

Glenn Moss

LRC Oral History Project

6th August 2008

Int This is an interview with Glenn Moss and it's the 6th of August (2008). Glenn, on behalf of SALS Foundation in the United States, we really want to thank you for taking the time to participate in the LRC Oral History interview project. I wondered whether we could start the interview...if you could talk about your early childhood memories, growing up in South African under apartheid, and where you think your sense of social justice and injustice developed?

GM I was born in Pretoria, which was a difficult place to grow up in, as somebody who was broadly opposed to the general social ethos. It was Afrikaner dominated, military dominated, civil service dominated. From a fairly early age I was aware of the broad unfairness of what appeared to be the whole social situation, and I've got fairly clear memories of very early moments, I can remember Sharpeville, I can remember the first State of Emergency even though I was fairly young at the time. By the time I was a teenager, I considered myself to be a politically engaged or concerned person, and participated in the only outlet that was available in Pretoria at the time, which was the Young Progressives, which I would have worked with or for during the the 1960s. It's the memory of Pretoria as almost a militarized, garrison oriented, town that is most clear to me from that particular period and an increasing resistance and rebellion against that. By the time I was able to leave Pretoria, which is when I finished my schooling and came to Johannesburg to study at university, I was settled on the idea that I was a political person with broadly progressive leanings.

Int I want to take you a bit back. I was wondering where you think this political conscientisation came from; was it discourses within the family; or observations of disparities? Where would you lodge that sense of awareness?

GM I've been asked that question often and I've never come to a proper conclusion. I suspect it was just a set of factors that came into play. As a teenager, I would have been influenced by a couple of teachers at school. I went to a public school, which produced people like Dennis Hicks, Peter Hain, and there would have been, as there often are at schools like that, one or two teachers who have an effect on one. , Then I probably had a reaction to a very naked, inequality and sense of injustice. One witnessed the pass raids all of the time. One witnessed the way in which domestic workers were treated in one's own home, as much as anywhere else, and just developed something of a reaction to that, and a rebellion to the existing social order. It didn't have anything to do with parental influences or anything like that. My parents were very ordinary, lower middle-class white South Africans, broadly decent people, but not politicized in any major sense. I also read very extensively at that time, and I suppose I became quite fascinated by, particularly issues of the Second World War, Nazism and Fascism, the Holocaust. At a very early age I started reading some of the comparisons between apartheid and Nazism. Brian Bunting's book (The Rise of the South African Reich) was doing the circuits under the desks at the time; those were the set of influences that were brought to bear on me.

Int I'm wondering about newspapers, whether that had any impact on you, like the Rand Daily Mail?

GM Ya, absolutely critical. The Rand Daily Mail was absolutely critical...read it every day. Was delivered to our front doorstep, and the coverage of a number of issues...I can even remember what some of them were. By 1969, which is my last year of school, the Daily Mail is covering very extensively a trial that was known at the time as the "Trial of the 22". At that stage it was called State vs. Ndou, and there was a lot of evidence being given by detainees, Section 6 detainees, being brought to court as witnesses, and they were refusing to testify and explaining their refusal, in terms of their torture and interrogation. That sort of coverage from the Daily Mail and coverage of the Prisons Acts trials, the Pogrund, Gandar, Strachan trials, around the Prisons Act, the prisons exposures, would also have been covered obviously very extensively in the Daily Mail. That was very important. It created a sort of national context for one's localised responses.

Int Sure. And so after school you left Pretoria...where did you go?

GM I went to University of Witwatersrand.

Int Ok, and what did you...pursue in terms of your studies?

GM I studied, throughout my Wits time when I was there...I ended up with a couple of degrees from Wits, and they were always in the area of the broad arts and humanities, particular foci on: Politics, Development Studies, Sociology, although I went to Wits intending to become a lawyer...

Int ...You did. That's interesting.

GM ...Yes, oh absolutely! I started with some legal subjects in the BA I was registered for, and quite early on, felt fairly put off by the organized legal profession at the time, which included the sort of people who were teaching at Wits. There seemed to be something so fundamentally staid, conservative, hierarchical, that, within a fairly short period of time I decided I wasn't going to become a lawyer, and in fact dropped those legal subjects, and went off on a politics and related route.

Int In terms of, wanting to become a lawyer, where do you think that came from? Perhaps at ...high school, you must have decided that that's what you wanted to do?

GM I think it was a sense that that was a way in which one could be engaged in society. I was probably also told that I should be a lawyer. I was always argumentative, and contesting, and challenging, and debating and reasonably articulate. And probably everybody said, or everybody that I would have known, said those are clearly the characteristics of a lawyer. Quite frankly in 1970 in Johannesburg, they were the characteristics of very few lawyers. The vast majority of lawyers were anything but

combative or contesting, and when one looked at legal practice...ah! When I finished my matric and before I came to university, I did about a two or three month vacation job in a legal office in Pretoria, which was probably one of the many things that put me off because it seemed to have an enormous amount to do with filing statutes, and going down to the Master's office, and just the whole ethos of that office, and the other ones I saw, was boringly commercial. And the enormity of the drama, that I suppose gets associated with the legal profession, slightly later in the '70s, is not really there at that stage. So those are probably the reasons both for why I thought I was going to be a lawyer, and why I decided I wasn't going to be a lawyer.

Int So at Wits, it seems to me that you quite early on became very heavily involved in student politics, and would that have been NUSAS?

GM There were other structures on the campus, but pretty immediately, I became involved with NUSAS, carrying under my belt an instruction from my parents that I was not to get involved in NUSAS (laughs). I was thrown in, for my sins, into a men's residence, at Wits, and they were exceptionally authoritarian, problematic and unpleasant places. They represented almost, the worst of boorish, white South African youth behaviour. Including a practice called initiation, which I decided I wasn't going to participate in. I organized protests against initiation, and it was in fact immediately through that, that I got introduced to the NUSAS and some of the SRC leadership because they came in to help and support me.

Int You must have been quite single minded to have to take on an established structure, quite early on (laughs).

GM No, not at all. I was an adolescent, from Pretoria, quite insecure, very uncertain of myself, and quite scared of a lot of what was going on. But whatever identity I'd forged for myself at the time involved, not taking part in this sort of nonsense! I wasn't going crawling through the sewers of Johannesburg, which was part of initiation, and going on beer drinking activities and chasing girls up and down campus, and they just were things that I was fairly clear I was not going to be involved in.

