

Sydney Kentridge

LRC Oral History Project

Interview 1: 15th of February 2006

SK: Have you got a disc in there?

Int: Yes. Thank you very much for doing this interview with me, Sydney Kentridge. It's the 15th of February, Wednesday and thank you for bearing with some of the delays this morning.

SK: It's alright.

Int: I thought we could start the interview by getting a very brief sense of your personal background and how this may have influenced the direction you took...with regard to the legal profession and the type of progressive legal work you ended up doing, with regard to the LRT?

SK: Yes, what, but then how much, how far back do you want me to go?

Int: Perhaps we could start with memories you may have, as you were growing up in South Africa, about experiences that may have led you to...

SK: No, I can't think there's anything like that. I, you see I was born in 1922. So and my father was an attorney, but that was really a very minor part of his life. He was a politician. He was a Member of Parliament for many years. He sat continuously for one particular seat in the South African Parliament from 1924 to 1958. So (coughs) I grew up in a political household. Now, my father was originally a Labour Party man and then he joined General (Jan) Smuts. And of course, because of his Labour background, he was very much on the workers side, although in the South African trade union context, that meant the white workers. However, he would have been always regarded as being on the liberal wing of the General (Jan) Smuts' party. So, I did grow up with that sort of

political background. Then, you know, before I was born, on the Witwatersrand in 1922, as you probably know, there was a great Miners Strike, and my father was very active, as an attorney on the side of the miners. And under martial law, which was declared, he was arrested and simply detained in, in the Johannesburg Fort for some time. And that was always in a way part of my, part of my background, a certain critical attitude to authority. And I suppose I, I became a lawyer simply because my father was a lawyer, it was something, which one could do and I couldn't think of anything else that I could do. I could never have become a doctor or an architect, or I certainly would not have wanted to become an accountant. And in those days, you know, you went to university and you decided on one or the other. So, I went to university in Johannesburg and then for four years I was in the South African Forces during the war. That's when I first saw Europe. And after the war, I went to, I went to Oxford to do a law degree there and then came back in 1949; I started practice at the Johannesburg Bar. And I suppose the reason why I got engaged in political cases, was I think very much due to a, a great South African trade unionist called Solly Sachs. Have you ever heard of him?

Int: Yes.

SK: He's actually the father of, was the father of Justice Albie Sachs. And he was a great litigator. He ran the Garment Workers Union and he was a great litigator, both personally and for the Garment Workers Union. And my father...almost immediately I came to the Bar, he got an attorney to brief me to do some cases for the Garment Workers Union, at a very junior level then, of course. And I suppose that really got me into...by that time of course, the Nationalist government was in power. So, they were political cases in the sense of being always against the government. So, that I suppose is how I got into, how I got into that sort of work. It was, it, it was not, it was not the major part of my practice, you know, we weren't specialists. Most of my work was ordinary legal work, ordinary criminal cases, commercial cases, any sort of case. But then, in, in later years, apart from the cases I did for trade unions, I got involved in, in more clearly political cases. And in particular, particular, the Treason Trial in 1958 to '61 and then of course other sorts of cases. But then really that's all you want to know about me.

Int: Well, you have really covered it. You met Felicia (Kentridge) in 1951, I understand.

SK: Well, I once met her in 1950. But I met her properly in 1951, yes.

Int:The LRC... it's credited as being the brainchild of Felicia (Kentridge) and I was wondering whether you could discuss some of the issues and key events that actually created the impetus for the formation of the LRC...

SK: Well, really one has to go back a few years. I haven't got, I haven't got many dates but I tell you what, this, this really, what this really was. You know, in South Africa, in the years of let us say, the 1960s, the 1970s; there was no legal aid system in South Africa. There was in Johannesburg, a le... what was called a Legal Aid Bureau, which was run as a charity on a shoestring with one lawyer and one secretary, and what they mostly did was small criminal cases and divorce cases. And, the lawyer there organised it but what they would do was to find some very junior member of the Bar or some very junior attorney and ask them to do it for nothing and this carried on for year after year. And in its way it did very good work but it never developed anything more than, you know, finding some very junior person to go to the Magistrate's Court. Now, in the early 1970s, I can't remember the date, but someone in Durban, I can't remember even who but someone at the University there, who organised an inter... a legal aid conference there.

Int: Was it Raymond Tucker?

SK: No, no, not him at all. No, I think it was someone at the University in Durban. And a number of outstanding Americans came out to talk there. I'll give you their names. One was Clinton Bamberger. Do you know him?

Int: He's on the Board of the SALSLEP, yes.

SK: Yes. Another was Kenneth Pye, P.Y.E. who was Dean of Law at Duke University and another was Bill Pincus. Do you know Bill Pincus?

Int: I have read that he was on the Ford Foundation Board.

SK: Well yes. He, he started, he started clinical law in the United States.

Int: C.L.E.P.R. I think.

