

**Nzo Mdladhla**

**LRC Oral History Project**

**7<sup>th</sup> July 2008**

Int This is an interview with Nzo...Mdladhla...

NM Yes.

Int And it's the 7<sup>th</sup> of July 2008.. Nzo, thank you very much for agreeing to be part of the LRC Oral History Project. We really appreciate you taking the time.

NM Thank you.

Int I wondered whether we could start the interview if you could talk about your early childhood experiences, growing up in South Africa...and your experiences of social injustice and justice, and what were some of the formative influences that led you down the pathway of becoming a lawyer, into the legal profession?

NM Well, I was born in Pietermaritzburg in KwaZulu-Natal, and my father was a priest at the Anglican Church, so we used to move a lot, because he was...he was originally a teacher and became an inspector of schools and thereafter he joined a ministry. So from Pietermaritzburg we moved to Durban and in Durban, this is where I really experienced the apartheid regime, you know where we could not sit on benches, there would be a bench there but we'd not be able to sit there, and rather stand and wait for the bus, and the bus...you won't go onto a whites...white only bus, you'll go to a black only bus. And throughout my schooling, at school, it was a bit terrific but I did go to a very good school, which was the Loram Secondary School, which was one of the best schools, best schools.

Int Where was it?

NM It was in inaudible Road in Durban.

Int Ok.

NM So...and then there came a time that that school was closed, because all the schools now, you know where blacks used to go in town, were closed down.

Int Really?

NM And so we had to move to the townships, so I had to go to Chesterville, which was the nearest township and I used to take a bus every day.

Int So you lived in the city centre?

NM Ja, so whereas, you know, at the...where I was originally attending school, I used to walk there, you know, travelling by bus was just unknown to me, but then, you know, I used to stay with Indian people, because I was...we were right in the centre of town, so a lot of my friends were coloured, Indians, so those were the people that I grew up with, but what I used to find was that I used to like playing soccer, but I used to find that whenever we went to play soccer in other areas, they would just point me out and say no, we're not playing with this one.

Int Who would do that?

NM The other youngsters.

Int Really? What race group were they?

NM They were Indians, coloureds...

Int Really?

NM But they would just say, no, we're not playing with this one. If he plays, we will not play. So I used to sit on the bench there and see the other guys playing, but in some other areas now I was just accepted well. I remember one time that the late Strini Moodley, who was married to Asha (Moodley), I met him and he fought fiercely to say if they don't allow me to play then he's not going to play. I must play, so that's how I first knew him, (laughs) when we were young. But...and I had a few encounters where my father, I saw my father...at one stage he was at a garage, this policeman, white policeman, the traffic officer, just because my father passed him, why are you saying, I must stop my car aside and let the other people go in? I've been waiting here in the queue for such a long...but he just pulled him out, grabbed him by the collar, pushed him against the...the bowser, and I was...I was seeing this thing and I was very furious, I wanted to fight this man, but I don't know how do you call it, what can you do, I mean I was fearing, he was carrying a gun...so but that really, really, really hurt me a lot to see my father...he's wearing a collar by the way, he's wearing a collar and here's this person...with him. This man can see this is a priest but he just didn't care, and that...from that moment, I said to myself, no, I am...one day I am going to fight against these injustices. Because it was not only the first time. When I was at university, we were three of us, we were just walking down the street and this police car stopped, and we were just ordered inside, then I said, but what's wrong, what have we done? They said, no, we'll talk at the police station, so they took us to the police station. I remember I was sitting next to a dog. The dog just...police dog just grabbed my jersey, it was a new jersey, one of those fancy jerseys, Alpaca, just tore it and we went to the police station. At the police station, they would not tell us why we have been...you know, we were under arrest, so I had to ask and ask. I said, look, let me 'phone home. They said, no ways, you're not 'phoning home. Then just after thirty minutes, then a man walks in accompanied by the police, he looks at us, he says, no, these are not the ones, and then it was only then that we were told that

we were being suspected of having robbed this man. Apparently he had been robbed and the description fitted me because I was tall. I'm tall, and he said, one was tall, the others were short...and of course, you know, we were just like that. So that's how they get us. They never did anything after that, not even to say sorry, we are sorry, you know, we got the wrong guys. But then as time went on and I was seeing these things and I said to myself, no, I think...what I wanted to do was to be a doctor, a medical doctor, but I changed my mind. I said, now, I'm going to be a lawyer; I'm going to study law. My father was...he was inaudible he said, you want to study law? Why? No, you must be a doctor. I said, no, I want to study law, because there's something very, very wrong with our legal system. Now at university...

Int Where did you go?

NM I went to the University of Zululand, because if you are a Zulu, you go to Zululand. If you are Sotho, you go to Limpopo University. It used to be called Turfloop. If you are Xhosa speaking, you go to Fort Hare. So that was the law, and there was no way. And I was staying right in town. The University of Natal was a walking distance from my home, but I couldn't, I had to travel all the way to Zululand, just to be there, and at university, the worst thing I experienced was the discrimination and the humiliation that some lecturers used to...some used to say, you are too many, me I'm going to pass ten.

Int These were white lecturers?

