

Fikile Bam

LRC Oral History Project

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Int This interview is with Judge Fikile Bam. Fikile thank you so much for agreeing to be part of the LRC Oral History Project. I wonder whether we could start this interview by talking ...about...as much as you want in fact...about your early background in terms of your formative influences and how that might have led you to becoming a lawyer and seeking the law profession...

FB Well, I like everyone else started school without an idea of what I was going to become and the very first time that I formulated something was that I wanted to become a teacher and that later on I wanted to become a priest, and that's because I went to Mission schools, Anglican Mission schools, and so my role models were teachers and priests.

Int Where was this?

FB This was in a place called Sophiatown in Johannesburg here. It's got a history of its own which was subsequently forcibly removed and a place was set up called Triomf. It's now gone back to Sophiatown again, after the years, but that's where I went to primary school and I then went to high school at the place called Rosettenville which is to the south of Johannesburg. But that also was closed up because of the Group Areas Act.

Int How were you affected by all of this....growing up in South Africa under apartheid? How were you affected by forced removals, Group Areas, any of those things, the actual legislation?

FB Well, I certainly was affected by them because the areas in which I grew up, you know, were all forcibly removed, and Sophiatown the houses demolished and just everything I knew, I had grown up, to the schools I went into were demolished. They did sort of leave the streets as they were in Sophiatown and also the church which I attended was left intact. We're back there now...we bought it back after the apartheid years. And we were celebrating ten years of the anniversary of getting the church back this last Sunday. And then the same, you know, with the school I went to at St. Peter's in Rosettenville, that school was also closed to us. Fortunately it was not demolished; it was made a white school instead. But the effect of all that is that for many years I didn't have an old school to go back to and I didn't have the area in which I grew up I couldn't go back to, I had to adjust and readjust my whole upbringing as it were. Anyhow to go back to your question, I did go through a period where I was in Sophiatown where my ambition was really to become a bus driver, but that didn't last for very long, as I say, when I went to high school later on. And I really wanted to become a priest, until I met a man called Oliver Tambo whom you must have heard of, who was a teacher at St Peter's. Science and mathematics teacher, who had a lot of influence on me because we'd come from the same area in the Eastern Cape in Pondoland...

Int That's where you were born?

FB Well, not actually, I was born very close to there; I was born in the Transkei not too far away from where I met (Oliver) Tambo. And that again was a missionary institution which was called Holy Cross Mission, and he taught there for a while, and knew me as a very young person. But later on he was teaching at St Peter's when I went to high school at Rosettenville and I met him again. Now although he'd been a science teacher, mathematics teacher, once Bantu education was announced and that as from now on people were going to be compelled to teach Bantu education, then he decided no teaching was not for him anymore, and he decided to take up the law. And because he did that, I sort of also had an interest in following that example. And when I got to my final year in matric, I used to spend Saturdays going up to Oliver Tambo's firm – he had a firm in the centre of Johannesburg here, together with Nelson Mandela he had a partnership, and I used to spend my Saturdays there doing work for them, on a volunteer basis in the office, but really just to get to know what it was all about being a lawyer and being in that environment.

Int You must have been an incredibly mature person at that age to want to do volunteer work on Saturdays.

FB Well, it was really Oliver Tambo's influence because he talked me into...well, I actually asked him and he said, you know it's a wonderful idea and they'd be happy to have me in the office. So as it turned out there was quite a lot of work to do, taking down statements or interpreting for people, etc. And that's how I got into it ultimately and I forgot all about being a priest, and I forgot all about being a teacher.

Int And a bus driver (laughs).

FB No that I forgot long time ago (laughs)

Int So after that you were doing this volunteer work, what period was this exactly?

FB This was 1955/56. The school I'm talking about actually closed down at the end of 1956, which was also my final year, and I worked in Johannesburg here for a short while in the following year, in 1957, and then got a scholarship to go and study law in Cape Town, and that's how it all started.

Int So when you were in Cape Town, which university did you go to?

FB I went to the University of Cape Town, at UCT, from 1958 onwards.

Int You must have been one of the very few black students at UCT at that time?

- FB Oh, yes, there was a total number of six black African students and no more than about 26 coloureds and Indians. We were all in all less than 50. And it was also very...almost at the time when no blacks would be allowed at all at white universities because the Bill was passed in that year, in 1957, '58 to say that no people who were not white could go without permission to go and study at UCT.
- Int So in terms of...how did you adjust...what were the sorts of...your experiences of UCT at that time, during your law degree?
- FB At the time, our experiences in a tertiary institution at UCT was limited only to academic pursuits. You could not participate in other activities, in sports activities or in other social events, and you could not be allowed on the residences at UCT, any of them. You had to find your own accommodation outside if you were not white. And so it was very limited. It was called an open university and it called itself that, but it was not really that open and there were these limitations and there were various gentlemen's agreements, for instance, that you'd never go to parties, you know, to student parties or to concerts and things like that. We defied most of those of course being students, and you know, mutually white and black students and nonetheless we used to go to parties together and if there was trouble we were reprimanded the following week and so on. But there did come a time where the defiance, on the part of all the students was spontaneous. In other words, once you were within the campus we mixed with students and we debated and we did all sorts of other things other than academic things on campus. And sometimes got into trouble for it but there was a general spirit of starting to defy on the part of young people generally at the time.
- Int In terms of student politics, were you involved at all during that period?
- FB Yes, I was involved, it was almost impossible not to be involved at that time in the late fifties, early sixties, and I joined a student's movement which was called the Cape Peninsula Students' Union, CPSU, which was orientated along Trotsky stance, which was affiliated to the Unity Movement, which was a Trotskyite movement, which was very active in the Western Cape, particularly in Cape Town at the time. You know, led by people like Benny Kies, and Tabata, and Jane Gool, and very intellectual so it never sort of perforated down to grassroots and so on, but I got involved in that. But the campus itself of course were other student activities which I participated and NUSAS was very powerful at UCT itself. But there were also radical students organisations, and social students organisations and Christian students organisations. And I participated in most of the activities and lectures and so on.
- Int So was NUSAS at that time predominantly a white student organisation?
- FB It was, it was predominantly a white student...they were trying very hard especially in areas like Cape Town and Grahamstown to get blacks interested in that...to get them to join. But there was generally resistance on our part to be swallowed up, as it were, in NUSAS whom we believed were a liberal but still conservative background organisation and didn't address the revolutionary issues which we thought were appropriate at the time. That took me right back into '63, as a result of these kind of

