

Celeste Penn

LRC Oral History Project

10 September 2008

Int This is an interview with Celeste Penn and its Wednesday the 10th of September (2008). Celeste on behalf of SALS Foundation, we really want to thank you for agreeing to participate in the LRC Oral History project. I wondered if we could start the interview, if you could talk about early childhood memories growing up in South Africa and where you think your sense of social justice and injustice developed?

CP Well, my early childhood memories, as you said I was very young, when apartheid...when we reached our democracy, which was in '94, so I was only about nine years at the time. But I must be honest; I don't feel I experienced any sort of apartheid, any sort of direct impact. I was never personally injured, hurt or attacks, you know, at me or anything of the sort but I was aware of it. I was very conscious of it.

Int You lived in a predominantly...?

CP Coloured

Int That would have been an apartheid structure, wouldn't it?

CP But were I first lived was in Newlands East, which was very much an apartheid structure, its like far from everything, my early childhood memories is like waiting for hours for buses or taxis just to get into town with my parents and stuff. And then we complained. But in our community, we had schools, churches, so we lived well. We lived (**inaudible**) and then we moved to Sydenham, and that is also a predominantly Coloured but Overport, is very much connected and Clare Estate and Mayville, so I also encountered black people, Indian people and Sydenham as well, but Sydenham is much closer to everything, so I could feel that difference, as we moved. It was like a moving away, bettering ourselves and things like that. But that is basically what I remember about my childhood and I do remember that day that my parents voted. I remember that it was at a school in Sydenham, I remember the long lines and just, they were just telling, because my brother was two years younger than me, he is two years younger than me and they were just telling us that this is the first time that they even voted, it didn't make much sense to me. I didn't see what the importance of it at the time but I knew that for the first time, we were going to have a black President and I remember saying to my father, why do we have to have Mandela, you know, he is black man. My father said, what is wrong with a black man? But the white people are the ones that are the right people, they are the important people, he said that no, that's what they want you to think, everybody is equal.

Int Where do you think you got that from?

CP I don't know, from television, I remember watching things on TV. about apartheid and I thought that if this is the way, it is, it must mean what these white people are

saying, that they are superior and that black people are not. I just said to him (father) but how is he going to run a country, because he probably never went to school. My father said, no, he is educated, he got a law degree, he was a lawyer and I was very shocked because I thought he is a prisoner, I thought he did something wrong. Ja, so that was basically, I mean growing and I never encountered white people when I grew up. The first interaction I had, everything, was when I went to high school and some of our teachers were white and that was my first interactions with them and I even remember I was older than 1994, I remember to my mother that I really think I have really encountered them on a...in a teacher-student relationship, not seeing them out places and that, and she asked me what do I think, because there were some girls in the class who were also white. Do, I think that white people are still racist and? I said that no, not the people I encountered, they were just a small...and I think, you asked what made me study law?

Int Yes, exactly...

CP When I was in high school, coming from a Coloured community, when I was in primary school, they didn't really discuss university and tertiary education with us. In the Coloured community, the poorer Coloured communities, most people, don't even matriculate and people don't really discuss like what career you are going to choose. They just want to get jobs, some don't even, are not even employed. I know many people my age, they are not even employed. And when I was in the high school, that my mother put...as I said it was multi-racial and from grade eight, they had people coming in and speaking, there was law students that came from the university, doing projects, the police would come and speak to us about jobs in the police force, doctors. That was the first time that I thought that I could actually choose a career. And my parents indicated to me that if I do, they were willing to get a bursary, I mean, a student loan, so for me to study. So, it became an option. I also was thinking about things that I like to do. Like what suits me. I am not into numbers and figures and other than that, nothing else really attracted my attention besides law. I just thought that its something powerful, its something that its involved in our everyday living. And I am quite glad that I made that choice because I feel like when people ask me for advice, be it at work or even people that know me, friends and family members and they ask me somethings and I think gosh, its so simple, like I know that, they don't know their own rights, you know. And it made me feel good that I can help them and explain to them and direct them in the right direction. Because, they can't all come to LRC for assistance but it makes me feel good that I can help them in that way.