NM Ja, white lecturers. There were no black lecturers there. So...and they would humiliate you. You know, like for instance, if you have been writing tests, they would come with the test papers, they say, Mr Mdladhla, two out of twenty...you know, just to be humiliating you in front of the others. And they used to say...I remember, there was the one chap who was repeating Mercantile Law for the third time, and the lecturer used to say, used to laugh and say, *he he*, ask my friend there, he's been with me for three years now, but I want you to learn these things by heart, so what he used to do was he used to prescribe...he prescribed a book, which we had to read, and if you read any other book on the same subject, then he fails you. He say, I want you to know this book by heart, you know, and I was feeling this thing, and I remember one time that I was doing...it was prescribed that we should do Latin, so then there was a strike at the university, after the expulsion of the late Abraham Tiro – he was from the University of Limpopo, which was Turfloop then – because he had spoken at a graduation ceremony and attacked apartheid, so he was expelled for that. So in solidarity with him, we went on strike, right on the university. So I missed some tests in Latin, and my lecturer said, no, Mr Mdladhla, just forget about Latin, you just go and concentrate on the other subjects. And I said, no, but I do have a year mark, which entitles me to write Latin, and she said, you will never pass Latin, just concentrate on the other subjects, you are doing well in the other subjects, concentrate with those. So I'm just stubborn, I said, no, I'm going to write this...now, I had a year mark of forty...forty percent, so which means...meant that I had to at least score a mark of sixty percent in order to pass. Alright, then when my results arrived, she had given me, instead of fifty percent, forty-nine percent, and I failed. So I had to...to study through UNISA, Latin, in order to qualify for my admission as an attorney.

Int Right. And you did a BProc or LLB?

NM No, I did...that time, there was no BProc, we used to have a four-year curriculum BJuris, Bachelor of Law. So that is what I did, and then after qualifying, then I went for the LLB, then there came trouble in 1976.

Int Right.

NM You know those strikes? In those strikes, the university was burnt down and there was a whole lot of...I mean I left my entire wardrobe, and books...I couldn't carry, I just carried a few things. Then I went and stayed at home, then there came trouble, because I'd spoken at a meeting with the students. Anybody who spoke was arrested, so they couldn't get hold of me so they arrested my wife who was my girlfriend at the time. They arrested her; she was in a solitary confinement for a long time, about eighteen months.

Int Really?

NM Totally, and they were looking for me...

Int This was what period, Nzo?

NM This was 1976.

Int Ok, right.

NM You know, during the Soweto uprising. So she, then she was released after the late Griffiths Mxenge represented her, because at that time I did not know that she was pregnant with our first child, so Griffiths Mxenge made representations for her and she was then released. But then they came after me, after that, and they got me, because...after the case was concluded, the case against the other students who had been arrested, including the late Kwenza Mlaba who was the ANC lawyer...When that case was concluded, then I just resurfaced, because I'd been going around. Even here in Jo'burg, I had friends, so I would come here, because I just did not want...so they wanted to know now where I had been, the Security Police, so I told them where I'd been, they went and checked, they interviewed parents of my friends, who said, ja, he comes here all the time, I mean, he didn't tell us, he just said he's visiting, he didn't tell us that he's on the run. So that was...ja, that was the time, and it was very humiliating that at that time I was working in another attorney's office as an Articled Clerk. Now they wanted to know if...I mean, where I had been working.

Int Right.

NM I told them, ja, such and such a place, they said, take us there, so they drove me from Durban to Hammarsdale, which is just before Pietermaritzburg...this is where the offices were, and they had me in handcuffs, they came there in the office, said, whoa, what's wrong? I said, please can you show these people the files that I've been working on and even...because I was handling the finances as well...so the receipt books had my signature. So they checked all that, they said, ok, fine. They said, no, we can go now. I said, oh, ok. Now there were some of my clients seated there, who seeing their attorney...(Laughs)

Int Handcuffed?

NM ...handcuffed, you know, and it was a busy shopping centre there and most of the business people knew me, but they never thought that I was a person who was at loggerheads with the law, so they saw me handcuffed, so I went back and my father was, of course, very, very upset. I said, well, just leave this thing, don't take it up, I don't want to cause any more trouble for me, because my father was very, very conscious of...his sense of justice was very, very strong, and he in fact, he's the one that inspired me, because he would stand up for what he thought is right. He would not back off, so...but I managed to convince him just to let matters be, so I was now free...a free man, so that's how I didn't finish my...I didn't complete my LLB, because I was...I was expelled. Then completed my Articles, qualified as a lawyer, and my father was there when I was admitted as an attorney. I had to say that...one of the things that you had to say was that you would be obedient to the Republic of South Africa. If you don't say that, you can't be admitted so we had to say all that. Hey, but my father was furious. He said, did you have to? You have to swear that you...(laughs), you will abide by the law of the Republic of South Africa, you know these are unjust. I said, hey, what can I do? What could I say? So I was admitted and in 1980, 1980 as an attorney. Then I was in private practice working for...I worked for two friends of attorneys and then in 1982, I heard that the...there was something like a place called the Legal Resources Centre, which was going to open, and one of...I think several attorneys, I think maybe three or four recommended my name to Chris (Nicholson), so he gave me a call and said, can I come in for an interview? I said, fine. I went for the interview and then there were two doctors who were lawyers from Germany who were going to fund us from an organisation that was going to fund us...

Int So two donors?

NM Two donors, yes, who were doctors.

Int Oh really? Ok.