SK: CLEPR

Int: Yes

SK: And Felicia (Kentrige) at that time was at the Bar and the idea that she got, I would say in about 1971 or '72, was to start a law clinic at the University of the Witwatersrand. That was the very first law clinic in South Africa and it may have been one of the first outside of the United States. And she ran those clinics, organised them and ran the clinics for students, and the im... the important thing about it, of course, from the students' point of view, was that they were doing some real law, not just books. And they were having, they were having clients in the clinics. And of course, it, it gave a new dimension to their...to their law and of course it also meant that lots of people, they, they didn't go to court usually, they gave advice. But it did mean that a lot of people otherwise never would have got, been able to get legal advice did so. This was not at the University but they had clinics at Riverlea, on the Rand, places like that. And of course the students were supervised by members of the faculty. So that was really Felicia's (Kentrige) first real experience in legal aid. I should add that there was a period of about four or five months where she temporarily, in her very early days at the Bar, ran that Legal Aid Bureau, I mentioned when the Director was on leave. Now, following that, we met an... we were in the United States from time to time and Felicia (Kentrige) met a number of American lawyers and she somehow, I can't remember exactly how and when, but she got this idea of a Legal Resources Centre. And it had three basic ideas, she had, which

made it different from something like the Legal Aid Bureau, and I'd say there were, there were, three aspects to it. The first was that it had to be, it had to be a legal aid organisation, which didn't live from hand to mouth but which was going to be permanent. In other words, it had to be financed in such a way as to enable it to go on a permanent basis. The other aspect about the financing of it, was that what she had learned, I think she had learned that really from our meeting with Jack Greenberg and, was that in the South African context, for, what you needed was not a little bureau that would do the odd criminal case or, or the odd divorce. But you needed a, an organisation which would deal with the real legal problems of South Africa, which was basically the, the legal position of blacks in South Africa. Not that it was confined to that, but that was the basic point. Now what she had learned and what was fundamental, was that the lawyers who were acting for it had to be as good as, or better than any the lawyers they appeared against. That meant that you had to be able to pay people's salaries, which even it might not compare, be with what they would earn in private practice, would enable them to live a decent life, and get married and have a family and so on. In other words, it was to be a career and not just a stopgap while you were learning to be a lawyer. And the, the third principle was, and this of course, she also learned from the legal defence fund of the NAACP, that is Jack Greenberg's fund, is [coughs] that you didn't just do cases, you looked for test cases. In other words, cases which would *establish* something. And that was, that was what she thought up and she set about getting the funds for it and it came from Ford, Rocke... I am not sure which of the Rockefeller it was from, Felicia (Kentridge) would be able to you and what was the third, it was Carnegie. And those people were enormously helpful and they funded it. Of course, they also looked for money in South Africa. Apart from the Oppenheimer Charitable Fund, they found it really very difficult to get any really big donations but they got some. But some people you know, who were approached, they were, didn't, they held back because they said, you know, that this was anti-government. There was...that was really her great idea. And the two things that really got it off the ground were first, sorry, am I talking too quickly?

Int: No, not all.

SK: The first was Felicia's (Kentridge) being able to raise the funds for this vision and secondly, her, she was able to interest in it, Arthur Chaskalson, who was one of the most sought after counsel in Johannesburg with a huge practice and he agreed to come as the full-time Director. And then of course, they had to start getting younger, you know, other people to work with him. And another aspect, which started off in those days, was that it would also be a training ground for young lawyers, who were interested in doing this sort of, of work. And in particular, although again by no means exclusively, they wanted, they thought they could use it to train black lawyers, because it was very, very difficult in those days for black, young black lawyers even if they passed law school to get into any sort of firm where they would be really taught how to be a lawyer properly. So, that, that, that, that was it. But I must say some of the...I just want to mention another name to you, Arthur Chaskalson was the Director of the Legal Resources Centre and Felicia (Kentridge) also went to work there full-time both as a lawyer and administrator and of course as the liaison with the big fundraisers. And there was something else, something else that I think Felicia (Kentridge) and Arthur Chaskalson both decided on, which was very important for the LRC's existence, in what then a very hostile environment. I mean, the, the police were very hostile and suspicious. The principle was established right from the first that all the Trustees would be lawyers. In other words, no politicians, all, all lawyers and they got some prominent lawyers to be on it, people like Johann Kriegler, who later became a Constitutional Court judge, Ismail Mahomed. Did you ever know him, ever meet him?

Int: No, but I have heard of him.

SK: Well, Ismail Mahomed and there were a couple of judges who in due course, also, some judges who also became trustees and this was you know, and the, one very important person, was a very prominent commercial attorney in Johannesburg, called Charl Cilliers, C.i.l.l.i.e.r.s. He was quite a conservative man and he was *immensely* important. He was an Afrikaner and I, I mean, there were times when the police were seen to be harassing and he, I mean, he would just go and talk to them and tell them to lay off and explain what the LRC was doing. And he was most important. As I say in those days, in those,

well, as you know, in South Africa, in those days, the concept of Foundations giving major charitable donations was not really known or understood. As I say, the big supporter was the Oppenheimer Fund and Standard Bank, I think, was, was an early supporter. But some of the people who were approached, were really very funny. IBM had a big office in Johannesburg and I think Felicia (Kentrige) and I think, probably Charl Cilliers went to see them and explain things and ask for donations. And they said they'd consider it and eventually they came back to them and they offered them a second-hand typewriter (Laughter). And then, they went to another, another big company it was the company, a big company, which was the agent for Toy...Toyota and Nissan motor cars. It was run by a very big Afrikaner businessman called Albert Wessels. And you know, it was not an charitable company. At any rate, an approach was made to them and they said that you know, they gave, they had a list of charities they gave to and they sent the LRC a cheque for 15 Rands (Laughter from SK and Interviewer). And Charl Cilliers wrote back to them with their cheque saying that he thought that when they reconsidered it they wouldn't like to see their names in a list of donors giving 15 rands, when they felt they could give some more it would be welcome. I mean it was tough in South Africa. Of course, there was support from many legal firms, firms of attorneys, members of the Bar, they gave donations. And well, as you know it started in I think, 19...what was it, '75, what was it?

