughs), it was the kind of thing. Um, Karel Tip and Charles Nupen, also quite an explosive kind of person, but, you know, he taught you, you know, you hang in there, you know, if...you give it your go...you give it your all, mean, Charles (Nupen) never knew the word â\200\230give upâ\200\231 when he was fighting a case for workers and so on. So, they all had an
impact on me, all of these people had an impact on my life. One particular incident, you probably...I mean you can record it, but I know I will chop it out when... (Laughter). 1 think it was on an occasion of our year-end party. It was December, and a client walked in, and it was one of these people whoâ\200\231d been chased away from...he worked for a security company, theyâ\200\231d chased him away, would not give him his documents, and so forth, and what we tended to do was, you get into the boardroom and make a call to the employer and say: listen, Iâ\200\231ve got Mr. so and so, he tells m e
this, whatâ\200\231s the case, can we just sort this thing out. And I went to do all that.. .he was
an elderly guy. I left him to go and make the call, and I remember that I didnâ\200\231t ev en
speak for one minute and the employer was on to me, he was swearing at me, he promised to come in and to give me a hiding second to none...how dare I call him, and so on, and I thought: of course he knows where I am, (laughs) heâ\200\231s going to come an d
beat me up and...I really was...I was shaken. Unbeknown to me, my client had then decided heâ\200\231s going to leave the office and heâ\200\231s going to go to the loo, and unbeknown
to me, heâ\200\231d been drinking. It was early in the morning, it was like, nine oâ\200 \231clock, or ten
oâ\200\231clock or something, and unbeknown to me, that as he was walking from where I left him to the loo, he deposited little mishaps along the way, and I came out of that call, and the whole office was in a mess, and somebodyâ\200\231s coming to beat me up, and ya...i t
was not a...(laughter), it was...I mean, thereâ\200\231s a lot of good things I remember, b ut that
one particular, and it didnâ\200\231t only end up being funny because, you know, Arthur (Chaskalson) was standing at reception and he just quietly looked at all of this and of course, now Iâ\200\231m terrified...Arthur (Chaskalson)...you know, like itâ\200\231s my fa ult, but itâ\200\231s
not my fault. And he quietly said to the reception: just be careful, donâ\200\231t let peop le in
here who are not sober. He said nothing to me, and Cecilie (Palmer)...Cecilie (Palmer) still at LRC? Cecilie (Palmer) was Charlesâ\200\231 (Nupenâ\200\231s PA, actually helped me ...I felt I
had to clean, and Cecilie (Palmer) helped me. Anyway, itâ\200\231s not an amusing story but it
was...

Yes..

MP

Int

MP

Int

MP

26

...but that was the, you know, that was the nature of the client you tended to get...very desperate, obviously he lived in a hostel, you know, he would have been in a desperate situation, woke up that morning, probably didnâ\200\231t eat, then drank whatever it is he drank, and walked in with what was a pretty desperate situation, and anyway...thatâ\200\231s just one of...itâ\200\231s a bit of a shocking memory.

But thatâ\200\231s what you remember...

Other than that, other than that, we had lots of fun.

Good. It was really a pleasure to meet you and to interview you. Thank you ever so much for a wonderful interview.

Ah, I hope you find it useful.

Mpueleng Pooe-Name Index

Cases:

DOCUMENT DETAILS:

Document ID:- AG3298-1-152

Document Title:- Mpueleng Pooe Interview

Author:- Legal Resources Centre South Africa (LRC)
Document Date:- 2008