Int The other thing that I wanted to ask you was, how did you then become involved in NUSAS to the extent that you were one of the accused...in the NUSAS trial? I wondered whether you could talk about that?

GM Look, what you've got to remember is that the NUSAS trial takes place in 1976, though it deals with events related to 1974 and 1973. I became involved in NUSAS right at the beginning of 1970, and NUSAS was, to a very major extent in the doldrums, not just at Wits, but nationally. It was battling with its identity. 1969 had involved quite a high point of so called liberal protest against the segregation of the universities, and following protest marches and a fairly academic protest against it, there was something of a confusion as to how to deal with things, and also critically how to respond to Black Consciousness, which was at that stage, starting to challenge more substantially NUSAS and NUSAS' dominance. NUSAS was, to some extent, in

the doldrums. It meant that somebody who was prepared to take it seriously, and work reasonably hard, and show some sort of commitment, went up the hierarchy very quickly. There...wasn't enormous competition (laughs), so I mean by late 1970, I had become head of NUSAS on the Wits campus, which then was called NUSAS local, and I'd been to a number of NUSAS National Seminars and conferences where I had met, and engaged with some remarkable people. It's where I met Biko for the first time. He still used to attend NUSAS seminars, in 1970, and from there, just became an increasing involvement. One very important part of that involvement, and of that period, is the follow-through from what I mentioned earlier, the so called "Trial of the 22". Do you want me to go into a little bit of detail about that?

Int Absolutely, absolutely.

GM This was a trial of a group of predominantly Johannesburg based people, who were alleged to have been involved in starting to resuscitate or set up an ANC underground. This involved some well-known people: Winnie (Madikizela)Mandela, Peter Magubane...some less well known people. They had been charged, I think, under the old Suppression of Communism Act in '69, and the State's case became increasingly embarrassing to the State as detainee after detainee came forward to talk about the interrogation techniques and the torture that they'd experienced in solitary confinement. Shortly after the testimony of a woman called Shanti Naidoo, the State withdrew charges, but because the accused had pleaded already, they were found not guilty and acquitted. They were immediately re-detained under the Terrorism Act, and taken back into custody. This became quite a major cause celebre, I suppose internationally, and certainly at Wits, and by 1970, radical students at Wits had latched on to the issue as a major issue. And there were protests, there were defiance activities, it was my first arrest. Probably about April 1970, I remember we marched on John Vorster Square...we must have been mad...in protest against the continued incarceration of this particular group of people. I suppose that's a very early focus on issues associated with detention, interrogative detention, torture. What came to be known as human rights abuses, and that was an abiding and engaging interest and involvement of mine, right through into the very late 1980's. I wrote about it, I was involved in organisations. So that, that particular set of events had quite a major radicalising effect on me, and...and on a group of other people.

Int And in terms of the NUSAS trial in particular, I wondered whether you could talk...?

GM ...Ah, that's where we were going, sorry (laughs).

Int ...No no. It's very interesting, and I'd like you to talk a bit more about that, but with regard to the NUSAS trial...so 1970 you become involved in NUSAS, by 1973 certain events happen?

GM By 1973, I had been Deputy Vice President of NUSAS, I no longer was...

Int And who was President at the time?

GM I had two different presidents, because my term was different. Neville Curtis for part of my term and Paul Pretorius for the other part of it.

Int ...And one of the LRC people.

GM Yes, absolutely (laughs). By 1973, a group of people who saw themselves as...we probably called ourselves radical at the time, rather than left, took a specific decision to go back into the structures of student politics, which to some extent we'd withdrawn from, because we'd seen them as problematic and compromising structures. And we went in with specific programs and agendas. I was one of those and I became the president of the Wits SRC1973 election. One of our specific agendas was to run fairly serious...we would have called them conscientisation or politicisation, I suppose they would now be called education campaigns or something like that, both with students and with the broader public. Particularly around the issue of the history and positioning of the liberation movements and their leadership. You have to remember that in 1973, not a lot lot of people were thinking about these sorts of issues. It's just before the beginning of the re-emergence of the union movement, and...

Int The strikes...were those 1973?

GM ...Sorry?

Int The strikes.

GM Ya, the Durban strikes of '73. And the Ovambo strike of '72. These all feed into this in terms of a context. But, despite the Durban strikes of '73, the ANC, or for that matter the PAC or SWAPO were really way off the general public agenda. So we started running a set of campaigns, which I think we called initially History of Opposition in South Africa, which involved publications and lectures, and seminars and sit-ins and teach-ins, just trying to go through the history of resistance in South Africa. And the intended culmination of all of that was always going to be an argument that if there was to be any negotiated settlement to the South African situation, political leaders had to be released, and that led into what we called the Release All Political Prisoners Campaign. It also had a history, but let's not go too far back on that. That campaign, which was centered predominantly at Wits, as was the History of Opposition series, was one leg of the NUSAS trial. The state wanted to allege that that campaign had been designed and planned and implemented in conspiracy with the ANC and the SACP, and hence we were charged with both membership and furthering the aims of both of those organisations. There's a second leg of that trial which is quite confusing. The state wanted to say that as supporters and adherents of Black Consciousness, we were attempting to try to politicise and conscientise the black masses into believing they were in the majority. A strange charge, but that's the second leg of it. That was ideological nonsense. The third leg,

which in many ways is the most substantial leg, was the whole issue of the Wages Commissions. The Wages Commissions were formed, I think initially in Durban, probably in about '71, if I remember correctly, but by '72 and '73 they had become a major leg of NUSAS' activity, certainly in Johannesburg. Effectively trying to create the pre-conditions for embryonic worker organisation. And everything associated with the Wages Commissions and their campaigns and their activities, formed a third leg of the NUSAS trial.

Int And then, how is it that you came to be the first accused?

GM The Security Police had a particular view of me. They believed I was connected to embryonic ANC and Communist Party underground structures, and I suppose I had been active for a long time, because by this stage it's 1976, and in the grand scale of things, six or seven years of...of white political activism is...was considered to be a long time. So they had seen me moving through a whole set of activities and events, which also included during '75, Trade Union Organisation. I was one of the first organisers of something called the Industrial Aid Society, which was a Johannesburg based worker organisation. I suppose the Security Police saw me as quite central in that. I had been obviously very prominent at Wits in terms of the campaigns of the SRC. I was the SRC president, and I think in their view, I was a sufficiently substantial target to try and deal with.