Int: The LRC?

SK: Yes

Int: Well, it sounds like you formally started in November 1978 and you launched in January 1979.

SK: Ah, that's right, it was '78 not '75. Yes, of course, in '78 and as you know it has been going ever since. There is another principle, which didn't start off as a principle but it became a principle and that is, you didn't take any money from government. And, that of course was not very difficult in those days because it never, the government would never,

never give support. But when the changeover came it's remained the principle. And it's a principle, which was there because it was very important to show particularly your black clients that you weren't anything to do with government and of course it's continued simply as a matter of independence from government. There was something else, which arose, I can't remember the details. I'm sure Felicia (Kentridge) will. But, it was also another important point of principle. Some South African companies you know didn't start giving decent donations and I think there were one or two occasions when the LRC had to bring a case for someone against one of those companies. The company was very indignant but the attitude of the LRC was, you know, we're glad of your donations but there are not strings attached and we've got to act in the interests of the clients who come to us. Anyway, the point is that right from the beginning when it started, it was looking for questions of principle. The idea being that if you got a case, I mean some cases were just for individuals and you, they didn't result in being test cases. But what you were looking for was a case, which would establish a principle. So although you have one client, your, the principle could apply for, to hundreds, maybe thousands, in the Komani case, tens of thousands. I'll give you some examples of the sort of early cases, where that principle was applied. You know, African domestic servants in South Africa, of course, I say South Africa, the first office was just in Johannesburg. You know they used to be employed at low wages but with food and some sort lodging on a monthly basis. Now, in law, if you're employed on a monthly basis, you are entitled to a month's notice before being dismissed. Well, many, many employers just ignored that. If they wanted to dismiss a domestic servant, they simply said you're out. Here's your wages up to the end of this month, now you're out. And that was that and somehow or other, I think through it was some white women's organisation in the Northern Suburbs, some of these women in this organisation, who had heard of the LRC sent of these black domestic servants to the LRC and a lot of white employers were absolutely astonished when they got letters of demand saying that she's entitled to a month's wages in lieu of notice and also the value of food and lodging for a month. The amounts claimed would be very small, you know, it might be 50 Rands or 60 Rands or something like that. And you know, occasionally, well, sometimes they would pay up and sometimes they wouldn't, but then they were taken to court. Well, somehow you see, it was just through a few, just a handful of cases,

but the word gets round. And the word gets rounds in two ways. It gets round to domestic servants that there is an organisation that can help you, it gets round to employers that you can't do that. And the other early, type of early case they did, I don't how long it went on was that there were hire purchase dealers who used to exploit black clients really absolutely disgracefully, you know, they would make them sign contracts they didn't really understand and they would charge interest they weren't entitled to and they would repossess goods when they weren't entitled to. And again, somehow those cases came and the LRC targeted two or three of the most notorious people and at first they blustered and they you know, they wouldn't pay up and you took a few of them to court and this whole business gradually stopped. So, it grew, it grew and worked in, in those ways. And you see, the thing they learned at the LRC, was that you've got to choose your test case. You've got to find the right client (coughs). But there was another legal principle, which was very important there. Suppose you had a client, say who had been exploited by one of these hire purchase people and the hire purchase chap say was going to fight the case. So right, you take the court because you can establish a principle that what he is doing is illegal. Then sometimes when the time came to go to court, this man rather than have a court judgement against him would settle, would say, I'll pay up. Very important you're, the LRC were lawyers and the clients were clients and *therefore*, you had to always act in the interest of the client and you couldn't say no to an offer of settlement, in order simply to have a test case. So, you know, it was, there were all sorts of twists to this, which they had to learn. Anyway, I, I've sp...talked enough about that.

Int: In terms of the mid to late seventies, it was a very interesting and productive time, I think, in terms of launching legal organisations, for example there was the black Lawyers Association, that was launched around that time and I understand that the Centre for Applied Legal Studies, CALS...

SK: CALS

Int: Was that part of the LRC but independent?

SK: Not a part of the LRC (coughs). No, you see, CALS, as it was called was started by John Dugard at Witwatersrand University and it was, it really grew out of the Legal Clinic but it went further. It did some cases but it did a lot of research into legal issues of a constitutional or political nature and it concentrated on certain things, which that the Legal Resources didn't do, for example censorship. It did a lot of cases very successfully before the Censorship Board. And, as I say it also did a lot of practical legal research into how things actually worked from the legal point of view in South Africa.

Int: What, what was the working relationship between the CALS and LRC?

SK: Well, there was no fixed working relationship. Sometimes, CALS, you know, would perhaps through the Legal Clinics would have a case, which you know, didn't think it was capable of handling itself and it would send the case to the LRC but it, they worked, they worked in parallel, there was no there was no clash, there was no clash between them, but they did, they did, they did different things. And the other thing, which CALS was very interested in, this was at a time when labour law was in its infancy in South Africa. And they went into Labour law and some of the people in CALS then became very prominent labour attorneys like (Fink) Haysom, (Halton) Cheadle, people like that. They were, they were into Labour law, the LRC on the whole wasn't into Labour law. So, there were parallel organisations. My gosh, there was enough work for any amount of them. The Black Lawyers Association had a certain hostility to the LRC. It was very much, in those years at least, very much a Black Nationalist organisation. It wasn't keen on working with white lawyers and I think it undertook a certain amount of training of lawyers, but as far as litigation was concerned, it was, it did nothing. In fact, until, I mean in those early years, it was you know, I think, I think it had, I think it had some importance as, I think in helping to train black lawyers and also in starting to give black lawyers some sort of voice as black lawyers but as a legal operative organisation, it was completely ineffectual in those years.