NM Doctors in Law. Then we went, Sandile (Ncgobo) and I had been short-listed so we went to lunch with them, and you know, they just told us what...we spoke very **inaudible** with them, and they said, well, they would like to work with us very much, because we are committed to what we are doing. And so that's how...I mean, the appointment I got it that day with Chris (Nicholson) and...

- Int Nzo, I wonder whether I could take you a bit back. You mentioned growing up in KwaZulu-Natal and living...from what you've told me, you lived in a fairly mixed area?
- NM Yes.
- Int So you interacted with coloured and Indian people, and you also had experienced a lot of difficulties in terms of access to education...
- NM Yes.
- Int I'm just wondering, having a father who was such a role model for you in many ways, I'm wondering how that developed you as a person?
- NM Well, you know, it gave me a strong sense of justice and standing up for what you believe in, because that was my father. He used to stand up...I mean even in the ministry, when he used to go to Synod and that, I mean, people would...whenever he stood up to talk, they would listen and that was a role model for me, and it helped me to develop a strong sense of justice, of standing up for what you believe in is right, not just to...to say that well, this doesn't concern me so I'm not going to do anything with it, I mean, about it, but I always...I mean, when...at that time, even at university level, I used to speak up even on behalf of other people in matters that did not directly concern me but where I just saw that, no, this is wrong. It should not be happening. So when the Legal Resources Centre was established in KwaZulu-Natal, it was just an ideal situation, an ideal place for me to be working at, and I was sick and tired of defending robbers, rapists, you know, thieves and what have you. It...to me that didn't give me a fulfilment of really what I wanted to do with the law, until the Legal Resources Centre opened, and that was just the ideal place for me, and this is why I stayed so long working for it. And I had a passion for defending people in land matters...you know, at that time, during the apartheid era, if you had not paid rent in the township you were liable to be arrested and sent to jail. But the other racial groups would not be arrested, they would rather be taken to court and the court would make a ruling that you pay so much a month, but with the blacks it was different. We'd be arrested...not paid for the services, rent, get arrested, so I was very much involved in those cases. And I remember that at one stage I would just sit in court, whenever these people would come up, I'd just offer my assistance, I'm going to defend you, you're not going to pay a cent. Then I would just go defend the person, because I just could not bear to see an old lady going down...to jail because she could not afford to pay rent, you know, those cases really, really...and there were also numerous cases of evictions, where township authorities were corrupt, they would sell a house to somebody else whilst you are there, then you are evicted without any due court process. So we were very passionate, I remember with Chris (Nicholson) and Sandile (Ncgobo), all those cases we used to take to High Court now and then, and we won all of them. We never lost one. We used to win all of them.

- Int I'd like to ask you more questions about working with people like Sandile Ncgobo, and Fellows etc, that you mentioned before, at the beginning of...before the interview started. I wondered whether you could talk a bit about...you had this ambition and certainly your father seemed to want you to become a doctor, a medical doctor, and because of your experiences, you really felt that you wanted to become a lawyer. In the South African situation, where apartheid was legalised segregation and discrimination, and under apartheid Parliament was supreme, so a legal victory could be overturned by Parliament, did you feel that the law could be used to challenge apartheid, which was legalised anyway?
- NM Yes, I did. I had a strong, strong feeling that, in fact, lawyers were not doing their job by not challenging these laws.
- Int Right.
- NM Because there were loopholes where you could successfully challenge...you know, like the cases of...the ones that I've mentioned, of evictions, of...because there were regulations, and all that you would do, let's say if they had not complied with the regulations, and you'd say, the law says this and that and that, before you evict a person, this is what you must do. And the same with payment of services, where there were cases which developed over time, that before the township authorities would send you to jail for failure to pay services, they must prove that services were rendered, what services were rendered, and whether they were rendered sufficiently and competently.
- Int Ok.
- NM So I mean there were ways of just playing around with...yes, the law was there, harsh, but you attack it somehow, you find a loophole and you get away with it. So this is how we used to do things at that time.
- Int Right.
- NM And of course, we had a lot of cases of detainees...
- Int This was in the Durban LRC office?
- NM Yes. I remember during the State of Emergency, we were spending almost every day in prison interviewing detainees, bringing court applications, some of the detainees had been assaulted, tortured, so bringing those cases and in most of them the State would offer payment. We settle out of court but then for us it was a victory, even that settlement out of court. But one was getting frustrated somehow, this thing is just going on and on, seemingly we are not achieving anything. We must just fight for the law to change altogether. So when the...1994 came and a whole lot of laws were...apartheid laws were abolished, and there were new laws coming into being,

which really allowed us now to broaden our work and really make a meaningful contribution for the poor people.

Int You were at the LRC for twenty-two years. It's a long time...I'm wondering whether you could talk a bit more about...from the time you started in 1982, that was really the time of...when the LRC came into itself because there was the Rikhoto case, the Komani case, and it secured very significant legal victories in terms of influx control and pass laws, and I wondered whether you could talk about the early days? What was the LRC like? You can talk more generally, not just the Durban office, you could talk about Johannesburg, the retreats, the meetings, and also people who influenced you as a lawyer, who you worked with, etc.

NM Yes, I must say that some of those people that really influenced me, I know apart from the Durban office, you know, Chris Nicholson had a very high sense of justice. He just stood his ground and he encouraged us. And there was a lawyer, very old man, he's late now, Zimmerman.