Int I'm also wondering Glenn, in terms of the other people that were involved with you, how did you all get to be in the same trial? How did that actually emerge?

GM For three of us it's fairly obvious. Cedric de Beer and I worked exceptionally closely at Wits over many years, so he was seen as my, my right hand person. Particularly the Release Political Prisoners and the History of Opposition campaigns. Charles Nupen had been president of NUSAS at the material times and these were NUSAS campaigns, although they were, as I say, most actively implemented on the Wits campus. But as president of NUSAS, as somebody who had been round the country speaking on these things, there came in his responsibility.

Int Karel Tip (another accused) was involved in the Wages Commission...

GM Karel (Tip) had been involved in the Wages Commission, in the early '70s in Durban, and then by about '73/'74, went into formal NUSAS structures, where he did have a link to the Wages Commissions. I don't think that formed a specific part of the charges against him. He had subsequently become NUSAS president, in 1975 but his actual involvement, at least on the evidence from in the trial, was not very substantial. And in fact Karel (Tip) did not testify in his own defence in this trial, it was just seen as unnecessary. It wasn't seen that he did not have a case to meet.

Int Sure. So there were five of you?

GM And Eddie Webster was a radical Sociology lecturer in Durban, with links to some of those who were involved in the Wages Commission and early 1970s worker organisation. But the particular charges that faced him related only to a seminar paper he had given to a NUSAS seminar, which was an evaluation of, I suppose in some ways, the challenge to Black Consciousness, and an embryonic class based critique of evolving South African society. Many of us were all explicitly moving, actively and loudly, and challengingly away from what we perceived and defined as liberalism, and towards a form of radical or democratic socialism. I think the State viewed Eddie (Webster), as something of an intellectual mentor in that process.

Int Just to piggyback on that, my sense is that...was it the time around which the black students actually split off from NUSAS? And I wondered whether you could talk about that...?

GM That happened earlier. The first separate black caucus, as far as I know, was formed at a University Christian Movement conference, probably in 1967 or 1968. The radical Christian movements were one of the key places where black and white students met and engaged. I think that (Steve) Biko led the first black caucus at a University Christian Movement conference in '67, '68. At probably the 1968 NUSAS conference, (Steve) Biko led a black caucus out of the NUSAS Congress. Very shortly afterwards – but remember I was at school at the time (laughs), and I may have the sequence wrong - SASO was formed. But SASO retained, at that stage, fairly cordial and non-combative relations with NUSAS. Relations were expressed in a debate over over a resolution as to whether SASO was a student body 'well able' to represent black students, or 'best able' to represent (laughs) black students. And that rather fine distinction became a battle within SASO and within NUSAS. And I think in '68, SASO called itself 'well able' to represent black students, and '69 'best able' to represent black students. By '70 SASO becomes more of a direct challenge to NUSAS. NUSAS is in something of a disarray, and is challenged to respond and redefine roles, and activities and thoughts. That is the critical contribution of Neville Curtis, who is the new NUSAS president in 1970. He initiates NUSAS restructuring, which re-thinks the whole role, purpose, function of NUSAS, and part of that is defining its response to Black Consciousness.

Int In terms of...meeting (Steve) Biko, were you involved in...that? I understand Paul Pretorius was?

GM Although relatively unknown at the time, NUSAS leadership and SASO leadership still met from time to time. Paul Pretorius was quite right. I remember being at a meeting with Paul (Pretorius) at probably the Allan Taylor residence, at the University of Natal, which was called Medical School or UNB. Meeting with Steve Biko, and probably Barney Pityana was there, and certainly Strini Moodley and Saths Cooper, and I remember Paula Ensor there. . I had initially met (Steve) Biko at the last two NUSAS annual seminars he attended in 1970 in April and December, and for whatever set of complex reasons, he seemed to like me. And it was quite nice to be an eighteen year old recently from Pretoria, (laughs) and to be liked by somebody like that, and I saw him on and off at various times, afterwards. Probably right up to '76, I remember going down to, King Williams Town I guess, to go and see Steve (Biko) to

talk about the relationship between the Black Community Programme (BCP), other emerging, community type organisation, and around other areas and other activities. That's probably the last time I saw him.

Int I'm also curious about, the fact that...did you have a problem, ideologically, being at NUSAS? Clearly not, but I'm wondering, with regard to the split, with the black students?

GM You know, there's a process of change that happens within NUSAS and certainly is reflected in me personally. Initially, I was, and many people in NUSAS were exceptionally supportive of the Black Consciousness initiative. It seemed to make enormous sense. What it was saying, was that because of the history of segregation, apartheid and racial oppression, black people and white people didn't work very well together as equals. (Steve) Biko argued that, in this respect, apartheid had actually succeeded. That's incidentally what I said at a April 1970 NUSAS seminar, when we were sitting around, and (Steve) Biko actually picked me up and held me up, and said: see, see, see (laughs). There was something forced, uncomfortable and dysfunctional, multi-racialism at all costs, as a principle, even if it wasn't working. . The second part that was very important, is that Black Consciousness challenged the comfort and complacency of what it would have called white liberalism. And I think those of us in NUSAS who saw ourselves as, at that stage, radicals - before the development of a Marxist or democratic socialist critique of society - responded to that. We also found the comfort of a relatively compromised white liberalism problematic, and we were supportive of and engaged in the challenge to that comfort zone. Later, maybe 1973, 1974, maybe even a little bit earlier, certain people within NUSAS, and outside of NUSAS of course, are starting to challenge the ideology of Black Consciousness, on totally different grounds. We argued that, in prioritising blackness as your key category of identity, you're misunderstanding the most important schisms and cleavages within society. Be they rural-urban, be they worker-peasant, elite-non-elite. To some extent, the development of the Wages Commissions is key in this, with their focus on the organisation of the working class as the key to challenging what existed. The Wages Commissions are saying the organised working class, which happens to be main up mainly of African people, is the most important motor of potential power. And by that stage, a number of us were becoming fairly critical of that exclusivist form of Black Consciousness. It's mirrored by something that's happening within SASO and BPC itself. Those debates are happening, quite substantially already, and I mean at precisely the time that SASO was banned, 1977, there had been a major battle within the SASO executive, in which I still knew some of the people around, whether they saw issues of blackness or some other relationship to society as your key identity. That's a very long-winded way of saying, no, I was not uncomfortable within initial support for Black Consciousness, and I was not uncomfortable with the subsequent, growing critique of it. I saw this very, very clearly in the effects of the 1976 students' rebellion, the consequence and effect of Black Consciousness, way beyond the university student movement, was critical for a generation of school going children. Therein BC played probably its most important role and function both organisationally and in terms of people's consciousness.