Int I am also wondering in terms of, where you went to university and your experience of public interest law before you got to university?

CP Oh, okay, Well, I went to the University of Natal, Howard College campus. And public interest law, when I was at university, I enjoyed most of my courses. There was nothing that one that stood out for me, that told me that this is the area of law that I want to be in. And, with the Constitutional Law and the Administrative Law, I really didn't enjoy the Administrative law course. Very difficult, most of the students didn't enjoy it but I was taught well and we had good lecturers. We had Professor Karthy

Govender and it was in fourth year, when one of our admin lecturers, he mentioned the Legal Resources Centre, and he said, guys, if anyone is still looking for Articles, there is an organization that I work with and he said the Legal Resources Centre and you can email your CVs. So, I had never heard, I had never heard of the Legal Resources Centre, so I went online and I was also reading, I thought wow, this is interesting, it is like a deviation from the norm. You know, it is not just lawyers out to make money, its because when people hear, that you are a lawyer, people just have this stereotype of lawyers, they just want money, they get criminals out, where they have committed terrible crimes. It is the first time that I thought, it is really helping people, no money involved, you not motivated by making an extra dollar and things like that. So, I decided to send my CV and that's how I ended up here.

Int So, you have been here now nearly two years?

CP Yes.

Int I wondered whether you could talk about your principles and your rotations and what areas of public interest law that is very important?

Interruption

CP My principal in terms of my contract was Sharita Samuel but, even though she is my principal, I have worked equally with everybody. When I first got here, it was Sharita, Mahendra (Chetty), and there was Nomfundo (Gobodo) here and JP (Purshotam). So, there were four attorneys and there were four CAs. So it was very simple to do this rotation also. But I don't really like the rotation system because when I first got here, okay, I had not experience at all and I...the first person I was assigned to was Sharita and it took me a little while to get into it. Because I think even at varsity, they don't actually get students, you know...

Interruption. Interview is stopped and resumes after a while

Int This is an interview with Celeste Penn. Celeste, the point at which we stopped in the previous interview was when you spoke about, starting here and you had four people, and you didn't really like the rotation system for some reason, I wondered whether you could talk about that?

CP Well, the reason why I don't like the rotation system is because I found that, we used to work on a three month basis and just when you are getting into the work, when you getting used of the attorney and you know, you enjoy working with those clients and you are running files, you are assisting the attorney with the file, then you have got to move, then, the files don't move with you, they remain with the attorneys. Then you go to the next attorney, then you have to get accustomed to that file and take over and sometimes it is a problem with the clients, when they phone in, when they come in, they are used to seeing so and so, and they don't know, oh, now, you are taking over.

So, they keep on having to build that trust with clients. I think it is okay when you come in and it is an existing file. But when it is a new file, you want to see the matter through. Maybe, if it could work on a six month basis, I don't know, but I also understand that the points of the **inaudible** that they wanted us to get to work with all the attorneys and at that time, they had specialised fields, like Sharita (Samuel) was doing women's rights, Nomfundo (Gobodo), housing. So, they felt that they wanted us to get a feel for all the different projects but now, they are all, they are not specialised anymore. So, I don't see the point of having it over that three months.

Int Right. I am also wondering in terms of particular areas of public interest law, which ones did you enjoy the most?

CP Here at LRC? I can't really say but I can...maybe housing. I have enjoyed the housing not so much where it was large groups of people, only for the reason that we have got to sit and take down all those details but that is just administratively. But I enjoy working mostly on the housing I found so far. And also, where there is children involved, that's also been very interesting. But I would say mostly the housing. I find that they have a lot of housing matters.

Int I wondered whether you could talk about any particular matters that you have worked on, that you have really felt were very rewarding and legally were very challenging, as well?

