

Vick Misser Constitutional Court Oral History Project
22nd November 2011

Int Good morning, Vick, thank you so much for agreeing to participate in the Constitutional Court Oral History Project, we really appreciate it. Today is Tuesday, the 22nd of November 2011 and I want to welcome you and thank you.

VM Thank you very much, I'm truly humbled to be here.

Int Thank you. Vick, I wondered whether we could start this interview talking about early childhood memories, where you were born, where you grew up, what your experience was growing up in South Africa under apartheid, for example, and... how you think your life prepared you for the position you currently hold?

VM Okay, thank you. Well, I was born in 1968, I hope I'm not letting out some age here, but nevertheless, in Durban, in a suburb that was called Bellair, which was then affected by the Group Areas Act and we had to move out of this area and relocated by the then government of the day, in a suburb called Silverglen, which was an Indian area. And most of my childhood, my schooling, was done in Silverglen, up to grade four, where my...my dad was an educator. Mom was a home executive. And dad moved throughout the country on promotion because of his career development. And we moved around the country. From KZN we moved to Gauteng, which was then called Transvaal, and we lived in Laudium where my dad was the deputy principal there and then became the principal. I did two years of schooling in Laudium. So I've been to about seven schools in my career because of dad's career. And the most interesting part of my career, schooling career, schooling activities, was in Klerksdorp, which is the old Western Transvaal, now falling in the North West Province, where I did only one year of schooling there, and mind you it was a very small school where dad was actually the principal and I had the opportunity of learning maths in Afrikaans, geography in Afrikaans, science in Afrikaans, and it was totally a difficult time for me, more especially being a boy from KZN that never knew a word of Afrikaans. So it was a huge challenge, yes. We spent a year there...

Int What age were you when this happened?

VM I was in standard six then, which is known as grade eight now. And we had teachers from the Defence Force that were white teachers that were soldiers in uniform, lecturing and teaching us in the subjects that I've mentioned, but in Afrikaans. And one of the highlights was that, I just never could understand the interpretation of drie tot die maag vier and things like that, and everything

was in Afrikaans. So it was quite a huge challenge then. We moved then from there, we moved to Newcastle, back to the KZN, where dad was the principal of the school of industries, which is a reformatory school for the delinquent children, which he was the principal there, and I schooled in another school just outside there. And that was the highlight also of my career because I obtained my Natal colours in cricket there, Natal colours in table tennis, Natal colours in soccer and athletics. I was an eight hundred-metre champ for the northern Natal and right up till Natal level, for many years held the Natal record. My matric was done, nevertheless, in Stanger, which is now known as KwaDukuza, the north coast, where dad was the principal in that area, which was M.L. Sultan Secondary. And I done my matric there in 1985, and then completed my schooling career, and then commenced working for the Department of Justice since then at the Chatsworth Magistrate's Court.

Int You mentioned that you moved different places, and that must have taken an adjustment in term of socialising, making friends, coming from a different place, explaining to your peers where you were from? I wonder how you managed that? What are your memories of that?

VM Well, I think in a good way it really enabled us to become extroverts and make friends as quickly as possible so that you can integrate into society, and so that you are not isolated. That was one of the strengths of the movements. The destruction nevertheless was the education side, because you were subjected to different teaching methods and learning practices of the various provinces then, more especially moving from KZN into a predominantly Afrikaans spoken area, which really impacted on the language development. On the other side it also enabled us to quickly grasp the language. Well, I can say that I speak Afrikaans quite fluently today, and that really enabled it.

Int And you mentioned this little town and how you had teachers who were white. During the 1980s that would have been quite unusual in terms of experience because it's not a private school, I presume. I'm wondering how you adjusted to having white teachers and what your experiences were, if any, of racism?

VM Well, I can assure you that whilst living in Klerksdorp it was obviously the Group Areas Act was in place, and we were all living in an Indian, predominantly, area. We weren't exposed to racism at that level, but the marginalisation of services given to schools...we played football on a gravel ground. We had to run on ash. We weren't given the facilities, which the white children were given. Nevertheless, I did play soccer there, and I played for a club called Manzil Park Spurs, a junior soccer, school soccer, but this was a club in that suburb. The best part of that was that we were integrated with the white league and we played amongst white teams, so I did not see it as being totally isolated at that level. But at a higher level, yes, in terms of services, in terms of facilities, we were suppressed, yes.