activities and of course as a result of their politics of the time you may know that in 1960 the first State of Emergency was declared and I got arrested during that first State of Emergency, virtually for distributing pamphlets. And the same year was the year when you may have heard of what is the march of the PAC led people who marched from Langa Township to surrender their passes in town and we were involved in that in the sixties. That is what led to the State of Emergency of 1960. The same time of the Sharpeville Massacre.

Int So how long were you arrested for?

FB My first arrest was three weeks and I was actually taken up here to Jo'burg to a place called **Modabi Prison**. I spent three weeks in detention, but then went back after that to varsity. Two years later I then got arrested again and this time it was quite serious, it was for...under the Sabotage Act, and together with a group of ten other colleagues we were sentenced to ten years on Robben Island in 1964.

Int Had you finished your law degree by then?

FB No, I was in my final LLB year in 1963 when I was arrested, but then it took me all of 11 years to complete it and I still think I hold the record for the longest LLB (laughter).

Int You did it on Robben Island?

FB No, they didn't allow us to continue with legal studies, that's why it took me so long, and you had to do some other things, you know, like if you did language studies they didn't mind. They didn't mind commerce, they didn't mind things which they understood, but no politics and no law, because they said that these law studies made us too clever and we were querying all sorts of things about the Prisons Act and the regulations and so on.

Int So tell me about your time on Robben Island, you went there in 1964?

FB That's right, yes, we actually went there a little bit earlier because we were the first group who went there even before we were sentenced, this group I'm talking about, which was led by Neville Alexander and we called ourselves the NLF, National Liberation Front. Seven males and four females. The males were sent on to Robben Island and the females went to Kroonstad.

Int What were the circumstances around your arrest?

FB It was simply that we had collected a lot of literature on guerrilla warfare from all over, from China, and Mao Tse-Tung had written quite a bit on guerrilla warfare. Ché Guevara had written quite a bit on Cuba and there were a number of books also from

the Algerian guerrilla warfare people, and we virtually got hold of that literature and translated it into various languages, African languages, into Zulu, Xhosa and Sotho, and distributed it as widely as we could to people who had accepted the idea of an armed struggle. And when we started distributing this it wasn't really an offence in terms of the law, but a law was passed which is called the General Laws Amendment Act, that we otherwise called the Sabotage Act. And there were a whole range of things which you could be found guilty on under that Act and one of the things was distributing pamphlets which advocated an armed struggle and resistance. And so we got sentenced for that, periods ranging from ten years to five. And I got ten years for that and spent all of it on Robben Island. There was not one day of parole as far as political prisoners were concerned, and we were out exactly after ten years. I think I did get one day off because the day on which we were supposed to be released was a Saturday and they didn't release people...so rather if they didn't release you on the Saturday and they couldn't release on the Sunday then you could sue them if they released you one day late, on the Monday. So our group got one day of remission in 1974. The time on Robben Island went actually quite quickly. At first it was difficult, you know, to adjust, but once you sort of met the other people and the numbers grew of prisoners coming in, then the just sheer fact of our numbers, you know, made things bearable. You stopped feeling sorry for yourself with your ten years when you met people who are doing 15, 20, life sentences, like Nelson Mandela's group was.

Int Were you allowed at that point...did they have the cell A, cell B system? were you allowed access to people like Nelson Mandela and Walter Sisulu?

FB Yes. We were actually in the same section; it was called B section. One they just called isolation section at the time, single cells. Together with the Rivonia group, that is all the older people: Govan Mbeki, Nelson Mandela, Walter Sisulu, (Ahmed) Kathrada, and we were with that group.

Int Was (Oliver) Tambo in exile by this time?

FB (Oliver) Tambo was already in exile. Tambo never saw...the person whom we found there was Robert Sobukwe, but he'd already finished his sentence and was held there in detention – a special legislation had been passed to be able to keep him there – even after he'd finished his term. So we were together in the single cells with all these people and we were able as time went on, you know, to communicate with them, we worked with them at the lime quarry, and also...but in single cells, we sort of shared the bathrooms and the toilets but otherwise we were all locked up back in our single cells.

Int Did you have a lot of political education at that time?

FB Oh, we certainly did and we were very young. I was 23 when I went in and really my politics were very academic and ideological. It was really just when we started mingling with people from other organisations, with older people, that you get to learn more about the struggle. And of course the fact that you met people from all over the country and various groupings of people, peasant people, people who had

been teachers, people who had come from other walks of life, and that kind of experience was very rewarding. And I still do not regret imprisonment for that reason alone.

Int So ten years is a long time of your life, it's also the prime of your life, 23-33 almost, right?

FB Yes, indeed, and as I say, that's how one felt in the beginning before you met all these other people who were worse off than you, you felt your life, your career, had come to a stop and that it would be impossible to recover that. But it didn't really pan out that way, it went very quickly because you started to adjust to the environment and it became home and the people around you became your family, your friends and the irony was that it was actually very difficult when your time came to leave the island, to reconcile yourself to that and not knowing where you were going to, whereas on the island itself you knew from year to year what to expect and not being with your friends anymore, having to make new friends and so on. So it was mixed feelings. There were some very wonderful moments on the island so you didn't feel the harshness which was there all the time except that you learned to be adapted...you adapted yourself to it.