Int: In terms of the early stages of the formation of the LRC, did you harbour any reservations...did you think that the law could be used to effectively challenge apartheid?

SK: No, it can't be used to challenge apartheid as such, but you see, the thing about it and this is illustrated by what I told you about, what I told you about the domestic servants. Even under apartheid, people had rights, they didn't know their rights. And one of the things that the LRC always had in mind was to enforce such rights as existed but, which the people concerned never had lawyers to enforce for them. You see, another aspect of it, it goes on to this day, there were thousands and thousands of blacks who were entitled to pensions. The pensions simply weren't paid. So the LRC started doing these cases. They weren't making law. The law was actually there. You know, blacks were entitled to pensions. Maybe very small pensions but they had that entitlement. They weren't, they didn't know of their entitlement and the LRC took up that sort of case. What used to happen was that they would, the LRC would phone the pensions office and say what about this and that. And they would get no proper reply so then, they would issue a summons and it was very, very soon happened that the LRC just had to phone one of these offices and they didn't want to get, they didn't to get into conflict with the LRC, so they would... And you know it happens even now, particularly in the Eastern Cape, pensions and other things are just not paid out. It's partly bureaucratic incompetence, it's partly the fact the fact that people weren't told that you were entitled to a pension. So, there, there were, there was that aspect. And secondly, what they were looking for right from the start were, see it was, they really looked at all these multifarious laws and regulations governing black life and they found that there were loopholes there, like, as in the Komani case, the Rikhoto case and other cases, they found that there was something that you could do. It was not going to break down apartheid but it's going to change the lives of, of large, of large numbers of people.

Int: The Komani case and the Rikhoto case was to allow....?

SK: The Komani case was, dealt with a case, well, you see, well, you see, certain, certain, certain black men because of employment or birth in an urban area were entitled to live there. The government regulation had said right, well you can't necessarily have your

wife with you and if even if you do, when your children reach the age of 18, they've no longer got the right to stay there. The Komani case knocked out that regulation.

Int: And Felicia (Kentrige) was involved with the Komani case?

SK: Oh, yes, yes. The Rikhoto case was slightly different. Under the, what was called then, the, I think the Bantu Urban Areas Act, there were only two bases on which blacks could live in an urban area as of right, without a permit. The first was if they were actually born within the urban area and the second was if they had worked continuously for one employer in the urban area for ten years. Now the, but the government had a Catch-22. They had a regulation, which said that any African, who wanted to work in an urban area had to enter into a contract with his employer. That contract could only be for one year. So every year there had to be a new contract. And the government's approach was that if you had ten year, ten one year contracts, that was not working ten years continuously for one employer., particularly as what would happen say was that at the end of the contract year, the black employee would say go on a month's leave and then come back with a new contract. The government's approach was that was not ten years continuously and that was the sort of thing they took to court and the court said no, that is ten years continuous service. And you know, that, that sort of thing really affected the lives of hundreds of thousands. There was another case, I think that one was when they had a Durban office. There was, there was, there was an act, not just a regulation, an act which said that, idle or disorderly I think, they used the term Natives of Bantu, or who were idly or disorderly for a period of three months could be expelled from the urban area. And the way the government for years and years had interpreted it was simply that if you were unemployed for three months, you could be kicked out, however, hard you tried to get a job. And the LRC took that up and the judges decided no, idle mean idle. Look it up in the dictionary. If you've been looking for work and you're unemployed because you haven't got a job, then you are not idle. Again you know it just affected so many thousands of people. That's the sort of...that was why the LRC was there. And of course the big thing they went in for, that was before the changeover and since, is the question of land rights. Because as you know, under the various Acts whole populations, whole

popu...communities would be moved and there was no way by law, you could challenge the whole policy, but there were still certain rules under the Act and regulations and the LRC could, you know ensure that they were somehow enforced. Anyway, that's the detail of it. Felicia (Kentrige) can tell you much more...and you can get it in the papers. I think you'd better go on with your questions.

Int: In terms of the LRT, what was your specific role as a Trustee and do you think that role underwent any changes at the time?

SK: Well, you know, at, at the beginning I think, questions of principle were brought to us. Should the LRC do this or sort of, this or that sort of case. Later on, we just had the ordinary role of, of Trustees, which was, you know, have a meeting every six months or every year, just to look at the finances or to consider the report but the big questions which arose for the Trustees during those years was right, can we now open an office in Cape Town, should we op...open an office in Pretoria. We would have to consider what the salary scale was going to be. What sort of project should be undertaken. Should there be a project of training...people just out of university. That was the function. But in addition, there was an executive committee of the Trustees. I wasn't on that and they would meet more frequently and they were there to be consulted by the Director. You know que...there were, there were always problems which arose. Someone in one of the offices, the Director didn't feel seem to be doing their job properly. Then Arthur Chaskalson as the overall Director of the whole organisation would, you know, would consult the Chairman and perhaps members of the Executive Council or Trustees who were in that particular area and they might together go to look at the office and see what was happening there, whether they could do anything to help. But my role was, was a very, I was just an ordinary Trustee. I may have been sometimes in, unofficially consulted by Felicia (Kentrige) or Arthur Chaskalson but basically I had no particular role other than the role of a Trustee.