- Int And living in Klerksdorp, did you manage to have any friends who were of different race groups?
- VM No.
- Int And then I wondered, in terms of your aspirations while you were at school...you mentioned what you'd done subsequently, but I'm just wondering if you could retrace those steps, what your aspirations were, in terms of when you left school and what you wanted to do?
- VM Well, I was very passionate for working for the judiciary. I had that from a very young age. I always looked upon the judiciary as the strength of any country, and I always had that at the back of my mind to serve the judiciary. And it happened. I was very fortunate when I left matric, I did not go into formal education immediately, my studies were all part-time. And I immediately commenced working for the Magistrate's Courts, at the age of seventeen, just after leaving matric, and since then I've never turned back. I've been with them now for twenty-seven years.
- Int Where do you think that came from, that passion for the judiciary? What do you think in your early background may have prepared you for that trajectory?
- VM I think it was more the guidance and the strengths of my dad, who actually steered his sons...we are three brothers...who steered his sons into different career paths. One is an educator, one is in the medical field, and obviously I'm in the judicial administration field. So, he actually prepared us mentally to drift into this kind of career pathing, which actually opened that door for us.
- Int And then working in the Magistrate's Court, when you started where was it, and how did you proceed?
- VM Well, recalling...I'd like to mention my rank was Indian Clerk Grade One, and in brackets temporary. Well, it was still in the heights of the apartheid regime. And I was a clerk of court, meaning that I should deal with all the criminal cases of the court and ensure that the court books are updated, that registers are updated, and that it makes it more effective and efficient for the magistrate to perform his duties in court. And from there I just grew within the organisation.
- Int And when you say you grew, at what level did it change; at what points did it change?

VM Well, in the old apartheid years you were actually assessed in terms of your performance. And it was called three levels of performance, where it was 'voorkeur', meaning that you are promoted out of your turn. 'Binnekeur', meaning that you were promoted when your turn comes. And that the third one was that you would be promoted when you reach that level of performance. So in most of my cases I was promoted out of turn, 'voorkeur', meaning that I was promoted on...whenever I applied for a position I was promoted. So I was successfully promoted every three years, in some instances two. And from Chatsworth I moved then to Stanger court. I served the court there...what was interesting about Stanger court in those years, we should actually collect the general sales tax which is known as VAT today, on behalf of the Receiver of Revenue, or the South African Revenue Service known as today. We should collect that money on behalf of them. We should do motor licensing, registering of motor vehicles. That was very interesting. We should even issue dog licence, and cat licence, and hunting licence and fishing licence. So it was a variety of activities within a Magistrate's Court, which we performed, and as the years went by these services was then removed as they were not judicial services that was core services to the community, and they were strategically removed and placed to their respective departments. I was then promoted from there as being the first court manager, non-white court manager of Dundee Magistrate's Court. And that was in 1991, where I joined that office in September 1991, and it was the most poorly run Magistrate's Court in the country at that time. It had an inspection by the Department of Justice known as 'stukkend', meaning that it was an office that was in a very poor state. I joined that office together with the head of office as the magistrate, Ivor Botha, who joined me on the very same day, and he immediately indicated to me, Vick, I'm not in charge of the administration, you are. Fix the office, I will concentrate on the judicial work, however we will work together as a team and try and get this office going. We were notified that within six months that office will be re-inspected to see progress. And fortunately with our abilities and knowledge, we were able to have that office to an excellent condition, where there was not even a query that could be reported on that office's work performance. And we had maintained that for the term that we were there. I was there for three years and we were inspected subsequently thereafter and it was still clean in terms of reporting's and monitoring and evaluating; the office was in a good shape. The department then felt to move me to a bigger office, and then I was moved to Pinetown which is about the third largest office in KZN and I've been there for some time, again with a huge challenge that was to ensure, not knowing, that to ensure that the new court building...obviously the erection of the new court building and to oversee and liaise with the Department of Public Works and with the Department of Justice, and having this new court building erected. That was done within two years. And we had that successfully built. We had the first Minister of Justice, Dullah Omar, who had come and officially opened that building. And I was then immediately informed that my services are needed somewhere else. And I was then moved to National Office, and since '98, I was then at the National Office of the Department of Justice in the Inspectorate, which is today known as Quality Management section. And in

that I served that component or division of the Department of Justice for almost five years, where I visited every single Magistrate's Court throughout the country. Did work performance, tests, checks, reported on the activities of the work performance standards of the court and reported to the upper echelons of the department, including the Minister and the Director-General. We've inspected high courts, we've inspected state attorneys, we've inspected Master's office; that was a huge learning experience. What I'm trying to say here is that one's visiting all these courts, you have a different perspective of actually being a manager and actually seeing it from the outside as how these courts operate. And that's what also equipped me to become the manager I think I am today. The participatory manager, the consultative manager. I think that's what really assisted me, was obviously my principals of the inspectorate, Mr Chris Barnard, who's currently still there, mentored me, and showed me the way forward of how to deal with complex situations, how to do problem solving, how to deal with conflict management, and all the how to plan, how to organise, how to lead, etc. And more especially, beyond this is how to control and monitor an environment. And that's what really, I think, prepared me to be the manager of this court.

Int I was wondering, in '94, when things changed...well, 1990 to '94, that period, how did that affect your working relationship within the judiciary system, if at all?

VM Well, I played a role in that. I was one of the nominated members to serve on a task team during the process of the amalgamation of the TBV states. I'm not sure whether you're aware, we had former regional offices in the old apartheid South Africa where in KZN for the Zululand area the head office of the Department of Justice then was in Ulundi. In the Eastern Cape it was in Umtata and Bisho. I served as a task team member in order to bring about this amalgamation into the former TBV states into the new South Africa. And I played an active role because I was allocated six offices, which I had to assist in bringing them on board into the new South Africa in the Eastern Cape area, and of these offices was Tabankulu, Bizana, Mount Ayliff, Port St. Johns and Flagstaff. And it was like two weeks in, two weeks out, training the staff, fixing the office, preparing the registers, getting it aligned to that of how the new South African justice system wanted it to look. And thus playing a role in contributing from the old to the new.