CP Well, there is this one matter, the Perumal matter that we currently, we trying, basically Perumal was living in a municipal flat since the 1970s and she couldn't purchase because of the apartheid laws. But she was renting the place and then she eventually, in the late 1990s and the early 2000, the people were offering opportunities to purchase and her children, she had three children and by that time, they had all married and they had their own homes, but they each contributed a third of the purchase price. She went to one of the municipal offices, I am not sure where, where she signed an agreement, she paid over the money but she paid the money in two parts and she kept her two receipts. And that was like she made the payments in 2001 and 2004. In 2006, she died; she didn't receive a title deed. So, basically the municipality after her death, one of her sons was still renting, he didn't have a property that he owned so it was agreed amongst the children that he would take over. When he went there, when he attempted to take occupation, they had reclaimed the property. The municipality saw the opportunity to reclaim and they said that he does not qualify for the property under their substitution policies but he said no, but my mother owned it. She was not a tenant any longer and they refused to allow them to occupy the property of his family, they locked it up, put the deceased belongings in storage and for us, I feel for me, maybe it is not something groundbreaking and new, but securing people's rights, just because she is now deceased and she cannot say that she did purchase, doesn't mean that they can revoke, or take back their duties, under the agreement they had with her in that to transfer the property to her. Even though she is late, it should go to her estate. Also, I started off the matter with Nomfundo (Gobodo) when she was here, was still here and Nomfundo (Gobodo) was saying that if, if the apartheid laws, allowed people to purchase, she would already be a home owner. So, we have to pursue it for her even though she is now here anymore for her

children to see and unfortunately, she didn't have a copy of the agreement. The municipality kept a copy and when we requested copies of the file, they gave us a blank agreement; they said that she didn't sign. So, to us it is quite suspicious, why would they accept money, they do this all the time, it is a regular practice for them so why is it just this one person that they sell without making her sign an agreement and they took the money. So that was very interesting because I was here from the time it begun and we are hoping that it will go to trial and we are hoping for positive results. I have been involved with quite a few matters. There is also one with the group eviction of people from an informal settlement and they were...a company purchased the land .They were living on the land and there was no problems with the municipality until a company purchased it. They wanted them out and I have no problem with, I mean, they did purchase, they are the owners, but the municipality, should have sought alternative accommodation. They were cited as parties in the initial matter, which the Legal Aid Board was actually acting for these people. And the municipality didn't even bother to attend the hearings, they didn't file any papers, they did nothing. When we came on board and we tried to get leave to appeal, we were denied that leave, they were consequently, they were evicted and now they are now in tents and they have been that way for quite a few months. We still trying to pursue that.

Int Is it because they are refugees?

CP No, no, they are from South Africa and we are still trying to pursue that to get them housing. But I think all of our work is actually, maybe legally it is not groundbreaking it is not new, but it is impactful for the people, I mean, its like housing and basic need, you know. But I have worked on so many, I really can't just pinpoint...

Int Sure. What are the things for you that are most rewarding in particular?

CP Matters? Just there have been some very small ones, like the CAs we do a lot of following up on pension funds and stuff but not just any pension funds, mostly we will find both parents of the child or deceased that they have usually HIV, that is how they end up dying. But one of the clients, I remember, how she came here. The father of her child had died but there was no maintenance order. He willingly contributed to towards the maintenance of the child and she was aware that when he died, he did inform her that he had nominated his child as a beneficiary for his pension benefits. When he died, she was trying to pursue, his mother approached the pension Fund and said that no she takes care of the child and they were paying the money over to her. So, we were trying to get that redirected to the mother. At first, I didn't realise that the father was probably HIV positive, that's how he died until the clients mother came and said that her daughter had died and she is the guardian and she was quite frank and open about the fact that they were HIV positive and it shows how these old people have to take care of their younger children. What we managed to do besides claiming the pension or provident fund benefits, we got in touch with the Department of Social Development and they facilitated the awarding of custody to the client. So, she is now getting the foster grant and she will be getting that money. And it might be something small but for her, it was very significant. When she got the foster grant, I don't think she even understood that was what it was leading up, which was going to