Int: If the role of the LRT was also to ...or the role of the Exco was actually to, you know, deal with the difficulties within the organisation, did that mean that the LRT was very separate from the LRC in terms of being impartial?

SK: Well, it was the principle that you didn't interfere with the day to day running. That was left that to the Director or the local Directors. You were there to be consulted and to help.

Int: In terms of SALSLEP, how did that emerge?

SK: Well, it emerged because we met a great Washington lawyer, we met him actually in England for the first time called Lloyd Cutler of Wilmer, Cutler and Pickering. You probably know about him.

Int: Yes, I have read a bit about him...

SK: And, we met him socially and, I think he got talking to Felicia about what, what she was doing and then when we went to America for some reason, then we met him again in Washington. And he said in order to, you know, she spoke about some of the difficulties of raising funds in the United States and he said to her, well, you need a section, whatever, it is organisation. I can't remember the number, you know what I mean?

Int: I think I have read this, but I can't remember the number as well.

SK: In the United States. And he said my firm will set it up for you. Well, you know people say things but if he said that. The thing about Lloyd Cutler is he said that, he always did it. He got another very senior man in his firm, Reuben Clark (Sr.), and between them they set this up. And they got this very *high* powered board of Trustees and it's been going ever since.

Int: So this must have formed around the '80's perhaps?

SK: Yes, And of course the other thing about it from then, you know Wilmer Cutler was a most important Washington law firm. They gave the LRC an office and secretarial help, which they never charged for. And I think SALSLEP still meets. You know, I think that's still the case. And that's how that came about.

Int: Richard Abel in his book " Politics by other means: Law and the Struggle against Apartheid in South Africa " argues that apart from the real challenge brought to bear on the State by organisations such as the LRC it also served a psychological function in that it created empowerment for blacks, knowledge, as you were saying earlier about domestic workers, that they had rights...

SK: Yes.

Int: I was wondering whether you have any pers...experience, you and Felicia (Kentridge) had any personal memories of this sense of empowerment amongst people who approached the LRC?

SK: Well, I didn't come into contact with the clients. I can't, I can't answer that.

Int: Okay and Richard Abel also argues that legal victories may have had the negative impact of actually making black South Africans dependent on white liberals?

SK: Oh, that's just rubbish

Int: Yes, I was going to ask you what you thought about this?

SK: That's just nonsense. Ah, that's just nonsense. I mean firstly, right from the start black lawyers were brought into it. And I mean these weren't white liberals, they were lawyers, they were going to lawyers. I mean there many lawyers in South Africa, quite apart from the LRC who acted for black clients in various cases. I mean it didn't, it didn't have, it didn't have a negative effect. I mean, what is, could the negative effect be. I mean if

you're a chap and you were being thrown out of your house or something like that, you wanted, you wanted a lawyer. If you didn't have the LRC there, what would you have done? Just been thrown out. I mean why is it negative? No, I think that's just nonsense. Who is Richard Abel?

Int: He's a sociologist of Jurisprudence (actually a law professor emeritus at UCLA).

SK: Of?

Int: Jurisprudence

SK: Yes, from where?

Int: I think he may actually be American. I shall check this.

SK: No, there were people who sort of took that view. Another was Professor Dyzenhaus, an ex-South African in Canada. But anyway, I think its rubbish.

Int: In terms of the tumultuous period of the 1980s, how did emergency regulations impact on the work of the LRC?

SK: Quite honestly, I don't know. I don't know what cases they did.

Int: ...One of the things I am interested in is what do you think acted against the threat of closure of the LRC, in terms of bannings and reversal of legal victories, especially, if under apartheid, Parliament was supreme?

SK: Well, you see, I think the LRC was, was protected by the fact that it had always been an organisation of lawyers. It took no direct part in any political ac...activity. And, and I, I really think that, that was so. You see, the emergency regulations were used against individuals, they were used to prohibit meetings, they were used for censorship,

ensorship of newspapers and things of that sort. It somehow didn't seem to affect the principle work of the...You see, I am just trying to think of something Felicia (Kentrige) would know of something that the Cape office did very successfully. You know that a lot of ships, mainly Japanese, I think whalers and fishing factory vessels, and they, they used to, they used to hire black seamen from Cape Town and other South African ports and they would go on voyages and they would come back when they finished their tour and they were never properly paid and they often suffered injuries due to negligence. And the Cape office took that up. Eventually what they did was, they actually, they actually used the judicial process to seize one of these ships in Cape Town harbour. That sort of work had nothing to do with the emergency, really. And I also, I think that probably even the security police realised that the sort of legal work, which the LRC was doing was, was legal work. It didn't impact on the sort of objectives of the emergency. But Felicia (Kentrige) may know that better. I don't. You know, it may have, for example have meant that for example that some clients couldn't come to the LRC. It may have affected some individual black members of staff but I wasn't close enough to know.

Int: During the 1980s were you or any of the other members of the LRC and LRT subject to harassment by the state?

SK: Well, I certainly wasn't.

Int For example, were the offices of the LRC ever a target of...

SK: ever raided? Not to my knowledge but as I say I am not the one to ask that. I don't know that much about that having happened.

Int: Correct me if I am wrong...I understand that you left for England in 1984?

SK: Well, it wasn't quite like that. I started working in England in about 1979. But I'd just come here for a month or for a few weeks. I 'd say, I'd say but then I gradually started

doing more work in England and less in South Africa. I would say that by 1984 my main home was in England.

Int: Okay so did you relinquish your role as Trustee around this time or when did you do that?