Int And at what point did the call come for you to join the Constitutional Court, which as I understand from you, was still in Braampark?

VM Yes, I was still basking in the sun, in the summer of January, 2004, at home outside with some colleagues that was visiting, and family, and I received a call from the department: "Vick, I know you're on leave, can you help us please?" I said, "I'm on leave. And I still had a week and a half to go." "Would you be able to assist us at the Constitutional Court?" And I asked, "what

assistance do you require?" "No, we'd like you to act as the Court Manager, just for two months, Vick. The Court Manager has resigned, and we would like you to please assist us." With no further information.

Int This was Mr du Plessis who had resigned?

VM No, it was Phindi Sangweni, after (Mr) du Plessis. She was here for a short while, I think not more than two years. And then she resigned end of that January, but the call was already made early January. And then a meeting was set up. A meeting was set up for me to report at a meeting at Braampark, around about the 20th of January (2004). And to meet the then Chief Justice, Arthur Chaskalson, and the registrar, (Mrs) Martie Stander, and some representatives from the Department of Justice, who was going to introduce me to the former Chief Justice and to announce that I'm there only for two months.

Int And, Vick, when you decided to take this on, were you excited? What were your thoughts? Did you think, it's just temporary?

VM Well, it was just temporary to me at that point in time. It was just for two months, I was told so. The huge part was after the discussion with the Chief Justice: and Mr Misser, you've got ten days to move us from Braampark to Constitution Hill. Mind you, I didn't even know where Constitution Hill was. I had no idea. And this meeting didn't last very long. I guess he didn't know me then. He didn't know my knowledge or expertise and competence, so he just gave the instruction, and I was dismissed from the office. And when I got back to my office I had a chat with Martie Stander. She says, "Vick, come, I will take you and show you where's Constitution Hill." When we got here this building was half built and they were still putting the slates in, they were still putting tiles in, they were still painting, there was still cleaning going on, and we had ten days to do this. So it was a huge task. And I can recall working up till ten, half past ten at night, for that two weeks, ensuring that we had a smooth transition from Braampark to Constitution Hill. The reason behind it was, they wanted to have a hearing here and also to coincide the celebrations of the ten years of the ten years of the country, to mark the official opening of the Constitutional Court, which was earmarked for the 21st of March, 2004. It was a huge function. I had no idea of this. Coupled with that there was also an international world conference-taking place with it, hosted by the Chief Justice (refers to Chief Justice Arthur Chaksalon). We had more than eight hundred delegates throughout the world here. So, yes, it was a huge task. But when I look back, I can confidently say that we've done it, we've made this a huge success. Bringing them from Braampark to Constitution Hill, we had our challenges. There were many, many challenges.

Int What were some of the challenges?

VM Cabling was not done, the network points were not done, the telephone systems were not laid. So these are huge information management infrastructure systems, and we had to get it in place. We had to actually tap right up into the DG's office to get things moving. And within that space of time, I would say, within the fifteen days period, we were all up and running. We were all up and running.

Int Could you explain to me what the urgency was to move at that point? Why were you given ten days and why were you moved?...Why did you have to move at a stage where the building wasn't actually fully prepared?

VM Okay, the court term starts in February, annually, and the Chief Justice (Arthur Chaskalson) was very adamant at that time to have court in place for that term to start the first term. And side by side with that was the conference that was coming on board, which he was responsible for, and led, and parallel to that was also the official opening for the 21st of March. So there were huge deadlines in place. And that was the reason why this move was scheduled. When I inherited the managerial task to move them all, I've reflected back and seen not even transport was arranged to move the furniture. Nor was there any contract signed for the telephone management system. So these were huge tasks. And obviously with the leadership kinds...oh, well, I've seen many leaders in my career. You must have heard me now, I've been to many courts. I haven't seen a leader like (Chief Justice) Arthur Chaskalson.

Int What makes him different?

VM I think he has the drive, he has this natural charisma within himself, that energy that he has, I think it's very contagious. I think when he touches you, you become part of that energy. And I think I'm blessed to have been associated with such a person. In fact, it goes beyond that, he's a divine soul. And that's what had given me that strength, apart from the competence, apart from the knowledge, or expertise, etc., I think that's what really enabled me to move along and to succeed in ensuring that his office was up and running.

Int Besides Arthur (Chaksalson), who are the other judges that you may have interacted with during that period from the first Bench?

VM I think the Deputy Chief Justice then, who then became the Chief Justice, Pius Langa, who I had worked very closely with, also a sterling character. Also has this energy around him. A brilliant, brilliant judge, who also has powerful leadership abilities. Apart from him, I think that lot of judges that I served during that era. Kate O'Regan, oh, she has a drive that is...I think you cannot measure. Brilliant, brilliant judge. I've served on many committees with her.