the court because we were not involved in the court proceedings, it was all done via the social worker. She came here and she was just so thrilled and she **inaudible** properly and I had to explain, she thought that that's the money that she was coming here for. So, I think that its small things like that and also just, there's just been clients that...that a lot of women that have been in customary marriages and they didn't have rights. I mean, Sharita (Samuel) is doing the Gumede matter now with rights to the property and with one client, the husband had died, she had the title deed and it was in his name but someone was trying to get her out. Someone knew of this and was wanting to purchase this property and we facilitated something and it was very small, we just via letter writing, where we managed to let them know that no, she was wife of the deceased and she is occupying the property and she has the title deed. And this person abandoned attempting to get this property, so when we explaining to her, she was so happy, she was crying, and I think its just that our work is, it is just so impactful, you know.

Int I am also wondering comparing your experience of being an Articled Clerk here, as Candidate Attorney, compared to other places, in terms of your peers, do you feel that you have missed out on certain aspects of lawyering or do you feel that you got a broad range of experience?

CP I feel that they do a lot of the regular which most CAs start of with doing and as it is most of those lawyers are even employed here. They do the basic RAF and MVA stuff. But when I speak to them and sometimes, I indicate we are not appearing in court, as much, as them, in those kind of matters, my peers usually tell me that I am not missing out on much. They just do these little applications and say it is not that difficult. After you do one, you basically know how to do them. They don't run their own files, they don't do trials and I even have friends who are now admitted, so they are attorneys, they are employed as attorneys but they say they usually brief counsel. Maybe, I don't really feel that I am missing out; I feel that I could still get into that. I am not now. cut off from the commercial side of lawyering and being an attorney and being a lawyer. If I wanted to, I could still go into it. But I think that even then, they don't have the experience I have. It just depends where you end up doing your articles But I don't think that you have to limit yourself, you know, that I wouldn't limit myself to public interest and human rights law. I enjoy it, I want to learn more about it, I don't feel that I have really explored every facet of it but I think that as a lawyer, you should do...you can do anything that interests you, as long as you are given the opportunity and I think you also have to keep abroad of and keep abreast of things that are happening. You can't just focus in on your...you have to have a general knowledge of everything.

Int I am also wondering in terms of you, going on to practice after your articles finishes, what are you interested in doing?

CP Well, I would be interested in still remaining in this area, you know Constitutional, Public Interest here but I obviously want to do more and expand, want to have my own files, my own clients. I have had, I think that I have had good experience, and good exposure here at the LRC, because other CAs at other places don't even get to peruse the file. They say the principal keeps it all the time. We get to draft papers. I

usually when we briefing advocates, I do the memorandum and I do everything, so I feel that they really are providing us with proper training in his area. So, I will like to explore a little more but I do also have other interests like I am very interested in doing Administration of Estates, I find that to be interesting and maybe convenancing. I don't feel that I...maybe this is what I am cut out to do but until I can exclude the others, I don't know for sure.

Int Sure. In terms of when you arrived, there were four lawyers, quite senior ones as well, particularly JP (Purshotam) for example and then during your...maybe a year later, JP had left and Nomfundo (Gobodo) had left as well. Do you find that kind of staff imbalance had affected the quality of your Candidate attorneyship?

CP No, I don't feel that it has affected because Mahendra (Chetty) and Sharita (Samuel) have still made sure that...no, I don't feel that...they still properly supervised us. Our work load has been increased but both of them have managed to keep tabs on all the files, because all Nomfundo's (Gobodo) files went to Sharita (Samuel) and I was working on a lot of them with Nomfundo at the time, she had left. And I continue to work on those files. I just think generally we do miss them because it is less people to go to. When JP (Purshotam) and Nomfundo was here, I could choose, I think okay its housing so I go to her and she will be able to give me, you know, a proper like, proper instruction or what to do, whereas, with someone else maybe would say lets look up this and look up that, because they are not doing that all the time, as much as she was doing. But I don't think so. I don't think its changed.