Int Morris Zimmerman. At the Hoek Street Clinic.

NM Ja, from Hoek Street. He used to say...he used to laugh and say, nothing is impossible, you just have to think. Nothing is impossible, the law is there, just apply it and you just have to think. And then he used to say to Justice Mahomed Navsa, he used to say, I pity the people who (laughs) you're representing...

*( Interruption; Interview resumes )*

Int You were saying about Morris Zimmerman and his sense of...that anything is possible.

NM Ja, and also Arthur's, Arthur Chaskalson, he was a very influential and fatherly person, to work with and to work around with. And George Bizos, very down to earth lawyer, and he would just influence you to see what you could do with the law, and a whole lot of other lawyers, even in private practice in KwaZulu-Natal, people like Morane, Phosa...

Int Ok...

NM Langa, Justice Langa, who's the Head of the...

Int Constitutional Court?

NM ...Constitutional Court.



Int Were they associated with the LRC?

NM Well, he was...I think he was a trustee at one stage.

Int Right, ok.

NM But he also was very influential, you know, in terms of...making you to be enthusiastic about what you are doing and to believe in what you are doing. You know, that was very important to believe in what you are doing.

Int Sure.

NM That you are making...a difference.

Int Now the Durban office was a bit different because it was funded by different sources from the Johannesburg office.

NM Yes.

Int I'm wondering also, it was really started by Chris Nicholson but at some stage in terms of management, there were... changes. Richard Lyster came on board, and I'm wondering how that may have changed the LRC in Durban. What were some of the tensions, what were some of the difficulties?

NM You know, at first, even with Chris Nicholson, we used to have certain tensions, but we understood how those tensions came about and also that the background is that he's white...

Int Right.

NM ...so...and some of the things that we thought were very important to us, maybe they would not be that important to him.

Int Can you give me an example?

NM Well...

Int And you say 'we', you mean you and other black lawyers, or...?

NM Ja, I mean...myself and other black lawyers.

- Int Who would those be?
- NM That would be Sandile (Ncgobo), for instance...
- Int Ok.
- NM ...and JP Purshotam, but you know, we used to have those tensions, but all the same, it was a pleasure working because we were able to sit down and address those tensions without anybody feeling...I mean having a grudge...and so when Richard (Lyster) came into the picture as a director, and we used to work very, very well with him also, and he used to encourage me very well in my land work, because I used to represent a lot of people from informal settlement, and I got them land, negotiating with authorities and fighting, you know, and also the tensions between the LRC, KwaZulu government, which saw us as instruments of the...of the ANC, just because we used to challenge them on every point on what they were doing, which was wrong, and I know that I had a lot of enemies in KwaZulu-Natal, in the KwaZulu government, I had a lot of enemies. I mean some guys used to...who knew me used to warn me, say, hey, be careful, people have been talking about you, in these circles, people who are high up, you must just be careful, we are worried about you. So that's why we are warning you but don't say that we told you. So...so I was quite aware, even when the...during the...the turmoil that came about in the 1980s, where the IFP was openly attacking people and the KwaZulu Police were just a law unto themselves, and I was living right in Umlazi in the stronghold of the IFP.
- Int Right.
- NM So I had to be very, very careful because whenever there was an uprising or anything, I would get into my car, take my kids, wife, just go, just leave the house like that.
- Int Living in Umlazi in an IFP stronghold, were you in some ways regarded as an ANC lawyer, or were you in some ways regarded as a lawyer for the people, having worked for the LRC? How was the LRC perceived?
- NM Well, you see at that time, the LRC was perceived as an enemy of the people who were in the homeland government.
- Int Yes...
- NM Right...So we were seen as a threat to the homeland government.
- Int Why was that, specifically?
- NM So...I think...I think mainly because we were fighting them at their own game. They would enact legislation and we'd attack it, anything that they did, which we saw is

just unfair and it's not on the ball, it's not benefiting people, we'd just attack it and in that way we made a lot of enemies, I mean, specially in the townships. You know, township authorities, they just did not like us.

Int Right. The 1980s were a particularly turbulent time in terms of repression and then of course, in KwaZulu-Natal, you had this added repression of the IFP. I'm wondering how LRC members survived? Were the offices bugged? Were you ever in danger of being detained...?

NM Well, we were in danger of being detained, and...but...I mean we were told ourselves, fortunately we were a very close society of lawyers and administrators, and we used to encourage one another. For instance, there's a lady who first started with us, and I said to her, no, you know, please study law because you understand the law. The fact that you have a Matric does not mean that you can't. So she studied law.

Int Who was this?

NM She passed...she was Nombuso; we used to call her Nbu. She studied law, she passed, flying colours, then she sat Articles, then she went to lecture at Mangosutho Technikon. I think she's still lecturing there; she's one of the senior lecturers now.

Int Ok. So she came in as ....a paralegal or a secretary?

NM No, she came in as just a secretary, and then of course she became a paralegal and her grasp of the law was amazing, and that's why I said, study law. Just study law. And she passed, she passed. But we were...fortunately; I mean with the Durban office we were a very closely-knit family of professionals and non-professionals. And we used to work well with one another and you know, there was no such thing as...thing is that well, this is my case, I'm going to do this case and I'm going to take the credit for this case. No, we used to say, we are taking the credit for the case.

Int Right.