Int I'm wondering, you obviously had really good academic background, you'd had this scholarship, you got to UCT, I'm wondering how your family felt about you being on Robben Island and your political involvement...in terms of your biological family?

FB Well certainly my mother and that was the main person I had in the family then and also my sisters – most of them were married except one. And I guess they took it very hard, especially when everybody sort of expected I was about to complete and start earning and helping out with the family and have a profession. But at the same time I think they accepted that the times, you know, were calling for that kind of sacrifice from families and from various people and then a sort of new community formed around our own families. They used to club together and travel together to the island and help each other out, and so that is a new life for them as well and new experience, and they felt that in that way they were also contributing to the liberation of this country.

Int So you got released in 1974, what did you do immediately afterwards?

FB Well, immediately afterwards, first of all I was house arrested...we were all house arrested.

Int So immediately after release you were house arrested?

FB House arrested, that's right. But in my case there wasn't a house to go to because my parents had since retired and moved from Johannesburg and my mother had gone to the Transkei and was in retirement in the Transkei so there wasn't a place to release

me, there wasn't a home, as it were, in Johannesburg anymore. And I was kept in the prison here in Leeuwkop, which is not far from here, for a while and then afterwards just taken straight back to the Transkei and released from a prison in Umtata. But because the Transkei was on the verge of becoming self-governing at the time, my house arrest order was not enforced, but I was warned, you know, that certainly here the eyes and the ears of the police would always be near and I should be very careful and I should move out of the Transkei. And that's what happened, I could move out of the Transkei and I got detained several times when they thought I was influencing people around me. Especially when the Transkei became an independent state, I once again was detained because there was a lot of opposition to that and the idea was that the opposition came from people who had been on the island. But anyhow, I did manage to sort of slip back into main South Africa and ultimately was able to come back to Johannesburg here to do my pupillage as an advocate.

Int By this time you'd already finished your LLB?

FB I did, yes, what happened is immediately I was released I then registered with UNISA this time, which is a correspondence university. They were prepared to exempt me from some of the courses I had been credited with in Cape Town and then I had done a few things in prison itself, like accounting, which also was credited towards a new degree which is called BProc. So I first got a BProc the very year I was released, I think, in '74, and subsequently taking these credits together I did a few more courses towards the LLB and I finished that in 1975/76. So when I came here I already had a BProc and an LLB, and I was taken on as a pupil at the Johannesburg Bar and that's where I met Arthur Chaskalson, (George) Bizos and Sydney Kentridge, and they took me under their wing. And for a while the police didn't do anything about it. They kept on sort of visiting me and in fact even gave me a letter in which I was...persona, non grata, in South Africa, and instructed to leave the country within a certain time and the lawyers said, no, stay where you are and we'll challenge this when they take you. And then they just never did. And I finished my pupillage which was six months, but ultimately I did get out to go and visit my mother and I got arrested in the Transkei this time and I was detained there. So I was never able to practise after I'd finished my pupillage, in Johannesburg. I started to practise in Umtata instead because when the Transkei became an independent state they also had to have an independent High Court of their own and had their own Chief Justice called Judge (George) Munnik. And he, single judge, opened up a High Court in Umtata. There were only two practitioners and I was the third person to join them. And because there was a lot of work, a lot of criminal work, a lot of divorce work and other work, I had more work than I could handle. It was justice where I wouldn't have had as much work if I had stayed in Jo'burg, you know, being a junior. But in Umtata I sort of got straight into the thick of it and I started working there. And I quite enjoyed the experience. Judge (George) Munnik was a very conservative judge but a very good lawyer. And then I became part of the Bar Council there, which was affiliated to the General Bar Council in South Africa, and so I sort of slowly came back into the stream of the law and of lawyers until I was finally able to...well, first of all I went to the States, I got a fellowship from the States, from Yale University and I visited there as a Fellow and spent a year at Yale. And while I was at Yale I met Arthur (Chaskalson) and Felicia Kentridge and they said, you know what about...they had offered me earlier a job in the Legal Resources Centre, which I couldn't take because I'd been deported.

- Int So this was, they had already started it, this is past '79 now?
- FB That's right, yes. It was past '79...
- Int When were you at Yale?
- FB I was at Yale in the eighties, '84, '85. And joined the Legal Resources Centre a year after, end of '85 was during the job offer but I actually started the office in Port Elizabeth in the Eastern Cape in 1986.
- Int So you really started the PE office?
- FB That's right, yes, I started the PE office and there were four of us as it turned out. A friend of mine with whom I worked in Umtata, Jeremy Pickering, he volunteered to come and work with me in Port Elizabeth. And then we started looking around and we got someone called Vas Sony who's now practising here. He used to be a newspaper person, a journalist, but he just completed the year and I think Arthur (Chaskalson) or somebody knew him and...and then it was someone from the Cape Town side bar, Norman Arendse, who is now the chairman of the Bar Council, I think, in the Cape. So there were four of us who actually started the office and it worked out quite nicely: one white, one black, one Indian, one coloured (laughter). And that in South Africa, as you know, was quite a plus, it meant that we were sort of from the start a non racial group, and we accepted as such in Port Elizabeth.
- Int So prior to ...meeting Felicia (Kentridge)...you'd met Arthur (Chaskalson) before of course...but prior to meeting Felicia (Kentridge) and Arthur (Chaskalson) while you were at Yale, what was your knowledge of the Legal Resources Centre? Did you know about it?
- FB Well, I had...yes, the Legal Resources Centre started actually when I was still a pupil and then Arthur (Chaskalson) had asked me if I could work for the Legal Resources Centre and I'd said yes, but then that's the time when I got deported and the whole thing didn't work out. So I'd known a little about them and about their work, and when I was in practice in Umtata in my own practice, I used to phone people I had known in Johannesburg, like Arthur (Chaskalson) and George Bizos, to ask for advice about this, that and the other. And I got some of their cases and some of their literature if they were doing certain kinds of cases, particularly pass law cases, and these were still relevant at the time, but I'd never sort of been immersed in their work until after I'd been to Yale and they'd gone to start this office in Port Elizabeth.
- Int So when you started the office in Port Elizabeth, did you model it on the Hoek Street clinic or did you model it on any particular LRC project?