She has excellent leadership abilities. She has also given me many, many lessons to learn from, which I've grasped and I've put into my daily life and learned from them. She's also been very, very good. Albie Sachs, on the other hand, has his own character. He served us in our Arts Committee. He served on the Visitor's Committee. He's done a DVD, I don't know if you're aware.

Int Yes.

VM Also a sterling piece of work. He's also been also an excellent judge of this Court.

Int And I'm wondering, in terms of actual management of the Court, you have a very good relationship with Martie Stander, and I wondered when you started what were some of the problems or difficulties that had been experienced by your predecessor that you may have inherited?

VM Okay, firstly I think the organisational structure did not meet the business needs of this court. It was a very old out-dated structure written some time in 1996 when the court gave birth. And they were still operating on that organisational structure. And that structure was not effective for the needs of the judiciary, in terms of facilities management, in terms of HR, in terms of financial management, it was just a flat structure that did not actually provide the required quality services that the judiciary needed. So we immediately began a process of re-engineering the structure. We decided to run this structure parallel with an as is structure, in consultation with the Chief Justice, Arthur Chaskalson then. And we rewrote an organisational structure that met the business needs of this court. Martie (Stander) played an instrumental role in the process. She was not isolated, she was not left out. She was also in fact one of the very first staff members of this court. In fact she is one of the longest serving members of the staff. And I believe that years of experience comes with a band of unique ideas also, because they can guide you through the process. And yes, together with that was Sheryl Luthuli, who serves in the library. These two officials, which I inherited at that time, ably assisted me in this process. And then we started the process of creating the structure, getting it approved, getting the buy-in from the judiciary, approving it. You must know it is the Department of Justice that provides the administrative support to the judiciary. So there's together with the judiciary you have to interact with the Department of Justice who is the accounting officer, the DG is the accounting officer, to ensure that the services that we need to provide to the judiciary is met. So yes, the Minister then approved that structure. Then we began the process of the selection of recruitment, identifying competent, professional staff, that could serve the judiciary and that was able enough to provide us with their knowledge and expertise in the various components, or the categories or the sections that they saw matched. And that's how it began. And then from there we moved into the next phase of management, was to develop the strategy business plan of the court. Where are we taking this

court to, and how with the judicial administrative support, how do we enable the judiciary to do their work. And that's when we developed the annual strategic business plans of each court. Aligning it to that of the voted funds, the budget processes, the money that's needed for us to provide that service, and obviously at the end of each financial year report thereon, and provide the judiciary with an annual performance report to show them this was our objective set, these were our outputs, and this were the results.

Int I'm also wondering, Vick, you've been credited with creating a stream structure, and I wondered whether you could talk a bit more about that and why that happened?

VM Okay, as I've mentioned, after the process of the development of the organisational structure, once it was approved and once it was accepted by the judiciary and the department, we then began the processes of the selection and recruitment. And whilst that was running parallel, we then started a process of identifying the strategic areas that will enable and enhance the services that the judiciary requires. And just to look upon them, we currently operate six strategic areas, which is strategic administrative leadership, that is myself, from the top leading. Then you would have the case law management component, which is the registrar's offices and providing quasi-judicial functions to the judiciary, ensuring that the case law management processes are in place, and to report on the monitoring of all cases filed at this court. We then thought, okay, we need a knowledge management services, which was currently there, it was called the library. We then called it the knowledge management services, which provides research material to the judiciary together with software, together with systems, making it much more effective and efficient for the judiciary to research international case law, international material, or text. And that was another area that we found that was relevant. Obviously you need a financial management section to manage the finances of the court, because after all the Chief Justice, he's answerable on the spending trends and what the money is being spent for. And I represent the Chief Justice in terms of the administration side. So, yes, there was a supply chain component built in with finances that dealt with that strategic area. We looked further...it's a huge building, it's a modern building, it's an architecturally designed building, and we needed somebody to manage the facilities of this building. So initially it was nine, and as the years went on we now made it to six. So there was facilities management component, there was security management component, there was disaster and recovery, etc. That all now falls into the auxiliaries administration services, where you would find HR, you would find security management, you would find facilities management, transport management, all in that administration. What international best standards will call it corporate services today. The way forward, that's where we want to go to. We want to create maybe just four strategic areas and build all these into corporate services. There is also a component called the IT component, which is a huge component. It manages the infrastructure, the land, wand, wireless network of the court. The ConCourt

manages its own systems, it is totally independent of government. It is a principle decision taken by the Chief Justice in consultation with, obviously, the judges then, that the ConCourt will run its own land and domain. So yes, we have a strategic area that is called the information technology management strategic area. This component also manages the website and deals with the front end and back end of IT.

Int And you've also been credited, Vick, with the Annual Reports; I wondered whether you could talk a little bit about how that came into being?