Int But curiously, BC...the BC Movement really petered out towards the late '70s. Do you think that's a function of the fact that they had lost Steve Biko by then...?

GM I think it's a change in circumstances. I mean the first thing is that the union movement has become, in various forms, absolutely critical and absolutely central, and BC is not central to the emerging union movement. Embryonic attempts to form Black Consciousness linked unions, Drake Koka's BAWU, Black Allied Workers Union, were not terribly successful, and it was predominantly, I suppose, the unions that ultimately became associated with TUACC, Trade Union Advisory Co-ordinating Council, and then FOSATU...and then COSATU, and the so called community unions, SAAWU and GAWU and Food and Canning, that were driving the agenda. I think that pushed Black Consciousness in a whole lot of ways, to the side. The new agenda was firstly worker oriented, and then secondly increasingly involved a rediscovery of the congress tradition or the congress alliance. I think it's that, more than anything to do with particular individuals who die or leave or disappear or go to exile, that accounts for BC's fragmentation and marginalisation.

Int Sure. Coming back to the NUSAS trial, before we started the interview, you said: you owe it very much to George (Bizos) and Arthur (Chaskalson), for giving you an understanding of the legal profession. I wondered whether you could talk about that? How did it emerge that you would get counsel, you would get Arthur and George to represent you?

GM It's an interesting moment, because there...had been very few political trials in the late 1960s and first part of the '70s... before '76. They tended to involve predominantly returning ANC guerrillas who were apprehended, or very embryonic attempts to form an ANC underground, or attempts to recruit for the ANC. There had not been a substantial white political trial for a long, long time. Ours was an interesting trial initially because the state could never establish a link between our activities and the activities of a banned organisation. It could establish a parallel, but it couldn't establish a link. By charging us under the Suppression of Communism Act and the Unlawful Organisations Act, the state was trying to criminalise what on the face of it were legal activities. . That was seen as a very serious development. This was an attempt to criminalise what very little space has been available for political activity outside of the parliamentary terrain. And I think it was for that reason that the decision was taken to instruct counsel of such stature, three very substantial counsel - Arthur Chaskalson, George Bizos and Denis Kuny. George (Bizos) had continued to do political trial work throughout that period, particularly around banning orders, and defending people contravening banning orders, and other trials. Arthur Chaskalson had not been prominent in political trials for quite a long time. Interestingly as an aside, my parents' old family lawyer in Pretoria, when they heard that Arthur (Chaskalson) was our senior counsel said: They're making a terrible mistake, you know, he's only a tax lawyer (laughter). I think for Arthur (Chaskalson), this was partially a return to this arena, which he'd previously been prominent and central from Rivonia onwards. It was seen as a particularly serious trial because of that attempt to criminalise an area, which, broadly speaking, had hitherto, been seen as broadly legal.

Int I'm also wondering Glenn, George (Bizos) was there as well, and what were the dynamics in terms of how were you represented and what did you learn?

GM Tactically, the representation was partially split. Arthur (Chaskalson) senior counsel for everybody. I think George (Bizos) was junior counsel for Cedric de Beer and myself, and Denis Kuny junior counsel for the others.

Int Geoff (Budlender) was also involved?

GM Geoffrey Budlender was Raymond Tucker's clerk, and Geoffrey (Budlender) was also very close to being a co-conspirator in the trial. We had to think very carefully as to whether Geoffrey (Budlender) could be part of the defence team in the trial. It was finally decided he could be, despite his closeness to the activities of the accused. He did much of the attorney's work in the trial. The split in representation didn't reflect any split among the accused. It was simply a tactical way of allowing, if necessary, counsel to have two goes at witnesses in cross-examination.

Int What was your sense during that period, because...you had gone off to university and been a bit dispirited by law and...and so what was your sense then of being involved in a legal trial, a political trial?

GM Just prior to being arrested in the NUSAS trial, I'd been in Section 6 (of the Terrorism Act) detention for quite a long time, as had Karel (Tip). We were both released and then re-arrested within a day or two. Frankly, after a long period in Section 6, the trial was reasonably un-problematic. We felt incredibly privileged: After a period, we were out on bail, which is reasonably privileged. B: I refused to become a full time trialist, so I did another degree during that year on trial, which was a very sensible thing to do, and just to keep myself not becoming a full time trialist. C: We had remarkable legal representation... incredibly committed legal representation. We had a lot of public attention and support: media, media reportage and various other things like that. We weren't lost or forgotten. I found being on trial broadly, an irritant, but not particularly emotionally draining, but 1975, had been a very, very, difficult year, and a year in which culminates in the Section 6 detention, and a year in which I was battling with the relationship between above ground, political work and underground political work; that was the hard time. In that context, it was almost a privilege to be on trial, and represented by such a legal team!

Int How long were you in...under Section 6 detention?

GM About four months.

Int Gosh, and was that solitary?

GM Ya.

- Int Right. And how did it come about that you were detained?
- GM These things are always multi-faceted. It came about because colleagues of mine wanted me to meet Breyten Breytenbach, when he was here on a clandestine mission. The irony of course was, that I knew about his mission and had tried to stop people being involved in it. Nonetheless, I was asked to meet him, and when I met him, he was under Security Police surveillance. Initially the Security Police picked up people who they'd seen with Breytenbach, but...but if you look at the detentions associated with Breytenbach, it became a major investigative exploration for the Security Police. So, in the case of people like, Jenny Curtis, myself, Horst Kleinschmidt and maybe a couple of others, we were all involved in large numbers of other things, so in fact our detention had very little to do with the *Okhela* issue. The Security Police used the time to probe an enormous number of other things associated with the beginnings of underground work, the relationship with the emerging trade union movement to the exiled SACTU, relations with the ANC, and issues like that.
- Int It's interesting because you've had a very specific experience of detention prior to the trial. Most people I speak to, when they speak about their detention, they always say that it somehow changes you, and I wondered whether that's something that you reflect on?
- GM I lost what remained of my youth in detention. I came out a lot older than I went in, and also a lot more aware of my own strengths and weaknesses. Up to then, in a whole lot of ways, the opposition, politics I was involved in included a little bit of bravado, and we were very young. I was in my very early twenties when all of this was happening. When I came out of detention, I think, together with a lot of other people, I was far, probably far more aware of the seriousness of issues, my limits and parameters, the dangers, incredible dangers of posturing, and various other things like that. Some of student politics in the early '70s politics involved some posturing. Brave posturing but posturing none the less. Detention certainly alerted me to the dangers involved in that.
- Int And the trial itself, how...what led eventually to the acquittal? What were the, circumstances?
- GM The State's case was surprisingly weak. It had an enormous amount of information, which it presented but it couldn't tie together into any sort of conspiracy, and its case was based on a conspiracy. It tried to infer conspiracies, but not particularly successfully. There were some other critical elements in it. I am as persuaded as I can be that the chief witness against the accused, and me in particular, was going to be Craig Williamson, and that halfway through the trial, the state decided that he was destined for higher things and it wasn't worthwhile revealing him as an informer by calling him as a witness. . And so they abandoned quite a lot of areas that he could have testified on, and in a more intelligent way than a lot of the other witnesses, drawn connections.
- Int And Craig Williamson was really in fact a spy at the Wits campus, is that correct?