NM And that's how it was, and I remember at one stage there was a case, which involved student doctors at the University of Natal. You see, those doctors had bursaries from the KwaZulu government and then they were also paid a certain amount of money, which were prescribed as a salary when in fact it was for their upkeep as students. So there came a time when they had a boycott at university, so the KwaZulu government then withdrew salaries, these so-called salaries, then they wanted to withdraw their...the bursaries, and on condition that they must pledge allegiance to KwaZulu government, pledge allegiance to Inkatha, IFP, and pledge allegiance to the President then, Buthelezi. So we took the case to court on the basis that there's nothing in the agreement which says you must have all these allegiances, and in actual fact, that KwaZulu government was in breach of the contract of their bursaries, and so...I remember it was a big fight. Sandile (Ncgobo) and I and Chris (Nicholson) were

working on the case, because it concerned about...how many students? Twenty...twenty-two, I think, round about there...

Int Right.

NM ...who were now going to find themselves...but what I'm pleased about is that after working so much, preparing for the case, we arrive in court, their lawyers call us, Sandile (Ncgobo), I and Chris (Nicholson), they say, look, we're going to settle this, just withdraw the case, going to settle it, let's go and tell the judge, we're going to pay back the monies, we're not going to cancel the bursary contracts. So then those students were reinstated, because they were really not able to pay their fees, so they were going to be out in the street, and what I...I'm pleased about was that a lot of them, I've been to consult them as doctors, (laughs) ja, they are doctors...one is a specialist psychiatrist, and one is a cardiologist and some of them are just general practitioners.

Int That's wonderful.

NM But its very fulfilling when I see those young men and those young women, it's very fulfilling.

Int Nzo, you mentioned earlier in the interview that during the 1980s, especially during the States of Emergency, so that was '85, '86, '87, you really worked with detainees and you supported the detainees etc. and then of course apartheid legislation started to end, and by 1990, the early 1990s, things were starting to change...

NM Yes.

Int I'm just wondering how in KwaZulu-Natal the situation was very different, because even though in the rest of the country the change seemed to have started, in KwaZulu-Natal there was still a lot of violence that went on right till '96, I think.

NM Yes, quite a lot, quite a lot.

Int Right. So you continued with a lot of work that...representing clients etc.?

NM Yes, yes, I...even with detainees who were detained by KwaZulu police, so we still used to represent them. We just felt that it's...the whole thing is just unjust, and something must be done about it. But of course, we did not blind ourselves into thinking that we are...we were going to be safe for long, so we were always on our toes.

Int Ok.

- NM We were always on our toes. It was **inaudible** but if there's work to be done, you do it, and just say, well, whatever happens, if it happens, it will happen.
- Int You also told me that by 1994 apartheid ends formally etc., the country changes...in what way do you think that the avenue opened up, as you said earlier, that the law could be used in different ways? In what way did you sense a change from '94 onwards?
- NM Well, from '94, you see, a lot of the legislation that was enacted under apartheid, was abolished and there were new laws that came into being, laws such as those protecting people in informal settlements, and people in...working in mines, people working on farms, although there's still a lot of farm labourers' exploitation, even up to now. I remember at one stage I used to work with the...an organisation called AFRA, which represents space in Pietermaritzburg, and it represents farm labourers and I was working very, very closely with them, and I'm still in contact with them up to now, they send me their reports, and everything, and ask me to write articles. I'm pleased to do that. But on the whole, after 1994, there was a lot of expectation from the people, and...in terms of what the government had to deliver, but unfortunately, delivery was very slow, and it's still very slow.
- Int In terms of?
- NM In terms of mainly the land question. You know, the land question is a crucial matter for this country. And I was working very closely with Peter Rutsch, he was one of the attorneys who was dealing with land, and we used to travel far and wide in KwaZulu-Natal, just addressing land issues, and communicating with traditional leaders, some of whom were difficult, some of whom were very good working with, and...but on the whole, the land question is being very slow in being addressed, which makes me at times to think that...I mean people can say whatever they like to say against (Robert) Mugabe but I think the land question for Mugabe was crucial, because if you did not address it, then he would have been out a long time ago. So that's then, but also, he also took a lot of time to address it, because in terms of the agreement they had with Britain, Britain was going to address the land question as soon as possible, but it dragged on for years and years and years, without it being addressed. So when he addressed it, it was too late and it became a violent question and a controversial question. So...which I think is a problem with the land question here in South Africa as well. Because without addressing the land question, we will...it's most crucial and it's just not the land. It's the land question, and also capacity building, on how do people...it's no use just giving away land to the people, if they can't plough on the land, they can't farm, a whole lot of capacity building, which forms around that, which I think the government is slowly addressing, but not at the fast pace that the people would like to see the land question being addressed. I mean, it...I mean right now, if you look around South Africa, the amount of informal settlements that exist, it's appalling, and it keeps on just growing and growing and growing. And there is no tight control over the land question, who acquires the RDP houses and all that, because some of the RDP houses are acquired by people who then rent them off or

sell them, there's just no control on what to do, so what people are doing is...I used to see this when I was still in the LRC, that you would acquire land for people in an informal settlement, right? And they get subsidies from the government; they make application...so what I used to do for instance, was to engage with the private land developers, because what they used to do, they used to build expensive houses and very few people would afford to do...so I used to say to them, look, let's work this thing together. You have the expertise, so let us make representations to the government, you get these subsidies, then you can get your money, leave people with land, so what used to happen now, which was most frustrating, that people would get the land, the houses, sell the houses, go back to the informal settlement or in the process of moving out of the informal settlement, they would bring in other people to take their places and they charged them fees, you know. So it's just an ongoing cycle. Even now, I mean, people who are getting these RDP houses, some of them don't qualify, and you can't tell me an eighteen-year-old will now suddenly get an RDP house.