VM Well, one of the managerial tasks and functions of any manager, I guess it's also international standards, is that when you have a strategic plan, it is a plan telling you the way forward, and what you're to achieve, what you are envisaged to achieve. What are the outputs going to be and how are you going to get there. Coupled with that it's the money which is the budget. So the plan is then informed by the budget, and at the end of the cycle, which you may now call the performance cycle, you need to account for what has been achieved. And I believe, and I don't know, that there's three levels of performance. One is the individual performance. How is that individual appointed in a section or in a position contributing towards providing quality services to the judiciary in some way or another whatever it might be? That individual performance then moves to into a section performance or a division performance. How is that individual's contribution enhancing the services of that section to the judiciary. And the ultimate one that I think is the overall organisational performance. So it's from the individual to the section that person provides the services via, how does it enhance the performance of the organisation itself?

Int I also wondered, Vick, in terms of the annual reports, they're quite glossy, they have a wonderful look about them, I wondered what went into them in terms of working with other people within the court system?

VM Well, it is a team effort. There are strategic leaders in each section and the way that we get this going is that there is a monthly monitoring and evaluating tool, which monthly each section leader reports on the activities of their section, the deliverables during the month. Now this is then consolidated into an annual performance report, which each manager then submits their contributions; aligned to that with the strategic business plan to say, these were the outputs, these were the challenges, or these that could not be achieved, and the reasons for them not being achieved. So, yes, it is a team effort, I only manage, I only ensure that the deliverables of all these components are aligned to the strategic plan, that there is value for money, and that at the end of that performance cycle we are able to say, this is what where our outputs and this is what we've achieved.

Int As you know, the oral history project that we're doing currently only focuses on the beginning, from the inception of the court for the first fifteen years until 2009, and I wondered during that period what your experiences have been in terms of key challenges and tensions, within the court?

VM Well, I think one of the greatest challenge that you would find during this period or during the term that I was here from 2004 to 2009, was the understanding between the judiciary and the Department of Justice. Now the judiciary, as you're well aware, is the third arm of government. It is totally independent. Whilst the support services provided to that judiciary is provided via the executive, which is a national department, that's the Department of Justice and Constitutional Development. So if the judiciary, for instance, has a vision of a certain deliverable and the department, which is the executive says no, we feel otherwise, so there's a bit of a tension in the process because of its not being totally autonomous in terms of its judicial administration. So this is where the managing of the court comes in, to play this role, to ensure that there is this synergy between the Department of Justice, the judicial administration of the court, and the judiciary itself. So yes, there's been some major challenges during that period.

Int What were some of the major challenges, if you can elucidate?

VM Budget constraints. Decision-making where the judiciary would say a and the department will say b. There were a number of instances where consultation was held at a very high level and I did participate in that, and you could see that there are differences.

Int And some of these differences would be?

VM Decision-making.

Int And how has that impacted on you in that period, in terms of conducting your day-to-day work and activities?

VM Well, yes, that's a good question because if you really look at it as a manager of this court you have two principals. You have the executive on the one side as one principal and you have the judiciary on the other side as the other principal. And you would find it, the judiciary would say, I would need a vehicle now. You'd need to provide the service because the judge needs a vehicle now, whatever vehicle it might be. The department says, no, but you'll follow procedure to get that vehicle, and that process might take about a month. So it is a huge task, not an individual task, but as a manager to sit and ensure that your principles both ways, whether it's a prescriptive principle from the executive side that all the rules and regulations and prescripts are complied

with, and on the other side to the judiciary that you provide the required services that you are supposed to provide. It all ties up with delegations. Somewhat the delegations I feel it's somewhat restricted, and very, very bureaucratic. My delegation is up to fifty thousand, meaning that I can sign up to fifty thousand for procurements of services and goods, etc. I would say that when you have a manager in place, I think accountability and responsibility should be given to that manager irrespective of the individual, because at the end of it he's there to provide that services that is required to the judiciary because it's the judiciary. So the delegations plays an important role here, meaning that I can sign up to fifty thousand. If something is fifty-one thousand, I need to now go and beg and cry and get a signature here or there to get that approval, which takes some time. It's a very bureaucratic system.

Int What then...given the interdependency needs, what then has been your relationship with the Department of Justice and Constitutional Development?

VM Well, it's a both way thing, you know. On one side, if you're representing the judiciary, you're looked upon as a demanding manager. You're a very difficult manager. Known as the hard nut, that's very difficult to crack. So be it. Yes, it has its problems. Because on the one side you represent the judiciary there, you speak out of the Chief Justice's mouth as mandated. Might not be taken sweetly on the other side.

Int And how have you managed this difficult positioning?

VM Well, it's all about synergy. It's all about understanding the processes, informing the judiciary accordingly, putting them on board and not leaving them out in the processes. This court is a unique court from other courts in South Africa. More especially it's that it has committees. And these committees function exceptionally well, more especially to enable the judicial administration side, where a judge serves as a chairperson to that committee. So your mandates comes out of those committees. And thus out of those mandates, the manager or the respective sections of the courts can deliver the required services that they want. And that ties up with the issue of approaching the department of a b c.