GM Yes, he was infiltrated into the Wits campus as a spy in 1972.

Int And this has all come out subsequently in the Truth Commission? Or was that prior to...?

GM No, no, no, no, there was prior knowledge of an enormous amount of it By 1977, when he left the country and went to the International University Exchange Fund (IUEF), a group which included me had reason to send messages, both to the ANC and to the IUEF to say: No proof, but sufficient concern about this person to not allow him access to sensitive information on people. We were hammered for (laughs) the intervention.

Int Really? I'm wondering, so you were acquitted, and then what happened?
It's a very important trial from what I can gather having spoken to other people in terms of, how it changed them, and the directions they took, but clearly you didn't go into the legal profession...

GM Well, I mean I did in a sense, without ever meaning to. I did lots of different things after the trial. The one part that is worthwhile recording here is that, shortly after that trial...must be early '77...now bear in mind I've now actually had quite a good legal training. I've spent a year watching the best lawyers defend me. George Bizos prepared me to give evidence in my defence, and I mean we worked together almost every night for about six weeks. You learn a lot through that.

Int ...the fact the legal profession that you got involved...

GM Watching the legal proceedings, and I'd attended some trials and proceedings before the NUSAS trial, so I'd had something of an informal legal education. After the NUSAS trial, Shun Chetty asked me to come in to his practice and help a bit. Initially he had been ask to represent the makers of a film about Tate and Lyle and exploitation of sugar cane workers in, what was then Natal. I think the first thing he asked me to do a mission into that area, to gather as much information as I could, and I did that. And I skulked around the sugar cane fields for a couple of weeks, gathering information, interviewing people, things like that. And when I came back, as far as I remember, he then said he'd be interested in trying to see if we could do a book on some of the trials that were under the way, and I just started a very simple process of ordering the rather chaotic papers and records that scattered around the office. And then in the middle of that year, the students associated with the Soweto Students Representative Council were brought to court and charged with Sedition. There were perilously few attorneys available to do this sort of work, and Shun (Chetty) was the only qualified attorney in his office at the time, and Shun (Chetty) asked me to work in the defence team as I suppose a para-legal or un-articled clerk., I effectively became his representative in that trial, which was a nine months Sedition trial in Kempton Park. And that too was a process in which I'd like to believe I made some contribution but also learned a lot. And from then onwards I continued involvement in

various political trials of different profiles. Initially for Shun (Chetty), and then after Shun (Chetty) left, when Priscilla Jana took over the practice, for her.

Int So you worked as a paralegal would you say, would that be correct ...?

GM I suppose that's what we'd call it now.

Int ...or a professional assistant?

GM I did it.

Int Right. What did you do exactly, Glenn?

GM I undertook many of the things that an attorney did. I took statements, looked for witnesses, consulted with clients, prepared material for counsel, went to court. I had a particularly privileged position, because it allowed me to be part of the legal defence initiatives without being part of the hierarchy. I formed some very close friendships with a lot of counsel and senior counsel in those situations who was almost prepared to accept me as somebody who stood outside of the hierarchy but fulfilled those roles.

Int Did you continue with your ANC underground work during this time?

GM Not ANC underground. I mean I had contacts and links, in one way or the other, and I did bits and pieces of what I suppose these days would be called intelligence work. I didn't grace it with that grand name at the time. I did reports on bits and pieces. I used some of the information that I gleaned in trials to do reports on why guerrillas were being apprehended so easily and so often; but, I mean, I was not functioning as an ANC member under discipline, taking instructions. I was from time to time asked to do various things. I was doing other things at the same time. I had started with a group of colleagues a political magazine called Work In Progress, which became, I believe, a relatively central magazine. I stayed there as editor right up until 1988. Also doing that legal stuff and also studying. The different foci fitted together quite well. I did a series in Work In Progress called In the Courts, which was to some extent based on the trial work that I was doing. And I wrote a book on political trials.

Int 'Work In Progress' really...captured the circumstances of the 1980s, in particular around political violence, etc, and so you were involved in that...?

GM Yes, I both wrote for and edited Work in Progress for many years.

Int I'm also wondering, during the 1970s, particularly around the, NUSAS trial time, it seems to me there was discussion, and that may have stemmed from the 1974 conference at the University of Natal, on public interest work. A ...desire to actually

start the LRC, or an organisation like the LRC. I'm wondering how much you were privy to...these discussions?

GM Look, I wasn't part of the legal group, and remember the legal work that I was doing was largely separate from the public interest discussions. Lawyers like like Shun Chetty and Priscilla Jana and even the counsel that they briefed in the trials were active in slightly different ways. They're doing defence work. They would often even describe it themselves as being stretcher-bearers, trying to limit the collateral damage to the casualties. You know, be it around people being tortured in detention, or people facing death sentence, or people facing long jail sentences. I was predominantly involved in that area, but was friendly with, involved with, knew, had politically grown up with, a lot of the younger group who were discussing this public interest group. (Fink) Haysom, (Halton) Cheadle, (Geoff) Budlender, (Clive) Thompson, were all colleagues or friends. So I would have known about it, I would have heard the discussions about it. The initiative runs parallel with the debate on the extent to which trade unions should use a legal space being created or not. This was a debate that I was far more linked to and involved with, which I suppose would have been around questions of whether to use instruments like the wage boards, and the conciliation boards, and then the question of whether to register as trade unions and use the legal space available, and how to respond to the reforms associated with the Wiehann Commission. Some of the unions and the legal people linked to the unions were arguing fairly strongly that one should see law as a contested terrain, rather than seeing law as only repressive and an instrument of the state. You contest it. You use it to try and open and develop spaces, to challenge, rather than just to protect. I mean I was aware of the debates in so far as they related to strategies, but I wasn't deeply involved in them.