Int ...the land issue is such a crucial one and the LRC has definitely taken that as one of its focus areas. I'm also wondering...in post-apartheid...so from say 1990, 1994 onwards, really, were there concerns that the LRC had been very aligned with an ANC anti-apartheid kind of ideology, and in the post-apartheid was there concern that the LRC would then have to take on cases against an ANC government? What were some of the concerns?

NM Well, I would say from the first question, we were as an LRC viewed as an ANC front, because I remember I attended a conference in Zimbabwe.

Int This was in 19...?

NM In 1987, '89. It was a conference on South African children and apartheid.

Int Yes...it's a very famous conference.

NM Ja, it was held at the Sheraton Hotel in Harare. So I was one of the invited people there; there was still the old man, Oliver Tambo, I remember he requested to address all the lawyers from South Africa. We had a very good meeting there, (Thabo) Mbeki was there as well, Aziz Pahad was there, I met all those people there. So...but we were viewed by...especially the apartheid regime as an ANC front, so after 1994, then there came the crux because now we started taking on cases against the ANC government. And some of the people did not like it, especially in government, because they thought that, well, we'd just go along, you know, with whatever they said, no, and we used to say, no. The will of the people must stand, this is not the will of the people, no matter who you are, we're taking you to court. So we handled a number of cases. I remember after post-1994, quite a number of cases against the ANC government and some ANC officials, who were not delivering in terms of the Constitution. Because we were now saying, this is the supreme law, the Constitution. You can't just run roughshod against it, no ways, no matter who you are, we'll take

you to court. So we did take a number of cases against various departments, Home Affairs, Health Department, we have taken a lot of cases.

Int I'm wondering, Nzo, in terms of 1994 was a time of great change, Arthur (Chaskalson) also was leaving and going to the Constitutional Court, Geoff (Budlender) had gone to the Land Commission at some point. And then in the Durban office Richard Lyster was elected ...onto the TRC, Chris (Nicholson) had left, I think, by...before then.

NM Yes, he had left. He became a judge.

Int Right. You had new leadership I think from '94 maybe onwards?

NM After Richard (Lyster) went to the TRC, then I became Director of the Durban office, and unfortunately I did not finish my directorship because, you know with the change of personnel coming into the office and not used to the type of...you know, relationships that we had, and I remember what used to frustrate me most was that I used to come to Jo'burg here for...at the National Office for the quarterly meetings of...where we would meet as directors, and you'd...you'd go from the office, right. And they request this to be done, so you go and put that before...at the...before the Executive Committee, Exco, and of course it's debated and you say why you want that to be done in that particular way and at the end of the day, then people vote, so I would come back at times having been outvoted, but then I would find that in the office, they would feel as if I'm not representing them, you know. And that used to frustrate me, frustrate me a lot. And at that time I was not getting the amount of support that I wanted from the National Office.

Int Right. Who was National Director...at the time? Was it Bongani Majola?

NM National Office was Bongani, yeah, Bongani Majola. So...and there was Odette was his assistant deputy director, and so, you know, I just became frustrated at that time, and finally I said to myself, no, let me just do my work now, because this thing now is affecting me in my work, and I don't want to be thinking about all these things, so I just tendered my resignation after three years. I had to do...I had to in fact be director for five years.

Int Right.

NM But after three years, I just said to myself, I just couldn't work in that climate.

Int So you continued though, you didn't leave the LRC? You resigned but you continued.

NM No I didn't, because I was enjoying the work, you see, that was the most important thing. For me I was enjoying the work.

Int Right. So you continued working, and then you said by 2004 at some point, you became ill. And I wondered whether you could talk a bit about that?

NM Ja. You see, before even that time, I think from the years 1999 round about then, I used to be very ill; I was in hospital I don't know how many times. And...but doctors were warning me, hey, just cool it, don't...and asking me to take leave. I wasn't...I mean, the only time that I took leave was when I went on a sabbatical leave, but even sabbatical leave I was working, in the States I was working, my first sabbatical I spent it...I mean I travelled through nine states...

Int In the U.S.?

NM Ja, in the U.S...addressing individuals, organisations, practically working.

Int For the LRC?