FB Yes, I actually modelled it I think more on the Johannesburg office and I had Cecilie (Palmer) here, she came out to help start the office, and so did Felicia (Kentrige) for the first couple of months. But particularly Cecilie (Palmer) because she'd been with this office...she was just lent to us full-time, I think she spent six months and so on. So the absolute organisation of the office was very much Johannesburg orientated and influenced. But of course the problems were slightly different. The Eastern Cape, Port Elizabeth in particular, was a lot more political, the population there, than the normal population in Johannesburg. They had all sorts of campaigns. They had the Consumer Boycotts in various areas in the Eastern Cape at the time and I dare say the Security Police were a lot harder in the Eastern Cape than they were anywhere else here. I got just at the time when the Cradock Four...I don't know if you've ever heard about the Cradock Four...?

Int Yes.

FB ...were eliminated by the Security Police. And one of the first cases we handled was that case of the Cradock Four and appeals.

Int So were your cases in PE far more political or were they also general? What was the nature of the cases?

FB Well, they were more political I think than in other areas, but we also did our fair share of pass laws and our fair share of, you know, repossession of goods and so on. A whole lot of the things that the LRC did we also had...we also were involved, our cases were pretty much the same. But came the second Emergency regulations and the second one...

Int That was 1986/887

FB '86. And then we really had quite a lot...our hands full in Port Elizabeth with the second Emergency, perhaps more than the other offices.

Int Were you affected by the State of Emergency in terms of running the office?

FB Yes, we were because we now...a lot of our work was to do with people who'd been detained under the State of Emergency. And almost two thirds of our work was that, that, you know, we had to visit people in the prison, in St Albans. But we still continued, you know, with the other mundane things, you might say, because one of the things that happened in Port Elizabeth was that they had just shut down the... General Motors had shut down, and Ford Motors had also shut down, and so there was a lot of unemployment and a lot of poverty and, you know, with that a lot of repossessions and those kind of cases. And also the passes were still a problem.

Int During the State of Emergency was your office ever threatened by police, were any of your staff or you detained?

FB No, we were harassed to some extent. I got regular visits personally in the office, you know, from...we were not too far away from us, sort of walking distance from where the police station was to where our offices were, so they would sort of walk down and come and see what was happening and sit down. We actually became quite friendly in a funny sort of way. And then very often when we went out, you know, to visit clients, we would be followed. You know, I would feel the pressure and a couple of occasions several cars were interfered with. You know, you'd get into the car and your wheels were flat, or in one case which almost killed me, something would be put inside the engine of the car, when you started it emitted stuff and I started coughing. But I just got out of that situation. But it was not brutal, let me put it that way, and talking a relative way here, it was not as brutal as the detainees themselves were actually treated than even us lawyers. Part of the reason of course was that we actually were infiltrated in that office, in the PE office.

Int Really?

FB Yes. There was a girl there, Vanessa Brereton. I don't know if you've heard this story?

Int No.

FB Whom we worked with, that we employed, recommended to us by the Black Sash and we took her on as an attorney. And she worked, and I took her, and she came on, I think, when the State of Emergency was about a year on, and she joined the office.

Int Vanessa ...?

FB Vanessa Brereton. But you'll get the story from talking to other people. And she was a plant. And none of us were wiser, except that we always felt a little bit uncomfortable. She was crippled and she kept on insisting on going to visit people in detention. That's all she ever wanted to do, so all the sort of detainees files, she would take a lot more than the rest of us. And I tried to stop her from going to prison, it's not an easy thing, I mean physically, going to see people in prison is quite a...you have to climb the steps and down the steps, fill in that form and fill in the other forms, and, you know, they open that gate. It's just physically exhausting. And apart from the actual work, long before you started interviewing people you have to go through all that. and I really wanted to save her from doing all that and for her to do the other kind of work that she just flatly defied and she wanted to do this work, she wouldn't give her files to anyone, you know, especially if they involved detainees. But that was all we just said here's someone who's very enthusiastic about her work. And it's only very recently, two years ago, when the whole thing...well, first of all after the TRC hearings that things started coming out bit by bit. Vanessa's (Brereton's) story didn't come out until even later than then, and when she confessed, you know, she was already in the United Kingdom. That she'd been a plant in the LRC and she was the one who had the code name so and so. It all came out around about the time when

(Bulelani) Ngcuka was being accused of being a spy...of the police spy in the apartheid era. And then she just came out and said, no, that was my code name that was used, it's not anybody else's.

Int And she spontaneously confessed?

FB She spontaneously confessed, yes, but things were already pointing to her, so she just came out with it and it shocked all of us who were working with her and also the people in the Black Sash, etc. But that was the sort of thing in Port Elizabeth I think the tensions there were political tensions, were a lot more than in any other office.

Int Certainly, the Cradock Four was quite a huge case, how did that pan out in terms of legally...?