Int Right, ok. And so the Legal Resources, there's always some dispute whether CALS started before the Legal Resources Centre... and I'm wondering, if you could talk a bit about that?

GM Work In Progress was banned and closed down, and closed down under State of Emergencies, and closed for all future editions and things like that. We took a decision to try and challenge some of the bannings of Work In Progress, just to try and keep a space open, and I did the initial cases myself. A horrendous business (laughs), and then at a certain stage we decided we needed legal representation and my memory is, that it was CALS that did that for us. I don't think it was the LRC, but, you know, I might be wrong. Paul Benjamin, who I'm sure was with CALS at the time, was doing the legal representation, but subsequently Gilbert Marcus appeared as counsel for us.

Int And he was at the LRC...at CALS and not at the LRC?

GM I think he was also at CALS at the time.

Int It's fine...

- GM When does CALS say it started? That might help me a little...
- Int It says it pre-dates the LRC, so maybe by a year or so...two years?
- GM Ok. And the LRC is formally constituted...?
- Int In 1979, early January, 1979.
- GM Is it as late as that?
- Int Mmm. But the idea really, I think started brewing, from as early as 1974. With Felicia (Kentrige), and...the Americans who had come...to the conference.
- GM Ok. You see, I don't know about that side, because I didn't ever work with her. I know that during the NUSAS trial people started talking about the idea of contesting the legal terrain, seeing what spaces could be created through public interest law.
- Int So from its inception, the LRC really took the test case approach, and the early main cases were the Rikhoto and the Komani cases, and that really put paid to influx control, and I wondered whether that had any impact in terms of what you were doing, in your work...assisting in...in trials, etc?
- GM Many people, and I was probably one of them, were quite sceptical of the idea of testing the legal terrain. I couldn't see how it could work. We had a an over-monolithic view of the state as a repressive instrument. The courts were seen as simply part of that repressive instrument. The LRC was based on a more nuanced view, and that approach certainly strengthened the hand of the unions and unionists, who argued that you have to use the new labour relations dispensation to organise, to strengthen, and to expand.
- Int One argument that people give me for why they engaged in this kind of work is that they thought that the law could be used as an instrument of social change. There are others who would offer some scepticism about this, particularly in a context where parliament was supreme and they could overturn any legal victories. But it was quite clear from, Rikhoto and Komani, that they didn't in fact do that. What's your sense of what was going on at the time?
- GM With hindsight, one can see that there were more cleavages in the state than one realised, at that particular time. Very few of us understood the institutions and how they operated, because we were excluded from engaging with them. The view of our world at that time was that we were permanently excluded, and would always be excluded, from any of the institutions of at least state power, and that meant that we had very little idea of how those institutions worked or operated. We had a great

distance from it. We hadn't come from any of the Afrikaner elite families that might have known about that.. We were not part of the sort of English grouping that went into some of those apparatuses or went into the corporate sector, where they might have actually got more of a sense of it. A lot of the ideological institutions of state, like the courts and the law, increasingly operated with greater autonomy from the rest of the state than we realised. I think that's probably what both the labour movement and initiatives like the LRC and CALS showed.

Int I'm also wondering...during the 1980s there's a strange anomaly where, people tell me that, even though the apartheid...the apartheid system was in place, judges seemed to have...Afrikaner judges, seemed to have this...strange adherence to the rule of law even though it didn't suit them... I'm wondering what your sense is of that?

GM This is something that I've never adequately been able to explain. As a predominantly repressive state, the apartheid administration adhered, to some extent, to juridical and administrative procedures in a very strange way. (Steve) Biko is taken into detention and bludgeoned to death, in detention. You then hold an inquest in which you bring along the manacles that he was held in. . You bring them along as an exhibit. That is very different from Chile, for example. The very fact that individuals are detained under a legal provision, Section 6 of the Terrorism Act, a piece of legislation presented to Parliament for debate and vote.. Inquests are held for those who die in detention, detainees are supposed to be visited by a magistrate every fourteen days. . There is a strange, partial adherence to a juridical set of procedures. That probably explains the ability to occasionally get a reasonable judgement out of a judge who came from somewhere totally different. But I have never properly been able to explain what hindered South Africa from going, say, a South American route, in terms of stadium type solutions. The best I've ever come up with, and it's a very partial explanation, is because of this bizarre situation where on the face of it, you had democratic institutions for whites. Now those institutions of their nature have to deal with the whole of society. You can't limit access to court in applying for interdicts only if you can prove your white origins or your political orientation. Maintenance of those formal, partially democratic institutions, for the white population, both created that strange, administrative juridical adherence you talked about, and limited the development of a fully blown, repressive state. During apartheid, the worst forms of repression were of an administrative nature, everything to do with control, influx control, forced removals, job seeking. Those are the most brutal parts of it. As an overly repressive state, well we talk about a hundred-odd people killed under interrogation in detention. Dreadful;, and I'm hardly pushing it aside. Some were friends of mine. But it's very small numbers compared to the full on, brutal massacres in stadiums at Chile, or the disappearances in Argentina, or genocides in Eastern Europe.

Int I'm also wondering during the 1980s with the States of Emergencies, places like Cheadle Thompson really came into the fore...it took on the political trials...CALS to some extent did a lot of labour work, and the LRC of course did a lot...Being outside all of this, how did you sense the positioning of what people were doing and what was going on during the 1980s, which was a fairly repressive time, probably one of the most...?