Int And I'm wondering, Vick, in terms of your day-to-day functioning, what are the key challenges you've experienced, particularly during that period, 2004 to 2009? Besides the interdependency with the department, in terms of the Court itself, what have been some of the challenges?

VM The first one that I've identified was that the staff that I've inherited then were not educated in terms of qualifications. It was a huge gap. There were a few people that had diplomas and degrees. The majority of them, statistically I would say about eighty-percent were not graduates, lacked training, some of

them were incorrectly placed, some of them were performing tasks that did not match correctly, that did not meet their competencies. Yes, and then that identification put in place for me to vigorously put in a schedule of identifying the performance gaps, ensuring parallel to training that a developmental programme was in place, encouraging the staff to study, promoting the concept of the department's bursary scheme. I'm proud to say today that the staff that I've inherited, those that are here, we are about eight-nine percent now qualified graduates, fully trained and competent. Training is a continuous process. Learning is a continuous process. So yes, during the performance management cycles managers identify the areas or the gaps in terms of the performance, and these are then placed at a higher level with the management team to decide who will go for training in this cycle or what training is of priority, of critical importance that will actually enhance the services to the judiciary. So yes, these were the identifications in the early days when I got here, and I'm proud to say that we've turned that around. May I just give you one example?

Int Sure, of course please go ahead...

VM Which I'm proud to speak of. I inherited a cleaner here, David (Modiba), I think you should interview him, David (Modiba). He was one of the cleaners of this court, providing cleaning services to the building, working for a cleaning company, and I identified that he had the ability to serve the judiciary, and more especially he had the ability to study. But just that he didn't have the relevant push. We somehow or the other got him into a low entry level position, which is a food services' aid, he does the picking up of cups, saucers, washing of teacups, etc. He's currently passed the LLB, almost fourth year, cum laude so far.

Int Fantastic.

VM And I'm proud to say that he's one of our products that we have produced during my reign and my term here from 2004 to date. He's only started studying three, four years ago, because he just got employed then. And soon as he got employed, he immediately got the bursary from the Department of Justice and he's just passed...just completed now, his third final year. He's only got nine subjects left for next year, and I hope that he would pass the LLB cum laude. He will be of a great asset to the judiciary in the future.

Int I must get his details from you, Vick, thank you for that. I also wondered, what the turnover was in terms of staffing structure from 2004 to 2009 in particular?

VM You would find that the turnover specifically is in technical services. You would find the Webmaster coming and going. You would find librarians coming and going. So it's more in the technical section where that expertise,

they are headhunted out in the corporate sector, or where the carrot dangling effect works very good. As you are well aware that government cannot compete with that of the private sector when it comes to competitive salaries.. So yes, the Webmaster position has been somewhat currently vacant though; one of the areas in terms of turnaround. But generally you would find a staff here and there threatens to leave, reason being better job prospects or better salary, but somehow or the other they find working here at the Constitutional Court is much better than out there, and somehow or the other, on their own, retract their resignation...

Int Why do you think it is better working here? What are some of the benefits?

VM I think there's a sense of belonging here, that has been instilled in the organisation. I guess when we started the process, 2004, building the new organisational structure, developing the strategic planning, we've instilled this kind of sense of belonging. And more especially, whether you're a judge of this court, or whether you're a cleaner of this court, we are all a team. We all work together. Your role or your function might be different, but we are all people of this court. And that is what this court stands for, that the court is for the people. And the staff that work here, they sense this. You can walk across the corridors, into offices, and you'd find that most of the staff echoes the very same sentiment.

Int That's wonderful. Have you had any sense of people who are sort of disgruntled or people who have wanted to take labour action; have you had any experiences of that?

VM Well, over the years, you would obviously get disgruntled staff. One of the greatest challenges of any manager is people management. Or satisfying its work force to their needs and not the employer's needs. Their demands and not the employer's demands. So you would have to balance this. It's a two way process, because it is the win-win effect. You need that person to ensure you have been employed to provide this service and you'll be remunerated for that service. Beyond that, we would try and keep you as happy as possible, to make you feel part of this broad family, and tying up again with this sense of belonging. Yes, we have not been subjected to any labour disputes since my reign here. When I got here there was some tension of two officials, which we amicably resolved whilst in the process of moving this court. It was a huge personality clash and it was amicably resolved where my predecessor had actually appointed service providers as psychologists to deal with this, and I felt that it was an internal issue, it was two personalities that was clashing, and it was a matter that can be resolved internally. And with the able assistance of Judge Kate O'Regan, we resolved it.

Int And which department was that in?