FB Well, everybody got involved, which was as I said, that it was handled by the Legal Resources Centre which we'd started in Port Elizabeth. And we were smelling a rat obviously and that these people had...so we were representing the four widows. We participated particularly in the inquest that was launched at the time and got Arthur to come and do it. Which he did, he did the inquest itself, but you know, it was a predetermined thing that the cause of deaths was not going to be revealed. That's another story which you might get more fully from Arthur (Chaskalson) himself and we did make headway, but we knew that there was something, and certainly the widows, their instructions were that the people had been murdered had been assassinated in a certain way by people who were using state vehicles. Whether it was army we weren't sure, or whether it was the police, we weren't sure. And then later on George Bizos got involved and Mahomed Navsa got involved. We called them to continue that. And still didn't get very far, although I think we all knew, it's just that it wasn't nothing concrete and the magistrates and judges would just decide things and there wasn't enough evidence, etc.

Int So where did you leave the Cradock Four case at, because it was resumed wasn't it, during the TRC hearings?

FB It was resumed during the TRC hearings but again some of the widows went there and gave their whole story, and nothing came out until a lot after...even the TRC hearings because the people who were involved, as far as I recollect, couldn't get the TRC... what do you call it when if you spoke the truth at the TRC...?

Int Amnesty...

FB ...then you got amnesty. And none of the PE guys at that stage got amnesty for the Cradock Four. And I can't tell you what exactly happened at the TRC ultimately. I know one or two other people involved have since died, the police have since died. And the widows are still having a very hard time, that's all I can tell you about it, because I'm still in touch with them.

- Int Apart from the Cradock Four, what were your other cases that had quite an impact on you when you were in PE?
- FB Well, there was another case, another one of disappearances...a number of disappearance cases, let me put it that way. There was one called the Godolozzi case, which is also still being investigated and they're still busy...people are following as to what actually happened to the Godolozzi. There was another disappearance case and it just died out. A guy called **inaudible** their family came to us. And we were also involved in the case of the police who were assassinated. They were members of the police force who were assassinated by other members of the police force, because it was suspected that they might spill the beans about the Cradock Four because this story was known within. And they were killed with a car bomb and it was left for people to guess and people said it was the ANC that caused it. But we also started that case and what happened in it is that, although we'd got these instructions from these policemen's widows and they suddenly never came back again, once the police got wind that these people had come to the LRC to report the disappearance of their husbands, the police got around and went straight to them and I think either bought them off or bribed their silence or said they were going to look after them. But we just never saw...they actually became quite hostile to us when we tried to follow up, the widows of these police.
- Int When I ask people that I've interviewed about the threat of closure of the LRC office in Johannesburg in particular, they always say the stature of people such as Arthur (Chaskalson) belonging to the Bar, etc, prevented that kind of threat. There was also Charles Cilliers and Johann Kriegler, I'm wondering, it sounds to me that in the PE office you really didn't have as much protection from the Bar, as such?
- FB Not at all. Not even...we didn't have any. We had a little bit of support from individual people from the side Bar who helped...there was an old man called Noak who actually joined and he had helped in the office, old attorney. So there were individual people who supported us but they were all very quiet the ... official Law Society or the Bar Councils, not at all. In fact...and the universities not at all. And we tried to set up a law clinic at the University at Port Elizabeth and that's when I almost got arrested because I was barred from entering a university. And that if I did again they would phone the Security Police.
- Int Was this in the late eighties?
- FB Yes, just during the State of Emergency, in '86/'87. So no, we didn't have the kind of protection, but then as even in ourselves we couldn't be touched I think because of the stature of the Chaskalsons and the Kentridges and so on. They didn't really interfere with our work and they didn't detain any of us and I suppose they didn't have to with people like Vanessa Brereton. Besides they were more interested to know what we were doing than in arresting us, and getting the information via Vanessa (Brereton) from our clients.

- Int Now I know, and I could be wrong, that Black Sash was really heavily active in PE.
- FB Very much so, yes.
- Int What was your relationship, the LRC relationship with the Black Sash?
- FB It was very solid, very good and in fact...they were doing a lot of advice work, also around pass laws and so on and whenever they couldn't sort of sort out anything they straight away referred it to us. And also we learned a lot from them because they'd been at the advice centres for a long time and they'd accumulated a lot of experience, a lot of cases, and they knew the local scene a lot better than we did when we started. So it was very helpful. They introduced us to people. This lawyer I'm talking about for instance was introduced to us by the Black Sash and so was...and then there was sort of people there like Geoff Budlender's parents were still in PE and they had and their group of friends supported us. So no, there was some goodwill from the organisations that had been there, Black Sash and some church organisations as well.
- Int What was your relationship with the LRC National office, was that quite a strong one?
- FB Yes, that was quite strong and we got a lot of support also from them. As I said, you know, right from the beginning Felicia (Kentridge) was with us for a while and Cecilie (Palmer) spent time there, and I've been telling you that Arthur (Chaskalson) had the cases of the Cradock Four, and Mahomed Navsa and George Bizos came out there. But more important I think we had regular conferences and meetings and we met at regular intervals to discuss common strategy, to report on our cases and some other things. There was a process there which every office had to give. And then from time to time, you know, the conferences would move around and not just take place in Johannesburg but they would come to PE, go to Cape Town, go to Durban, whenever there were these other LRC offices. So I think particularly at the time of the State of Emergencies and when the oppression was very heavy, I think the offices tended to gel and to keep together very tightly.
- Int I've heard wonderful stories about you from members of the SALSLEP board because I've interviewed them...
- FB What Board is that?
- Int The SALSLEP board in Washington DC, the South African Legal Services Foundation. And people like Reuben Clark and of course others who came to visit; Clinton Bamberger, for example. So they've all recounted very fond memories of you during your time. So there's lovely stories that involve you.
- FB Well, I'm sure. I can't remember always.

Int I'm just wondering while you were running the PE centre, whether you had visits from members of the SALSLEP board?