- GM You know the 1980s are a very, very strange period, It's clearly a repressive time, and yet most groups, individuals, forces, associated with opposition, are actually emboldened in a whole lot of ways, and they're emboldened to some extent because of the emergence of what will be called in the literature, Mass Action or Mass Democratic Movement. Basically the issues associated with UDF activity, which pushes boundaries despite the repression. You're no longer talking about a few people defending a trial, or three hundred students marching on John Vorster Square to release detainees or something like that. There is a continuous Pushing of the boundaries, despite increased repression. It's also of course, the beginnings of the first secret negotiations. So it's a intensely repressive time, in which, in a bizarre way, spaces are opening up for a whole set of things, including legal challenges and negotiations. For example, was it the Tsenole case in Pietermaritzburg ...
- Int It was in Pietermaritzburg?
- GM It involved a challenge to something associated with the detention, and I think (John) Didcott actually either compelled the state to give reasons or declared it unlawful or something like that...
- Int Sure, under the State of Emergency?
- GM ...And rolled back, certainly State of Emergency powers. There were successive challenges in one way or the other, to the State of Emergency powers around reportage. In Work in Progress, we started defying Emergency regulations, just doing what we thought we should do in terms of reportage, far more then we'd ever done before. And when we were banned, we managed to challenge that – quite successfully on occasion, with support from CALS.
- Int So by the early 1990s...speaking to the people at the LRC, their work didn't really change, because they still continued to take on a lot of political cases, particularly in the KwaZulu-Natal office. I wondered whether you continued this work, legal work, during that time in the 1990s?
- GM Whether I'd pursued it?
- Int Yes did you continue, in...in terms of what you were doing during the '80s?
- GM No. I'm trying to remember what the last trial was I did. The last trial I did was the Pietermatizburg UDF treason trial. I wasn't involved in Delmas.
- Int Sure. The Delmas Trial ,1985 to 1989. The long running one?

GM That Pietermaritzburg trial gradually wound its way down. People were acquitted or discharged over a period of time, and I don't think I did any more legal work of that nature, after about '88. I did a totally different variety in terms of the question of the hits squads and the assassinations in '89, '90, '91. Civil Cooperation Bureau and Vlakplaas stuff and a particular investigation into the assassination of a friend of mine, and the legal and political processes that came out of that. That was the only legal work I did after Pietermaritzburg.

Int And did that feed then into the Truth and Reconciliation Commission work?

GM It eventually fed into the TRC, particularly the Vlakplaas material. But I didn't have any involvement around that, I just had involvement in doing some of the earlier work around it.

Int Glenn, in terms of the current situation... one finds that the Constitutional Court judges are called counter revolutionaries, there's a lot of intemperate language in terms of...killing for certain political leaders, etc. What's your sense and concern about rule of law issues, particularly with regard to how public interest law organisations can affectively litigate against government in that domain?

GM It's terribly serious. The specific politics of competing political elites competing for power and influence have frankly come to exasperate many. When I look at the way in which...the way in which our bunch of...have learned to become...very conventional politicians very quickly, (laughs), I'm fairly glad not to have to be part of it. I'm really not talking about the sort of dinner party conversation about Jacob Zuma as president. In the grand scale of things, this is one individual...and actually we've had a president who has been reasonably problematic for the last ten years, and America's lived with George Bush for two terms. I'm not sure the issue of who your president is, is such a critical issue in terms of Rule of Law and protection of the constitution issues. More serious is the systematic, and to some extent, orchestrated corrosion, of the many institutions that just about hold society together. Not just attacks on the Constitutional Court, though I think that is particularly serious. The whole institutional basis of South Africa's democracy, including the administration of its democracy through the public service, is deeply eroded and deeply flawed, and deeply fragile. There is barely a government department, at national, provincial or local authority level, that functions anything close to capacity, mandate, delivery, efficiency. And that's been corroded in a whole lot of ways. When you marry that to the systematic attacks on and compromise of other institutions, other institutions like the Court, the Judicial Services Commission ... When you add that to a corrosion of the infrastructural basis of government...of governance, I think it's very serious and very concerning. How does that relate to litigation in public interest law? . I can see that in terms of challenge, very substantial challenge, it's critical. The sort of challenges that have been going on and on and on to the Eastern Cape government, around things like welfare grants and pensions, seem to me absolutely critical! Because that's ultimately where the vast majority of people in society engage with the state. The application for a pension over here, for a social welfare grant there, for a child support grant there, for, a counsellor to engage in a local issue, in this informal settlement. The process of challenge to that, seems to be incredibly important. Those

challenges provides the raw material for the media to deal with things to the extent that it does. In addition, the involvement of citizenry and NGOs and community organisations is a critical part of governance, holding it to account, making it more efficient and effective. The importance of a rights culture, and legal challenge in hold democratic governance to account, is very important. This all sounds very old fashioned, but for those of us who believe in it, who believe that it's essential, to hold a democracy like this in place, the question of challenge, be it legal challenge or other challenge, becomes incredibly important.

Int The other thing, Glenn, is that...when Arthur (Chaskalson) left in 1994, he said, in his farewell address that, the LRC's role as a public interest law organisation is to take on government when necessary, and to be fair, it has in terms of... key cases, for example the TAC case, the Grootboom case. But, I think, the challenge then is that, even with those judgements being passed, that the government departments don't necessarily adhere to those judgments, and so you have this slew of contempt orders (laughs), I'm wondering how you understand this?

GM How I understand it? Well, I don't understand it! (Laughs) It would seem to me that by our statutory and constitutional set of arrangements, if a court orders you to do something, you actually have to do it. One of the really worrying things is when government effectively says: No, we don't have to. We don't have to for this reason or that reason or another reason. I'm not sure how you hold government to account, unless you have that final sanction of compelling through a legal process, and if government declines to to adhere to that compulsion, I'm not a hundred percent sure what the next steps are.

Int Isn't this where the Constitution is absolutely imperative? In terms of a judgment that could be passed down to government, adhering to orders, etc.?

GM I'm not sure how that would work. Assume the Constitutional Court orders, for example, the Eastern Cape Social Welfare Department to deliver pensions or something like that. What is the sanction is if government doesn't do it? Because normally the sort of sanction one would look at would be the question of resignation, or government falling (laughs), or something like that. Now that's clearly not going to happen in these situations. The question I am asking is: what's the enforcement process, and what is the consequence of government refusing to accept and implement court orders? Because it does seem to me that there is at least a strand in government that actually says: No, we don't have to take this terribly seriously. It's just part of a process, and as part of a process that we may not agree with, or that may be changed in the future And if we don't like these orders, somewhere down the line we may have different Constitutional Court judges who may revise or revisit these issues. This is very serious indeed.