NM Yes. And I came back, and my...my other sabbatical which I took, I went to attend an international conference in France, Strasbourg, and I came back, I was so tired even after that, because I was...that time we were coming...you know, coming from South Africa, hey, people would just bombard you with questions, and then want to invite you to address this group, women's group, this group, that...you know, African Americans wanted you to...so it was just...so the only time that I enjoyed was on my last sabbatical, I went to Geneva and I was a guest of the International Commission for...what do they call it? International Commission for Human Rights. And in the morning I used to...eight o'clock they start with the lectures and then at ten we go to the United Nations for the Human Rights Commission sittings, where we take notes and we used to speak to a lot of diplomats from various countries and it was very, very exciting and I enjoyed that sabbatical very much, although it was a lot of work also, a lot of work, because almost...in the morning we used to be given a whole lot of documents to be discussed to the practical session of the Commission and the resolution, and in the afternoon then we go back, sit before your PC then type your reports the whole night and after that, then I had to write a paper, a detailed paper on racism in South Africa and apartheid, which I did and it goes before a panel of...the director of the Institute and some other persons who were part of the panel, including those that visit various governments to negotiate and of course, they will say, alright, you have passed, then they give you a certificate, I don't even know where...I left it at the LRC, that certificate, which certifies that I successfully completed training in this and that and that. But it was very, very, very nourishing because when the persons that had invited me in Geneva came to South Africa to deliver lectures on international law, so I was one of the persons that was accompanying them and also delivering lectures with them, you see, and they were very pleased that I'd learnt well whilst I was working with them.

Int Right.



NM And it was very fulfilling.

Int I'm wondering, Nzo, in terms of...you got this international exposure to the LRC etc., looking back you spent almost, well entirely, almost entirely your legal career with the LRC. I'm wondering whether you could reflect on some of your fond memories, whether it's a case or particular individuals that really, to this day, you nourish memories of your time at the LRC because of that?

NM Hey, there are a number...a number of cases that I did...and I remember one other case, of a boy, became a computer expert, who was arrested. He was working at the same building where we were, at Diakonia. Now he was arrested and he was tortured and there is a test that was done, creatine kinase test. Now according to that test if that creatine is high, it's either you are drinking or you have been under severe stress like torture or things...we...remember it was...what was it...Christmas Eve, when Chris (Nicholson) and I moved an application...

Int What year was that?

NM ...to have that boy released, and he was released and he could not even walk.

Int Gosh.

NM And that moved me very much, but I was so pleased that at least this boy was...because I knew him, he was always around there. He ended up teaching us computers because he was a computer expert, so...but what hurt me most with that case, was that I was now going to go for a civil action against the Minister of Law and Order.

Int Right.

NM For damages.

Int Damages?

NM Damages, because this boy had been tortured.

Int The Minister of Law and Order at the time, who was he?

NM It was Adriaan Vlok.

Int Ok.

NM So what hurt me most is that the doctor who attended to this boy in hospital refused flatly to co-operate with us, because he is the one who had told us that, you know, this is what I found with this boy and he is not a drinker, he doesn't drink, so the only basis I can say his creatine is up is because he has been under some pressure or even torture. But now he refused now. I said, we are taking the matter to court. He came to my office, he said, hey, look, Mr Mdladhla, I just started a new practice as a pathologist and I don't want to interfere with my chances of making it, so I'm afraid I can't help you. I said, well, who can? Just suggest somebody. He said, no, I can't help you. So he flatly refused and we couldn't continue with the case. And the other case, which I had, was of a ninety-year-old woman who had been unlawfully evicted from her township house.

Int Gosh. Where was that?

NM In fact...in Umlazi. In fact, she couldn't walk so she was put on a blanket by the township authorities, accompanied by the deputy...and put in the street, just like that. So the two daughters, two of her daughters consulted me, in fact they went to the township office, and then the...one of the superintendent he just wrote them an address and said, go and see this lawyer, because I used to specialise in those cases, go and see this lawyer, but don't say I sent you, they say...you must just say you learnt from some other people. So they came, but fortunately they told me (laughs) who the superintendent was who sent them. I said, well, no fine. I took the case on and the case was against the magistrate, deputy sheriff, superintendent, township manager, one of the councillors, I think there were six respondents in that case. So the magistrate 'phones me, he said, but you people, why you...why don't you just join the ANC man? We must know, just don't be...you are saying you are faceless people, you must just come out and join the ANC and fight the government because that is what you are here to do. You are only fighting the government and you're not doing lawyer's work, you are fighting the government. So...but I said to him, look, sir, with due respect, I'm just doing my job. You failed to comply with the regulations and the law and therefore you just have to face the circumstances and that's it. So the case was taken on and at the end of the day, I mean, the house had already been sold by the township manager to another person and this person was also a respondent, because I wanted him out of the house, so we got an order...he defended the matter on the basis that he got the house fair and square, but I was able to prove that inaudible me, because the initial act of depriving this woman was unlawful so you could not have been lawfully allocated the house. Then he said, but I bought it. I said, huh? So you bought it? Then that's where I got him. So he was out of the house and this poor old woman went back and I discovered in the process, I was asking, well, what do you earn for a living? She said, now, nothing. I said, what about your pension? She said, hey, I've been going to those offices for ages. Then I said, no, what we'll do mama, take you in the office car, we'll go there, I'm going to sort the pension out for you. So I sorted out the pension for her.

Int So she wasn't getting pension for thirty years?

NM For years, man!

Int Gosh.

NM And she had just given up going there. So I went there, in two days time, pension was approved. She was getting...well, I let one of the daughters...because she could no longer walk, so I prepared a document giving authority to her to collect the pension on her behalf. And she was collecting it. And I felt so good after that, having assisted this old woman, because I was just thinking, hey, what if it was my mother, you know, who had suffered like this?