FB I had a couple of visits and I really can't recall who came exactly, but you know, also during these conferences we would have a lot of visitors from support, from the international organisations. And I can't remember all the names anymore because I had come here not prepared for that, but I do remember the faces of a lot of the people who came to our conferences, but we do know, I did go out on a couple of occasions and fund-raising...

Int To the United States?

FB To the United States as well as to the United Kingdom and met people there.

Int Do you remember when you went to, I think it was New York, and then you met Clinton Bamberger when you went with Geoff (Budlender).

FB Yes.

Int Well, he told me a story about how he made both of you walk and then took you to the Strand Book Shop, which was the book shop with lots of books. I think it's probably got the longest, the 8 miles of books...

FB Well, I can't recall...I remember him taking us around...

Int Sure, sure. Well, he told me that story. So how long did you serve as the head of...the regional director for PE?

FB Five years. '86 was really when we started, up to the '92.

Int So after that what happened?

FB Then I went on sabbatical after that and then the people I'd started with started also moving away. Jeremy Pickering went to start an office in Grahamstown which did well, and then Vas Sony went back to the Bar in Durban. Norman Arendse went back to Cape Town, I think also to join the Bar there. And we had to get in new people. And it just started to get a little bit difficult with the new people who were joining, we couldn't really get the same kind of commitment and purpose as when we had started. Some of the people joined, you know, thinking this was a convenient stepping stone to their own practices, and I just didn't have a good time at all with the younger people who joined the office as attorneys.

Int This was around 1990, '92?

FB Yes, 1992. And relations became quite strange, so when I took my sabbatical it was really to just go and take a breather. I just had a lot of...I started experiencing a lot of hostility from these younger attorneys who had joined, particularly a guy who was sort of my deputy assistant at the time, and also Vanessa Brereton, now I understand why she made my life difficult, but I didn't understand at the time, I just thought that it was an age thing. So I went on sabbatical and I didn't get back to the office, I went to the Bar in Port Elizabeth, but soon after that, you know, the office just, just died.

Int It closed down?

FB It closed down.

Int So you left the LRC really around 1992.

FB '92 that's right, yes.

Int I'm wondering while you were at the LRC from '86 to '92, were there sort of and I'm not talking just about the PE office, I'm talking about the...broader LRC...I'm wondering what were some of the tensions within the organisation?

FB I really don't know. I can't tell you. I know there were tensions, particularly in this office, the Johannesburg office, but I really can't even speculate as to what kind of tensions. I know certainly in the PE office it was this question of a change of the composition, as it were, and people coming in, I think, with other agendas, other than, you know, the sort of things we started.

Int Well...the one thing that has been said by people I've interviewed as well as in the Ford Foundation archives, that the LRC was for definite reasons, predominantly white, and there were very few black lawyers... involved. I'm wondering how you feel about that in terms of being one of the few black lawyers involved with the LRC at the time?

FB Well, I knew the people in the LRC so I didn't have a big problem, you know, with this composition. They were all people I'd worked with and I knew they were all people who were committed. Geoff Budlender I had known very well, we were personal friends. And then as far as the PE office was concerned it was very well mixed and balanced. The staff was predominantly black and I didn't have a chip on my shoulder about that composition there. We didn't have a race issue.

Int So it wasn't an issue in the PE office.?

FB But the LRC overall had started being very much white and took some time, even for me to be appointed as the first Director of an office, and I have a sense that it was

largely due to Felicia (Kentridge), Arthur (Chaskalson) and maybe Ford Foundation, the people who had met me in the States, who probably just asked, you know, why can't this guy be, you know...? But as I say, our intention in the PE and I think in the Grahamstown offices of course was to try and start injecting a lot of other colour into the LRC and we thought we were succeeding in doing that. of course there were other problems, as I say, I think there were more like age and things like that, you know, which didn't go right and that's probably why in the end the PE office had to close down.

Int I'm just wondering Fikile... when you left you joined the PE Bar and what did you do subsequent to that? This was now really the time of transition.

FB That's right, yes. Joined the PE Bar, didn't get any work from anybody. The attorneys quite clearly didn't like, never liked the LRC and the kind of work it was doing. We were a pain in the neck for attorneys. They exploited people over the repossessions and over accident claims and so on and we used to sort of sit on their necks and that's why I didn't get work from there. But it was just as well because I then had already started a component with **inaudible** at PE office, a labour relations component, and the trade unions in the east, particularly PE, were very strong and they wanted to use the LRC, so I had just towards the end of my stay got a lot of experience doing labour related work. It was a lot of it. So when I joined the Bar I used to be called out...not briefed by attorneys, but called out by IMSSA and you know, by the trade unions, to go and mediate or to do arbitrations, or to litigate in labour law. That's all I did until I came up here in '94. And when I came up here in '94 by then I had become quite a prominent figure in what was called IMSSA and so we were called up to come and assist in the elections, and that process needed mediators and needed arbitrators which was what IMSSA was doing. And so I came and started to be involved in it and used to be sent out to areas and...

Int So that was the electoral monitoring, wasn't it?

FB Yes. And then from there just got...caught the eye I think of Anglovaal of all places, met some people from Anglovaal, and they in turn introduced me to the Denys Reitz which was one of the prominent firms around here, and I joined that firm as a partner in '94. The first black partner of any firm in Johannesburg. Before then people were just professional assistants or something else. But that didn't last for very long because I then got appointed to the newly established court. This was in 1995. And I've been there since.

Int Is this the Land Claims Court?

FB The Land Claims Court, yes.

Int Tell me a little bit about the kinds of work that you've been involved in since 1994 in the Lands Claim Court.