- VM It was in the library. And both individuals are still working here happily.
- Int That's very good actually. I also wondered whether in your time here since 2004, what did you identify as areas that could have been improved but perhaps you have not been able to fulfil that, because of the interdependency with the department? So in some sense what I'm asking, is a sense of your vision for the Court?
- VM It is...yes, thanks...I think we're more or less there. One of the dis-enablers was that if I required to re-engineer, abolish, or create a position, you've got to do it in consultation with the department. You did not have that total mandate or power to decide otherwise. It's got to be done, because legislation says that the accounting officer of the Constitutional Court is the Director-General of the Department of Justice. So that is one area. The delegations is the other. If I want to buy something for the judge for a hundred thousand I would have to go to the department to ask them, can I buy this? I have to comply with the bureaucratic systems in place of procurement. So yes, those are the areas, I would say, that disenables the deliverables of the Manager of this Court.
- Int And I was also wondering, Vick, the period when you started, not too soon after that, probably a year or so, Justice Arthur Chaskalson had retired, and (Justice) Pius Langa had come in as Chief Justice. And I wondered at that period over time, the first Bench was steadily leaving, and I wondered whether you could talk about key events, memories that you have those of those departures and having to transition to working with someone different?
- VM Yes, I think the court always officially sends off their colleagues that serve the judiciary from the Bench. It is a full sitting where the entire judiciary is invited. We have DVDs of this, I don't know whether you've seen them?
- Int No, I'd like to see them...
- VM I'll hand you a copy of Arthur Chaskalson's and Pius Langa's. Where the then Chief Justice retires from the Bench officially. So those are the highlights coupled with farewell functions, luncheons, etc. But the highlight is the full sitting of the Bench where the entire judiciary, with the Heads of Courts, the Judge Presidents, sits with the Constitutional Court judges on the Bench, behind them, and announces his retirement or vacation of the office of whatever position he holds. So that is one of the areas, I think it's the highlights of the...being instrumental in arranging these functions, yes, ensuring that the money is available for these functions, and also ensuring that it is a well captured documented function for archiving purposes. We have them, they are readily available. Yes, the exiting of those first lot of judges is

gradually eroding onto the Bench, where we're getting new judges coming on. The first lot of judges are now exiting. We have a few left. But the biggest chunk was in 2008, where former Chief Justice Pius Langa, together with Kate O'Regan, Albie Sachs, (Tholie) Madala...I forget, maybe there's one more...that retired. And that was also a huge celebration. Also officially from the Bench Judge Mokgoro, (excuse me), from the Bench. And together with a banqueting dinner which we hosted for them, because there were so many. We had a farewell staff luncheon for them. We have voice bytes of them somewhere on a DVD where they all said their last goodbyes. I'll let you have that. Yes, I think those were the highlights of those judges exiting apart from the unique band of competencies which they brought to this Court, the leadership that they provided, which also assisted me, provided me with direction to where the Court is going, where is the judiciary going to. Yes, much has happened from then to now, we're now in a new era. You'd find under a new leadership, a new Chief Justice, a young Chief Justice that comes on board, who comes with also a unique band of ideas with his own visionary style of leadership, and obviously having new judges coming on board and giving the new Chief Justice the capacity that he requires in order to ensure that the judiciary is led to the level that they want to take it.

Int So you've actually worked under three...now the fourth Chief Justice...?

VM Fourth Chief Justice.

Int And I'm just wondering in terms of, until 2009, that would have been (Justice) Pius Langa, is that correct?

VM Yes, that's correct.

Int So with the two Chief Justices, I wondered, you had mentioned your admiration for them, but in terms of actual day-to-day working what your relationship has been like and the styles of working?

VM I think it was both those Chief Justices, Arthur Chaskalson and Pius Langa was the consultative management style. I would have Monday meetings at seven o'clock in the morning, kind of an hour meeting, every Monday without fail, with both of them, informing them of the weekly activities, informing them of challenges, informing them of where the Court is in terms of its performance. And more especially whatever from their side in terms of the judicial needs was conveyed to me. So yes, it was on a weekly basis, a one-to-one meeting with those Chief Justices and then for me to take it down to the operational level and then also promote that at the committee levels, where their colleagues as chairpersons of those committees served. I need to talk about the third Chief Justice, Sandile Ngcobo, who also I served from the exiting of Pius Langa, since 2009 till mid this year. He is an exceptional

academic. He has great vision and passion for learning. So he actually, once he took office, started promoting the independence of the judiciary, and promoting the reviving of the Office of the Chief Justice, which you I'm sure are aware of, trying to bring about the total independence and moving away from the executive and creating a department that will deal with judicial needs only, and the judiciary's needs. So yes, former Chief Justice Sandile Ngcobo, drove this very passionately. And a very strong leader in terms of ensuring what he envisaged to achieve will be achieved. And what he has done during that short period of time I think needs to be credited. An exceptional leader.

Int And your relationship with him?

VM Excellent. I served him from the time I got here when he was just a judge, since 2004, we had an exceptional relationship. Apart from serving the other two Chief Justices, he would always call me, and Vick, what's latest? Not even knowing that he was one day going to be the Chief Justice of the land, or the third Chief Justice in my reign as the manager of this Court. And yes, we had an exceptional relationship.

Int Very good. I know that you also have a very good relationship with Martie Stander, and I wonder whether you could say a little bit about your working relationship with her, which I presume is quite close?