Int I'm also wondering...there are lots of concerns about how the legal profession, particularly a place like the LRC, which is strapped for funding...can't attract young, black lawyers, and I'm sure you know, the LRC has had a reputation in the past of being a predominantly white, liberal organisation. But in trying to change those

dynamics, it seems to me that it's quite difficult, because young, black lawyers who graduate are immediately snapped up for huge salaries by corporate law firms...

GM I've been a special advisor to a government department for twelve years. Those issues are faced everywhere. I have increasingly adopted a less tolerant attitude towards it all. I would probably want to argue that the way in which affirmative action is being implemented, has been exceptionally problematic, and quite debilitating and corrosive of organisations and institutions. Where this has led to a scramble for scarce talent and resources, for the intention of simply changing your profile that has been deeply unhelpful.

The new emerging black professional class, also needs to evolve and develop its own social consciences and set of values and morals. This obviously is happening and I have little doubt it will develop further over time. But there are very few people who originally came to work for LRC because the salaries were attractive, or because the status was substantial. The development of the social ethos in which people say I'm going to go and work in this particular area because I'm concerned about it, because I care about it, not just for the salary or the status of the career advancement. You want an increasing number of new professionals to say: I'm going to the cutting edge and learn more and more about it. When this starts happening to a greater extent, the problem you raise will start being solved. But I don't think you can go out and compete with private and commercial practice for the best of new emerging professionals. There has to be a strong element of social commitment, and I think that will develop over time. I don't think that you can say, we will appoint people of colour to these positions simply because they are of colour – and we will pay the market rates for such people. That's doing everybody, from a society, through to colleagues, through to clients, a disservice. So I've increasingly taken a relatively hard line, which says: You know what? We need the skill. And yes, I will accept totally, that if you reach a situation, where your black and your white candidates are the same, fine, bring in your principles of either equity or affirmative action. But under-pin it with what's required in terms of skill, experience and competence, and also choose the people of skill who are prepared to come and work in the conditions and the salary, with gratitude, regardless of their historical advantage or disadvantage.

Int And also...just piggybacking on that, I hear a lot of grumblings about the judiciary, and the chaos in the judiciary, it's often been said that, black judges have been appointed too soon...some of them without enough legal experience. What's your sense of that from the outside?

GM It's such a difficult one, because, everything in the system clearly required radical change, especially the racial representivity profile. Partially as a result of this requirement, judges have been appointed much, much younger than they used to be, both black and white, male and female. Rightly or wrongly, judges used to be appointed towards the end of the careers, after serving as Senior Counsel for many years. Of course, this did not ensure they were good judges – many were very poor, in terms of social orientation, wisdom, grasp of law, etc. But because of the stage of career, judges tended to be appointed when they were pretty experienced legal practitioners. I'm not saying that that this old system should have been maintained,

but there's little doubt that the rapid advancement and appointment of relatively inexperienced people has had its consequences. The other thing that's had its consequences is that some younger lawyers of competence are not interested in serving as judges because it will involve so many years as a judge, at remuneration levels much lower than many can earn as private practitioners. I think it's very difficult to sit as a judge for the last thirty years of your career, as opposed to the last ten years of your career. I've little doubt that the whole issue, regardless of the colour question, of people without enormous experience, being appointed to these positions has contributed towards a difficulty and a chaos in the judiciary. But this is a factor and problem in almost every institution in transition at the moment.

Int Given your particular role as government advisor, where do you think, in the current context, public interest law litigation ought to focus? Is it socio-economic rights? What are the areas that you think are most important?

GM This is not really an area that I advise on in my work, and I'm not going to pretend I've even thought about it, so whatever answer I give will be a winged response. At this very moment, I think that the challenge is to hold government to account to what it is already committed to doing. That's different from actually trying to expand the boundaries, or expand public interest law. Much of government policy is more than adequate. Sometimes maybe too adequate, sometimes maybe even utopian. But in that context, the challenge is of trying to find appropriate levers, point of engagements, to try and ensure that delivering on committed mandates is done. That seems to me a major area for public interest law, acting on behalf of affected interest groups and communities.

Int Glenn, I have, perhaps exhaustingly, asked you a range of questions, I'm wondering whether I've neglected to ask you something which ought to be included in...which you feel ought to be included in your LRC Oral History interview?

GM Look, I mean, my interview has had rather less to do with the LRC than (laughs) the broad areas in which I've ranged over. So, I mean...nope, I can't think of anything.

Int Ok. I usually end the interview with a particular memory, and I'm wondering whether in your case it might have something to do with Arthur (Chaskalson) or George (Bizo)? Something that you hark back to from time to time, if at all?

GM (Laughs) Look, I mean it's got no import...it's just a memory, it's a story...

Int Memories are important.

GM Arthur as you know, is a very controlled, and very phlegmatic person (laughs), and in the NUSAS trial, when Arthur (Chaskalson) received the State's Heads of Argument, at the end of the trial we were sitting in his lounge at his home in Atholl, and he started going through these heads of arguments, and he did the most uncharacteristic

Arthur (Chaskalson) thing that I have ever seen. He picked up these heads of argument, threw them against the wall! Used an expletive, which I won't mention, and then said: 'You know the state has argued the case it hoped to present, not the case it presented'. The Star's Heads was full of things that there'd been no evidence on. I'll give you one other Arthur (Chaskalson) story, which is worthwhile giving because it goes far back.

Int Please...

GM Arthur (Chaskalson) had been very close to Bram Fischer, and a number of the people who testified, both in the Rivonia trial and against Bram (Fischer), had been resuscitated from their retirement to come and testify in the NUSAS trial. We've never been terribly sure but Bartholomew Hlapane, who was critical in Bram (Fischer)'s trial, but also in Rivonia, and Andrew Murray who had been the State's expert witness in the Treason Trial, were dragged out to testify in our trial. Arthur (Chaskalson) was probably over cross-examining them about their previous testimony, perhaps because he had accounts to settle. He...he cross-examined (Andrew) Murray, for days, and his previous cross-examination had been of a [police spy called Lieutenant Brune. When cross-examining Brune, he often just look at him and drily start each question with the rank 'Lieutenant!' Half way through Murray's cross-examination, he looked at Murray and he went: Lieutenant! (Laughter) And then he went: Oh, my apologies. You're not a lieutenant, you're just a professor (laughter). One of those Arthur (Chaskalson's) phlegmatic comments. That's a precious memory of my senior counsel.

Int Thank you so much Glenn, for your time, and generosity and for a very thoughtful interview. Thank you.

GM Thanks...

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