SK: My memory is so bad, I didn't do it immediately but I, you see in those early eighties, I, I spent enough time in South Africa to be able to attend Trustee's meetings. But I was a, you know, I was a Trustee, I think right through the eighties. I think right up to 1990 or '91.

Int: So the LAT was actually formed in 1985. And what was the reason behind the formation of the LAT?

SK: Well, to, to create an English equivalent to SALSLEP. An organisation, which would support the LRC and help it with fundraising in the United Kingdom. That was why, that was why it was founded.

Int: Was that founded by you and Felicia (Kentrige) or independently?

SK: No, I'll tell you, I'll tell you how it came about. There were three South, ex-South African businessmen, all of whom had been lawyers. There were successful businessmen in England and they'd had all been people who knew Arthur Chaskalson well. And between them they decided themselves that they would give a hundred thousand pounds for the LRC. And you see, again, again for tax purposes and so on, it suited, it would suit every donor like that to have an English registered charity. And it was, they, they gave the impetus to it and it was through them that we decided that we would found such a charity in England and we got English lawyers, some ex-South African, some just with an interest in South Africa to found the LAT.

Int: And your role in that...was it as a Trustee?

SK: I was a Trustee, yes.

Int: And currently are you still involved with the LAT?

SK: Yes. Yes, I am still a Trustee. Felicia (Kentridge) was the Chairman of the Executive Committee of it, the Trustees but now she is no longer Chairman. But we're both Trustees.

Int: Okay. The working relationship between...

SK: In fact I think I am now Chairman.

Int: Okay [laughter], the relationship, the working relationship with the LRC and the LAT, has that undergone any serious changes over the past few years since '94.

SK: Yes, I think it has. You know there were always, there were always problems. The thing is if you go to large donors in this country, it must be the same as the United States, you've got to have a proposal, you've got to be able to give them up to date information about what the LRC is doing. And you see most donors, particularly big donors prefer to give their money to a particular project. Let us say, a land reclaiming project in the Western Cape, they want to know exactly what's happening. And the proposals would come from the LAT, they'd have to get the information from South Africa and somehow that communication was always difficult. You know, people in South Africa were busy doing their work, they haven't got the time to write. So, there were always, I would say it was always the liaison always ran into practical difficulties. And I don't know a lot about the details about it. The person who does is someone called Jill Williamson. And I think Felicia (Kentridge). You see, I think in more recent times, its, the relationship has changed to this extent, that there are you know, by reason, by reason of the work of the LAT over the years, donors, let's call them found... big donors, foundations or charitable trusts in England and the people actually working in the LRC have formed, you know, have got to know each other and formed relationships. And that means that now, to a

greater extent, the LRC itself feels more able itself to approach donors in England directly. And these things change over time but yes, I think that in that way the relationship does change over time. But of course, there's another aspect to the both SALSLEP and the LAT, which you may be conscious of. After the changeover in South Africa and from the time the new government came in, in 1994, it became much more difficult to raise funds for the LRC in England. Probably true in the United States. There is a feeling well you know, everything is okay now, you know, there is a good government there. Why do you need help? The other thing is that there were much more high profile organisations like the Nelson Mandela Children's Fund, which were raising money here and in America and people who wanted to give to South Africa would you know, were much more likely to give there. So, raising money abroad for, for you know, legal work in South Africa has become much more difficult.

Int: And currently, you've actually answered it partly...currently what is the state of funding and the budgetary constraints faced by the LRC?

SK: By the LRC? I don't, I don't know about, about that. But I think, I do think, that they have found that it is harder to raise big money. As you know, LRC expanded at one time, I think was it six offices, Johannesburg, Pretoria, Durban, Port Elizabeth, Grahamstown, Cape Town. Well, I think it has had to cut down on that. I think some offices have been closed. I can't remember which office closed.

Int: The Port Elizabeth...

SK: Port Elizabeth. And you know that is the sort of difficulty that arises.

Int: When you were a Trustee on the LRT, I read in the Ford Foundation archives that expansion was always approached very, very cautiously, particularly, during the early stages for the very reason of budget and...

SK: Budget, personnel, you had to find a good Director. And in Port Elizabeth for some reason it never worked. No, there's budget plus other reasons [coughs].

Int: The LRC is such a good organisation, so it is hard to consider it in any way, as a controversial organisation, but what controversies, if any, has the LRC been involved in during apartheid and also perhaps during transition.

SK: Well, right from bef...you know, in the apartheid years, there were, there were the black organisations like the BLA, which just didn't like the idea of working with white lawyers. You know, it wasn't just you know, it wasn't just hostility to the idea of working with black lawyers, I think it was the Black Consciousness idea that their future was in their own hands. But the truth of it was that they just didn't have the legal experience or legal know-how because of the whole apartheid system. Firstly, it was not easy for a black to qualify as a lawyer and secondly, it was very difficult for him to get training in a proper firm or as an advocate. So, nonetheless, people did have their views. Oh, yes, there were other controversies. There were, you see, the, the LRC, this was something they careful to get. They were careful to explain this to the Bar Council and the Law Society, in order to get at least the, you know to avoid any actual hostility but nonetheless, there were many individual attorneys who felt that the LRC was taking work away from the legal profession and hostile to it. I don't think that was a serious controversy from the LRC's point of view but I think it, I think it was there. I think there were, you know, there were some people who thought you know, why should the LRC confine itself to these test cases. There were so many people, who weren't test cases who just wanted help but I mean, if you took that on, you would just swamp the LRC. I mean the demand for legal services was such that you know, you just, you just couldn't meet it. But those are the controversies. Since, well, since the changeover, well, as I say, my contact with those years was very limited. But, I tell you this, I know, I don't know what the results were, I just sort of heard, It is a sort of debate that would occur in the...in the LRC, was one of the things that happened during the changeover was that the LRC decided to form a constitutional unit in order to take constitutional cases. Now I remember even before the constitution came into force, it was pr...been one of my last meetings as a Trustee. I