Int I'm wondering, Nzo, now that apartheid's ended, we're in transition...many years into transition and the Constitutional Court is in full flux, I notice there are a lot of tensions in South Africa around the judiciary and a former Fellow, for example, John Hlophe, has had lots of problems with certain judges etc., I'm wondering what's your sense, having left the legal profession but still very much engaged in terms of what you read and having an insider knowledge, what's your sense of what's going on in South Africa in terms of rule of law?

NM I think with the rule of law, I mean, we have a very good Constitution, which gives us as lawyers and even ordinary persons, a lot of rights and a lot of leeway to go about changing the situation, but what I think is problematic with the judiciary, is the whole process of transformation.

Int Right.

NM Some are still very...you know apartheid judges, some are still very anti-transformation, so...and I think also the whole question of human rights culture, yes I think we are slowly going through the...a proper human rights culture but it's still going to take us time, because even with the...we have a Human Rights Commission, which is doing wonderful work, we have the Gender Commission, which is doing splendid work, but you see, there are also problems with these Commissions, especially the Human Rights Commission, how they go about something...I mean, just referring to the case of this president of the Youth League...has been told to apologise for what he said.

Int What did he say?

NM He is alleged to have said that the...the ANC Youth League is prepared to kill and die for Zuma, Jacob Zuma, president of the ANC. So he was being asked to apologise and he's refused to apologise. Because he says, what is so...what the Human Rights Commission did was to use an article in the newspaper to attack him and say he must apologise so it means they've already found him guilty without having heard his side of the story, under what circumstances has he said that, and what did he mean by saying that? So there's a problem there. So even with the Gender Commission, but the Gender Commission is sort of doing a good job but they need to refine their strategies.

Int Do you have concerns that the Constitutional Court is coming under attack from someone who was a fellow at the LRC?

NM Ja, well, I have my great concern about that. Because (John) Hlophe...I'm not saying (John) Hlophe is an angel, he may have done things wrongly like anybody else, but you know, an allegation was made against (John) Hlophe that he tried to influence judges in the Constitutional...two judges, then that went to the papers, that's how I read it. But I was amazed that (John) Hlophe had not been informed of these allegations against him and that he should reply. It is only after the matter was long before the newspapers and a whole lot of hullabaloo about it, and that the Judicial Services Commission, only then decided to formally state what he is being charged with, and for him to reply. But what I...I know (John) Hlophe, I've worked with him, but what I did not understand was why didn't he go to Sandile (Ncgobo), because he and Sandile (Ncgobo) used to work as judges together, in the Cape Court, before (John) Hlophe...

Int Why didn't he go to Sandile Ncgobo for what?

NM I mean, if he wanted to influence any judge, he should...hell, first person he would have gone to was Sandile (Ncgobo). But he did not go to Sandile (Ncgobo). Why go to people he hardly knows and try to influence them...that is what I've been trying to ask myself that. I would understand if he had gone to Sandile (Ncgobo), I would say, oh, maybe he took an advantage that they have been judges together, they have been advocates together, so he was a fellow at LRC when Sandile (Ncgobo) was there, we used to advise (John) Hlophe on legal matters, so...

Int When was (John) Hlophe a fellow at the LRC?

NM He was...hey man...when was it? 19...

Int During the eighties?

NM It was during the eighties, because I know after finishing his fellowship at LRC, he then went abroad to study for an LLM degree.

Int I see on your notice board you have photos of your family and then you also have lots of pictures of all the LRC people, and I'm wondering whether having left, and been away for four years, do you miss the LRC? Are there things about the LRC that you miss?

NM Oh yes, yes, yes. Especially this one. You see that one there? We had a financial training program for all the directors, so it was a very good conference that we had.

Int Nzo, I've asked you a range of questions, and I'm wondering whether there's anything I've neglected to ask, which you think ought to be included as part of your Oral History interview?

NM Well, I think the other most important thing for me was the type of person I'm married to, who also shares the same values. She...she worked for Unilever as a clerk, then...she had been a teacher, and when she was expelled in 1976 and arrested, then she was later employed by the Educational Opportunities Council, as one of...she was running the Durban office and KwaZulu-Natal branch, their head office was here in Jo'burg, and they were involved with sending students overseas, especially in America. They were working with some American foundation...

Int Ford Foundation maybe?

NM No, it's...Equal Opportunities Council, and they were working with various companies abroad and organisations, sending students to study, to further their education, and she was running that office, and also part-time working for communities, because she even did a diploma in Adult Education at the University of Natal, which she completed and was involved also with Adult Education, and thereafter she then joined the Natal Technikon. It's now called Institute of Technology, Natal Technology, right? And she was in charge of their bursary section, and she was dealing a lot with students and of course communities. And she then resigned from there and then joined the Moral Education...Moral Regeneration Movement, which she is now CEO of, she is running it.

Int Right.

NM So she does a lot of travelling and going through to local governments, provincial government, national government, she does a lot of that and she's very committed towards it. She even addresses...I remember one time, that she had to address the traditional leaders and I was a bit scared, I said, no, I'm going to accompany you, because you never know with those people, but we had a very, very good meeting. She was well received.

Int She sounds really interesting. The fact that she sacrificed eighteen months in detention, that alone is a sign of courage.

NM Ja, ja.

Int Nzo, thank you very, very much for your time and your thoughts and your memories. I really appreciated listening to you.

NM Thank you too.

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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:*- **AG3298-1-104**

*Document Title:*- **Nzo Mdladhla Interview**

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

*Document Date:*- **2007**