VM Yes, Martie (Stander), when I got here, I inherited her as one of the strengths of the Court. She's the Senior Registrar of the Court, she manages the case flow management. I regard her as a mother of this Court. I see her in that motherly...apart from the professional side. I see her as the mother of this Court. The reason why I say so, she comes with this maturity, she comes with this motherly characteristics, she's been here from the inception of this Court and when the Court gave birth, she and Sheryl Luthuli. So you can rely on Martie at any given time. A very loyal, dedicated, committed servant of this Court. She will go beyond the extra mile to serve whoever; it might be a judge, it might even be a normal staff. Just to give an example, one of her staff was not well and needed to go to the oncology department at one of the hospitals down the road here. Martie (Stander) put her into her car, this person needed help, and Martie (Stander) made sure she was checked in, Martie (Stander) made sure that she phoned continuously. Martie (Stander) made sure that after the results, the tests was conducted, she had to sleep over. That's the type of person you have that can be relied upon. Beyond the professional side. I think let me talk about the professional side. She has years of experience as a Registrar. She's been with the Department of Justice I would guess from the early seventies, more than years service. She's much my senior, both in age and in service, and I still respect her for that maturity. I rely upon her for decision making; coupled with Sheryl (Luthuli). I find that these two motherly figures, may I once again say, comes out with a different perspective when sometimes when you need to get a specific answer to a

specific complex situation. And this enables me in my decision making process.

Int Thank you for that, Vick. I'm also wondering, in your time here, what have been some of the highlights? Your experiences and memories that you will take away with you in terms of positive experiences?

VM Okay, I've been here now seven years. And if you really minus seven, I was somewhere in the thirties, and I think it's made me much more a mature person. Working with the Chief Justices and judges of this Court, really enables you to see things differently. To reflect before pronouncements. To make informed decisions. To deal with issues professionally. I think the integrity that comes in this position, I've learnt from that. I was a very, very bombastic guy out there and this Court has taught me how to treat people and how to accept people. And one of the greatest strengths out of this learning experience was to treat everyone alike. I guess it's the Ubuntu philosophy, to see things differently, and not to be irrational. To be mature in your decision making. I think that's what I've learnt. Apart from obtaining my MBA during the term of the stay here, apart from interacting with high level dignitaries, VIPs, royalties, Chief Justices from all over the world, the Presidencies, you name them, I think those are secondary factors from the ones that I've mentioned. I think that's what I've learned from this Court, to be mature in your thinking.

Int Vick, what are some of the concerns you have for the future of the Court, if any?

VM I think one of the greatest areas of concern at the moment is the independence of the judiciary and the birth of the Office of the Chief Justice, where discussions is around moving the administrative judicial support of the Court into the Office of the Chief Justice. My thinking is different. I am of the view that the Court is independent and that the Office of the Chief Justice should be the head office of the judiciary, and the Court's administrative support should not be part of the Office of the Chief Justice, but should be its principals in terms of decision making, approvals, authorisations, responsibilities, and accountability. But somewhat others see it differently. Why I am saying so, legislation dictates that each Court is independent, and that this Court should have its own judicial support structure providing the necessary services as required by the judiciary of that court. Above this you should have then what is the Office of the Chief Justice, being its head office and directing the activities of this court in the direction the judiciary wants it to go. So moving away from the Department of Justice and placing the Office of the Chief Justice above that to say now, no more Department of Justice as your head office, Office of the Chief Justice is now your head office. Why I'm saying so, if you happened to mix the administration of the corporate services of this Court into the Office of the Chief Justice, I would say then if a service is required at the Court, the services must go directly to the Office of the Chief

Justice, and then you don't need a manager. You don't need a case law support service here, you don't need library services, because all that can be provided by the Office of the Chief Justice. It's a one stop.

Int And have you voiced your concerns and the way you see it and has that in any way been acknowledged? What would be the...?

VM Well, I've registered the concern, and I've insisted on all platforms so far that I've been at, that the judiciary should be consulted on this process. The judiciary does not only mean the Chief Justice. The judiciary means all judges of this Court, should be consulted on the process so that when this decision is taken that all are on board, that this is the way forward, that this is the way they see services to be provided to the Court, that they are for it or against it. Or if they're against it, this is what their submissions are. Or if they are for it, this is so be it, we move into the Office of the Chief Justice and provide the services from there.

Int Do you see your role changing fundamentally if this happens?

VM Yes.

Int And how would that change?

VM I think the role of the manager will change fundamentally because if the entire corporate services, the financial management, the supply chain management, the facilities management, the security management, the HR management, all moves into the Office of the Chief Justice, it would then just be left with the quasi judicial functions, and that is Martie's section, which is the case law management section and the library services. So then there should not be any role for the manager of the Court. So the model of the Court managers falls away. Because you don't need a manager.

Int Vick, I've asked you a range of questions and you've shared your expertise so generously, I wondered whether there's something I've neglected to ask you, which you'd really like to include in your oral history?

VM No, I'm fine thank you. I'm good.

Int I wonder whether we could end with a particularly fond memory you may have your experience in this Court?

VM I think I'd like to close off by saying that there are two very important things in this world. One is to make a name of yourself, and the other one is to keep it. And that's what I've achieved so far in my life.

Int Thank you so much.

VM Thank you.

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