raised, I raised the question, there are no immediate answers to it but this is what the LRC would have to consider very carefully and that is, to what extent can it take sides? Let's assume that, let's assume that a case about abortion was going to come up and on the one hand, there was a woman claiming a right to have an abortion, on the other hand, her husband who said no, this is the child's got a right to life and so on. If the husband came to the LRC, could the LRC refuse to act? Probably not. And you know there were many sorts constitutional cases that would come up where you got rights, conflicting rights on both sides. There, I don't know whether within the LRC there have been big arguments about that, but this was the Constitutional Litigation, which is very big in the LRC now. It was, It was a new field.

Int: Right. It has its own unit...

SK: But it is within the LRC. But the point is, I don't know whether those problems have really arisen because a lot of it is really constitution based on people simply being against the government. So, but that's a big aspect of its work now, Constitutional Litigation

Int: Apartheid ended formally almost more than ten years ago, the LRC actually continues to thrive. What do you think have been the changes in terms of core areas of focus?

SK: Well, you see, it doesn't have to act against apartheid laws and regulations. It still has to act, in what I call existing but unenforced rights like right to pensions. Its, I think its very important work is in sorting out the redistribution of land. You know, how do you do it? There is a Land Claims Tribunal. And the big, one of the biggest changes I think, is that the LRC in acting for communities who want to recover their land does so by negotiation. And the big difference of course, is that it now negotiates against the background of a sympathetic government whereas previously the government if not hostile was at best neutral. But, so its, I think, I think the big change is in, is in the importance of land, land work, and you know it takes, it takes many different forms. Sometimes it is simply financial compensation and sometimes it's actually getting people back onto the land. And then supposing you've had a community which was deprived of its land under

apartheid. Okay, now it's able perhaps to get back land. Some people in the community would like to go back to that land. Others who have settled somewhere say no, we would prefer financial compensation. So the LRC helps by negotiation to sort out that sort of question. I think which they still do to a great extent is the training of young lawyers, I think that's a very, that's, that's very important. You know, the other thing, which they have been, that they've done, which wouldn't have arisen in the old dispensation was on the question of treatment of, like treatment of AIDs sufferers. You know, they've, they've acted in matters like that which have arisen.

Int: You've said that now the LRC is now operating against the backdrop of a sympathetic government. With regard to the Treatment Action Campaign, which is actually been versus the government, what have been some of the tensions of the LRC in relation to working against the government?

SK: Well, it's not the same sort of tension. I mean, the apartheid government well understood that although it didn't take part directly in politics, the LRC was attacking the apartheid laws. I don't think the government has the feeling that the LRC is attacking its laws in general. But, I mean, that's still one reason why it doesn't take, it doesn't seek government financial support.

Int: So, It has maintained its impartiality?

SK: Yes.

Int: In terms of success stories recently, have you had any sort of sense of what are some of the huge successes since '94 that the LRC has achieved?

SK: Oh, well, that the Richtersveld. I mean, that has been a great success in law and in practice.

Int: Could you tell me more about that on tape?

SK: No, not really. It is about a community in the North, right up in the North Western Cape. Then, as a matter of principle they established a great principle in what was it called, the Grootboom case. But there of course, they've established the legal principle but the people concerned, you know whether it's had much practical effect up to now is a different matter. I don't know whether it has. Similarly, with the AIDS case about Nevirapine, again it was a great case of principle. I don't know enough to know how (inaudible)

Int: But these are great cases...

SK: Yes. But as I say, I don't know these things, I only know what I read in the Annual Reports.

Int: Sure

SK: And the Annual Reports are of...are very, very good.

Int: Yes. In terms of the Truth and the Reconciliation Commission, has there been any involvement of the LRC and what were your impressions of the judicial process there?

SK: I really don't know what the LRC has done. George Bizos who runs the Constitutional Court Unit, himself, did a lot of work in connection with the Truth and Reconciliation. But, I don't know that, you know, I should be able to tell you but I really don't know. I've not heard about the LRC being involved in that work.

Int: Okay, I am just keeping an eye on this on the tape. How are we doing for time?

SK: It's about twenty past eleven.

Int: Okay, so we have a few more minutes. What criticisms have been made of the LRC, by whom and why do you think these criticisms may have emerged?

SK: You mean criticisms from outside the LRC?

Int: Perhaps, yes

SK: I don't know really. I suppose there may have been.

Int: And within the LRC, so not externally, within the LRC what are some of the current criticisms?

SK: Well, I think, well, from what I remember of my times as a Trustee, there have been some criticisms in some centres, the administration hasn't been tight enough. Sometimes it has been said there has not enough been done in the way of training new lawyers. Others particularly from the smaller centres, they have said: "we haven't had enough internal lawyers, we've had to get outside baris...advocates outside to do the court work, which means they've got to be paid something, but those are just the ordinary administrative problems of a big, growing organisation. As criticisms, that I don't know of.

Int: Well, it is an indication of how good an organisation it is.

SK: Ja, well you may speak to people who have got great criticisms.