Int Right, I am wondering in terms of the current debates that are going on in this country, there have been lots of crises in the judiciary, the Constitutional Court judges have been called counter-revolutionaries, do you have any concerns for the LRC and whether it could be effective in a situation where the rule of law might be under threat?

CP I wish there was something that we could do about it. But I don't know, I mean, how will we litigate or what would we be able to do. We often discuss it in the office, not seriously like during our tea breaks or our meetings, if we all sitting around and there's and article and we see something on the Internet and we discuss it and I have noticed that there is a general consensus that we are not happy with. But I mean, the judiciary, we lawyers, so I mean, to see this court that we hold with such regard being just trampled on by just everyone, I mean, it is hard and the Constitutional Court also has a very good relationship with the LRC, so it is difficult to see what's happening, but I don't know how LRC, how could we, besides issuing statements and comments, which is what the other people have been doing, I am not sure. I think we just have to continue doing our work and just try to pursue justice.

Int I am wondering, I have asked you a range of questions, is there something I have neglected to ask you, which you feel ought to be included?

CP No, not really

Int At one point, you said that you would like to explore other aspects of lawyering but perhaps you are really cut out for this type of lawyering, meaning public interest. What about it really excites your interest?

CP I think what excites me about it is that it is just not like other areas of law, where you will find things that this is the procedure, there is the legislation that gives you the procedure and how you do this and how you do that. It is so broad. There is so many different, I mean, the Constitution and all the different rights and so many different ways of pursuing things. I think because human rights are so basic to everyone, not every area of law affects every person. If you don't have money, commercial law is meaningless to you, you know, if you are not an heir, estates, administration of estates doesn't really mean anything to you. But I think that Constitutional Law means something to everyone because we all have human rights. And it is just so broad and as an area of law that you don't find most lawyers exploring and going into. I mean, even if I have been looking at advertisements and trying to apply for jobs, I think I found one on public interest and its so very limited. And yet, it is a very broad area of law, but I think it is very exciting because our Constitution is exciting and there is so many rights and there's so many violations in our country, of those rights. So there is a lot of work there to be done.

Int If you have to reflect on these nearly two years of experience at the Legal Resources Centre, do you think there is anybody in particular, that has shaped the way you have become as a lawyer and how you think, it does not have to be a lawyer?

CP Well, at the office, I would say that Mahen (Chetty) and Nomfundo (Gobodo) have been very good in shaping me as a lawyer, not in a way that they have told me to do this in a particular way that is in their way, but I just like the way they work, as lawyers and as attorneys. In the way they draft their papers and in the way, they pursue their matters and I found that with both of them, such...like they have exciting own matters going on and you talk about it, you discuss it and you want to get involved, so for me, I think it was actually them.

Int I wondered if we could end the interview, if you share a particular memory that you might have of a client or a case or working with a particular lawyer that you really feel has embodied what it has meant for you to do your articleship here?

CP Well, I would have to say that I would pick Nomfundo (Gobodo) as the person. Just from right at the beginning, she, here at the office we really miss, because not only was she a very good lawyer, but also a very good person. When there was a difficult lawyer, it seemed like nobody could handle it, but when they went to Nomfundo's office, she just had a way of speaking to them, not demanding that they respect her. She just had a way of explaining things to them and you could see that they would actually calm down and listen. So, I think for me, it was her. Even when she would show me how to do particular things and I saw the manner in which she would run her files and run her matters. Even when she liked to get papers out, she wouldn't get flustered and busy. She planned everything and I just liked the way that she worked.

Int That's wonderful. I really want to thank you for taking the time to do this interview and it is much appreciated.

CP Oh ,thank you.

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Legal Resources Centre Oral History Project

PUBLISHER:

Publisher:- **Historical Papers, William Cullen Library, University of the Witwatersrand**

Location:- **Johannesburg**

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DOCUMENT DETAILS:

Document ID:- **AG3298-1-144**

Document Title:- **Celeste Penn Interview**

Author:- **Legal Resources Centre South Africa (LRC)**

Document Date:- **2008**