FB Well, it's very briefly that you had this statute, which is called the Restitution of Land. The initial idea was just to restore, to work on the restoration process. In other words, the statute said that if people had been forcibly removed from areas, the statute now said those people could come back and go to the courts and reclaim the land from which they had been forcibly removed. If that was not feasible then they were entitled to compensation or to alternate land. That was the basic theme of the court and a special court was set up to oversee that process. But it since, were other additions to the work of that, what they called the labour... a law to protect labour tenants, people who had gone all their lives working on farms... gives them some kind of security and that they could claim a piece of land on which they had farmed or they had allowed to farmed, the government would buy out those pieces for them or get what tenants had for them. But you know, the upshot of that was that a number of farmers then felt threatened, you know, that the new land reform was going to be a way of stealing their land from them, so they started to evict people left, right and centre, from their farms. And so another statute then had to be passed preventing that and again we were the ones who oversee that security tenure bill and we were really doing that all the time, sometimes more intensity on the eviction side than on the restitution side.

Int The LRC is known for its land reform work... I'm wondering in terms of your role as a judge in the Land Claims Court, do you work at all closely with the LRC?

FB Oh yes, indeed. A lot of our cases we either refer, sometimes people come straight to the court to say that we want this and we would invariably refer them here to the Legal Resources Centre because we'd had good connections with them. And they've got a fairly strong component here on land reform. And they've done a very good job. The important thing about this whole thing is that we try not to litigate if we can, but to settle, and I think the Legal Resources Centre has played a major role in that, in advising clients and processing the claims as quickly as they could. So we've had a good relationship with them.

Int By the time you left the LRC, funding was still strong, but they say that South Africa's no longer the darling of the funding world, in a post apartheid era. I'm just wondering what your sense is of the difficulties of attaining funding or obtaining funding for the LRC as public interest work.

FB I know it's very difficult, it's almost been impossible now to set up another LRC for instance. And one of the problems we really have in the Land Claims Court is that the quality of legal representation for poor people or landless people, they're suffering because of lack of resources. Very few people are able to take on those cases because there's no money to it and it's a problem which is still affecting us to this day. And I feel it almost personally because prior, while I was still in the LRC, I used to be invited overseas three or four times a year, and come back with loads of money. Now I don't even get invited anymore (laughter). It just doesn't happen anymore, it's very dried up.

Int When did you become a Trustee?

- FB I became a Trustee just about the very following year, I think, after I'd left.
- Int So '93?
- FB Could be '93/'94.
- Int Right. And since then you've been a Trustee on the LRC Board?
- FB Well, I stopped being a Trustee I think after I'd become a judge. Well, not just after... I can't remember when and how I stopped to become a Trustee but I know there came a time when either they wanted to change and needed me.
- Int This must have been in the past three or four years?
- FB Yes. For five years.
- Int So since then your association with the LRC has been...?
- FB Well, yes, it has already been just that I know the people who still work there. But it's really been...I haven't had a relationship...and also as the sort of staff changed and it was younger people taking over and younger directors they probably wouldn't know about me.
- Int I'm wondering if you could speak to the fact that since your time as a Trustee, maybe '93 until, you know, five years ago, what have been some of the key issues confronting the LRC? Key areas of concern during that period when you were a Trustee?
- FB I didn't come prepared for that, quite surely I can't recall. If I'd sort of had...maybe I came here too soon.
- Int No not at all, not at all. Okay, I think one of the things I probably would like to get a sense from you is that, you know, in a transition and post apartheid era the nature of the LRC work has changed, and it now is taking on different sorts of cases.
- FB Yes.
- Int I'm just wondering what you think are the issues that would face a public interest organisation like the LRC in terms of what does the future hold? There are lots of other little public interest and human rights organisations opening up, what do you think are the LRC's strong points and what should it focus on as such?

FB See again I can't really speak to that. Because I have a sense that the LRC I knew has probably changed and is not the present LRC. I can't tell you, for instance, how many lawyers there are in the LRC who litigate. And I know some younger people who are doing the same sort of work but at the present moment I actually have no clue what kind of work comes into the door of the LRC, except that I know we send our own work to be done by the LRC. But I have heard that there are certain cases that the LRC doesn't take anymore, which they used to take, and there's a concentration now on new kinds of concerns and new kinds of cases. That there has been an attempt to do a lot of Constitutional Court cases and so on, but I really haven't been close enough to anyone. My own generation has now petered off in the last few years. I hardly hear, not even gossip as to what's going on.

Int From the people I've interviewed, certainly abroad, I get a sense that people say consistently that, the LRC is the greatest public interest law organisation in the world...

FB I'm glad to hear that.

Int That is what I hear lawyers telling me. I wondering whether you feel during your time, and certainly even as a judge, whether the LRC in South Africa has been given that kind of recognition and support by the Bar, other legal fraternity, and as well as corporate in terms of funding?

FB I doubt if it has really ever been given that kind of recognition. I rather feel and I felt the same when I was within the LRC, that a number of the established organisations looked at the LRC with quite a bit of suspicion. And some even openly hostile. I told you that in Port Elizabeth we hardly ever got any support from the law societies and so on. It may be that now that things have changed, that people look back and say, you know, this was good work that the LRC was doing, we ought to have supported it. But you know, at the time, I didn't feel it. I really didn't feel it. I think the support...the only time I used to feel support was when I went abroad incidentally, and met people there. If you said you worked for the LRC you really became important. But I think in South Africa there's always the suspicion that, you know, you're a political animal rather than a legal person. That you're out there with a political axe to grind. And it's only coming out now after, you know, the sort of the smoke is over that in fact some of the work we did was quite important.

Int I'm wondering in a post apartheid era...what do you think are the key rule of law issues that an organisation like the LRC should be focusing on?

FB One of the things that I've got to say up front in that I'm somewhat disappointed not just at the role of the LRC but at the role of even the Constitutional Court. We had imagined that come the new Constitution, a whole lot of things would be turned around.

Int Such as?