Int: How much support has the LRC had amongst members of the legal profession, more gen... broadly, in South Africa, the white elite as such and among the black populace?

SK: Well, I think from, from advocates and attorneys, it's had a lot of support, some of it financial but also a lot of moral support. The black population I can't speak, speak for.

But, you know, people, black leaders who talk about it are always been very, praised it like Nelson Mandela and Desmond Tutu, they have always spoken very highly of it.

Int: How well and widely do think has the LRC become known, not just in South Africa but abroad.

SK: Well, abroad, I don't know. I'd say in England a lot of lawyers know about it. I think quite a lot of lawyers know about it or have heard about it. But, you know as I have said, same, same of the reason why it is more difficult to raise money here. There's no longer the same interest in South Africa as there was.

Int: I mean, in terms of some of the crucial issues that are confronting the LRC in the past few years and currently, what do you think are some of your concerns for the future life and direction of the LRC?

SK: Well, I would say its twofold. First, it's the difficulty in financing. But, I, I foresee another difficulty. I can't tell you to what extent it's already arisen. You know, in the early days and for many, many years, it was to come into the LRC as a young black lawyer was a *tremendous* opportunity for a young black lawyer, really to learn the law, to learn how to litigate, to work with people like Arthur Chaskalson and Geoff Budlender and so on. There are st...you know, there are still getting good young people in but there are so many more opportunities now available for a bright young black lawyer, that I don't know whether they will be able to continue to attract the people they've been able to attract in the past. But I don't know the answer to that but that's my experience. You know, you find now, amongst, the, you know among the top black lawyers in South Africa, black justices, the black senior counsel, so many of them who started their legal careers at the LRC. I don't know if that's still going to happen.

Int: Can you name of a few of the very, now very prominent black lawyers who started at the LRC.

SK: I think I could but for some of them I might be guessing. Put that question to Felicia (Kentridge). Put that question for, to Felicia (Kentridge) but there are many.

Int: Okay, would you have been able to predict that the LRC would have become such an permanent, established institution in South Africa?

SK: Predict when?

Int: Twenty five, twenty six years ago, would you have been able to predict that this what, where it would be now, as an expanded organisation.

SK: No. No, one had hope but one couldn't predict.

Int: At the beginning did you have any reservations, when it was started in 1979?

SK: I didn't have any reservations. But you know, in those early days, every year you wondered whether you were still going to get the support for next year.

Int: You mean financial support?

SK: Yes.

Int: It seems that is also a current dilemma. It continues to be...

SK: Well, it, it does. I always thought it would attract good lawyers.

Int: One of the remarkable things about the LRC, is that it's had some of the greatest minds in South Africa, if you think of Arthur Chaskalson, Geoff Budlender and...

SK: Oh, yes, Ismail Mahomed. Oh, yes, well. And, you know some of the others who were, you know, who became Directors. A really outstanding man at the Cape, Lee Bozalek, Nicholson in Durban. I mean, really, really very, very good people. So...

Int: What do you think have been, as a final question from my end, what do you feel have been some of the greatest achievements of the LRC. You may have gone over it (inaudible).

SK: Well, if you looked at it in a very broad way, going back to the years before the change, before there was a constitution, far from having a negative effect, as the chap (Richard) Abel says, the great thing about it, and this was always one of the objectives, was to show people, particularly the unempowered people, that law was not simply an instrument of oppression, that law and the courts could be used to *establish* rights and I think looked at overall, that was the *greatest* achievement of the LRC, it hadn't happened before in South, South Africa. Then, I think that's something that continues. In other words, that if you've got a grievance, the law is there and there is there an organisation, which will help you to establish your right. But it is much wider than the LRC, I think it has taught people that you have got rights and you can go to court to establish your rights. The other achievements I would say in the training of young lawyers, most important and then of course in the actual cases where it succeeded and as I said at the beginning (coughs) some were great cases – like the Komani. The others, even in the small cases, you, you, achieved and established [coughs], you established something. And that's why I think it's still worthwhile.

Int: I've asked you questions I have had and you managed to answer ones that I didn't have to ask. I was wondering whether you had anything to add to the interview, perhaps about Felicia's (Kentridge) contribution or more generally.

SK: Well, when you see in the years when we were in South Africa, Felicia (Kentridge) did less and less legal work because she, as, as the LRC expanded, she had more and more not administrative work, I wouldn't call it administrative work, that was done by

administrators. What I'd say executive work, you know, making decisions about what would happen when there was a new office to be opened, who would you find as a Director, in finding funds abroad, not only in the United States, but they did a tremendous amount of work in Germany and Scandinavia. Felicia (Kentrige) had many contacts there whom she used to visit in Germany and Scandinavia and as well as in the United States. I mean in the United States in a way, she was the chief liaison between people like Bill Carmichael and David Hood and so on and the LRC. And, I, I really think that she continued really right up to the time she left South Africa in being a major player in keeping the thing going and going down to the regions to see what the offices there were actually doing. Finding out what their difficulties were, what they needed, what was going wrong, what was going right. But the whole thing is really her vision. And I mean, its, I certainly think it was one of the things which has made a difference in South Africa.

Int: It's been a remarkable achievement.

SK: Yes

Int: Thank you very much Sydney for your time, I really appreciate it and for your memories.

SK: Well. I will bring home those, that, that, I'll have a copy made of that London School of Economics talks and I think I have one or two other talks of which I've got a transcript or a text.

Int: Thank you.

SK: I'll bring those home and if I think of anything else I will let you know....

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