FB Um...which I think hasn't happened. Like in terms of human rights, that you'd see women's rights, for instance, and children's rights, being at the fore of litigation in the Constitutional Courts and that you'd see the LRC moving more and more in those areas and getting somewhere. But I...every time I sort of open the Law Reports or even with the newspapers, it's more about, you know, people applying for holding unconstitutional commercial stuff and solvency laws, etc. And it seems to me that the first thing that has really happened was that it's the people with the means and the money who have utilised that space more than the people it was intended for.

Int So you think that the poor and the vulnerable remain disenfranchised when it comes to legal access?

FB Yes. I don't think it's made much of a difference to them. And I'm really looking at even the area of law where I'm operating from...

Int Land claims?

FB The land claims. The farmers are having a much better time, you know, than the... using the law than the people who get evicted, the farm labourers and so on.

Int Why do you think that is?

FB Well, partly it's clearly that the process of litigation is realistic for the rich, those who can afford it. They get better lawyers and they get the thing moving. Partly because historically the people with the skills to litigate are still white males and it's going to take time to turn around all those things. Still struggle to get females, black or white on the Bench, and...those young blacks who qualify as lawyers now, they all get swallowed up in the corporate world. I suppose it's something which I also observed even in the United States that, you know, the sort of firms that are doing work for immigrants and so on, are not really as well funded as commercial firms, and I suppose you always have that disjointedness. But things might change, I suppose, slowly and then people might be able to start utilising the space that has been created more effectively.

Int What do you foresee as a possible role for the LRC in that context that you've just described?

FB Well I think there would really be doing a lot of research, there is large areas, you know, when the rural areas for instance, there's still large areas there that could be explored. I know there are some women's organisations now who have started for instance too, there was a case that this week in the Constitutional Court, where the whole **inaudible** is being challenged. But one would like to see a lot more of that. A lot more of poor rural people coming to the fore and their cases being heard and sorted out. A lot of these sort of stereotypes also being challenged, you know, more

vigorously than they are at the moment. It seems to me that there's been a lull in a lot of areas, they're not sort of centre stage all those issues, which one expects, the general issues, etc.

Int I'm wondering...you've had a long and illustrious legal career and your time at the LRC was a particularly important one given your role at the PE office...I'm wondering when you look back, how did your time at the LRC influence you at all?

FB Well, it influenced me in the sense that I still get very angry, which is something a lot of lawyers don't have...a lot of people, I get the impression, say you've got to be objective, you've got to be cool and calm and so on, and I still can't do it. I still get angry over cases I come across, the same sort of anger which I really picked up doing cases of the LRC, you know, is still with me, I'm never cool and calm or indifferent to issues that come. And the other thing that influences me from the experience I had in the LRC was that I'm always looking for solutions that will cover a large area, rather than the specific case. My interest in the specific case is always sort of related to how it can be used as a precedent.

Int So in a way, the test case approach in the LRC did have quite an impact on how you see...?

FB Yes, oh absolutely. And it's there to stay, it won't evaporate sort of...I suppose it's too late for it to evaporate anyhow (laughs).

Int In terms of your memories of the LRC and your time with the LRC, what are some of your memories, what do you think are some of the stories that remain to be told?

FB I haven't got any funny stories about the LRC actually. I enjoyed the conferences when we all got together. Those were very inspiring meetings. You know, the sort of exchange of ideas and so on, and the thing that law was also a team thing, it wasn't just about the individual, the brilliance of A, B, and C, but that you could actually strengthen what you were doing by acting as a team and sharing cases and sharing ideas, picking up the phone and saying how did you...so that I really appreciated that. We would go into these conferences whole weekends. There would be the fun side of it of course, people singing and...but there's also the interaction of people who were committed to something, and that was a great feeling, very warming kind of feeling. And then also that, you know, you felt important in the LRC, you weren't just a staff creature. You had a say in things and you participated and you had a voice. And that also is something which I still admire and treasure about the LRC.

Int Having worked at the LRC, I'm wondering whether there was anyone in particular or a number of people with whom you forged very close working relationships?

FB Just about everybody at the time. Especially people, your kind of peer group of people. I think of the guy I started the office with, Jeremy Pickering. We still visit

each other and talk and I always enquire about him, where he is and...Chris Nicholson, Geoff Budlender and so on. You know the photographs when we were young, I still cherish of my peer group and the people whom I started together. But unfortunately it probably just ends around that circle. Because the LRC has grown and as it is now I hardly know, you know, who are the people, and I suppose they don't... I can't go beyond my own experience and my particular peer group.

Int I've asked you many questions, I'm wondering whether there's anything in particular that I may have neglected to ask you, that you would like to add to the Oral History of the LRC and your involvement as well?

FB I would say not really, I think you've just about exhausted every little bit of information you could. I wish I'd come a little bit more prepared but I really didn't know what it was all about.

Int Well, you know it was spontaneous and wonderful, thank you.

FB And I'll tell Shehnaz (Meer) because we worked together with Shehnaz (Meer), and she laughed when I said I was coming here, she says, you know I've also heard about these people and I can't get the time to get around to them, but I'll warn her that she's got an exhaustive process (laughs).

Int (laughs) Please don't, I'd like to interview her. Thank you very much Fikile not only for this wonderful interview and your time but also for making the effort to find the LRC offices (laughter).

FB Nobody knew Bram Fischer, it's amazing, I mean I've grown up in Johannesburg and I knew exactly where the corner of Rissik and Main Street was, but I didn't know Bram Fischer. But I knew the LRC, and I thought someone would know where the LRC is, and people didn't know. Which is also another thing you might record that whereas everybody knew the LRC offices these days, nobody seems to know now... ordinary people I was asking, where's the Legal Resources Centre? And they didn't know what I was talking about (laughs).

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