

- Int Imraan, thank you very much for doing this interview... for the LRC Oral History Project, we really appreciate your time. I wonder whether we could start the interview by talking about your formative experiences...experiences growing up in South Africa, and what might have influenced you to join the legal profession?
- IH Gee, I was born in a very small town, what's now North West, but it was then the Northern Cape, in Vryburg and then I went to school, my primary school years, in another small town in the Western Transvaal then called Bloemhof, so when I got to high school, there was no so-called Indian high school in Bloemhof, there was only white school, I think, coloured and African high schools. I then ended up in another not much larger town called Potch, Potchefstroom, which I found awfully conservative...that it wasn't just race, but it was also which Indian background and origin you had that was important to people there and then they were quite, I think, resolute on preserving an Indian school, they wanted an Indian school there. So I stayed there for just one year and left there as well. But, funnily enough, that year was 1976, the coincidence only hits me much later because at the time it didn't mean much to me at all, I was in standard six and although I'd read about things and known that something was happening, it wasn't...it didn't really impact much on me, to be honest. And I then came to Lenasia, with the family in Johannesburg, in Lenasia and then to...what turned out then to be largely called Trinity High, which is nothing to do with Trinity College and is as far, far, far, from Trinity College (laughs) as one could think. Kate (Savage) had a friend over who is British and showed very little interest in me until I said I was at Trinity and then swung his chair round and then he was very interested until I said it was Trinity High in Lens (Lenasia), and then he wasn't interested anymore (laughs). So, I think, for me, the turning point for me was during my Matric year in 1980, there were school boycotts and we were involved and we were on boycott for something like three, four months that year. Obviously our results...didn't...well, it showed up in our results...were not as great as they ought to be or were. I'd done reasonably ok in my other years at school other than one year that I was at Potch, I...well, I still did fine, but not as well as I expected and then after that I did ok and then Matric obviously, I didn't do well. But that year, I think, the fact that I participated in those boycotts and I played a role in the SRC, I was in its leadership, and met with students from other schools and I met a family who were very highly politicised and became very good friends with one of the sons...they were...they are seven sons and four daughters...was in my class and almost took them on as a second family or they took me on, in a sense, so whereas my parents, my father went to school till standard two and my mom till standard six, were not politicised at all, this family was, or at least the children were, so I think that's where I got a lot of my support and all that, during those years. I then went, I didn't get into university, at Wits, because my marks were not good enough, but I kept trying and I started doing UNISA, worked for some insurance companies and then went overseas for a year through the American Field Service, as an exchange student, to Denmark. So it's fortunate going to Denmark, as opposed to most kids go to the States and then I was also very fortunate, the family I stayed with in Denmark were out and out Social Democrats who had a daughter who was...saw herself as belonging to some left Socialist Party. I've met her subsequently and she's changed her views more towards the centre, more Social Democrat now. But, you know, they instilled quite...I think

they also were another exposure to progressive ideas, for instance they were quite alert to South Africa and Bantustans, they were adamant that they would not...I think they also changed their views and, what can I say...not changed them completely, amended their views slightly about...the time I recall they said they were very reluctant to take anybody to stay with them as an exchange student, and they had a number already, anybody who was American, Israeli or white South African.

Int It's reflective, isn't it?

IH Yes, so it was very good in the sense that, you know, there were lots of debate, lots of arguments, lots of challenges and things like that, and ya, that was a very good year and I think that also, sort of...at the time in 1980, I mean, it was just after the seventies so there was a lot of, still hippiness going around in Europe and there were lots of, you know, things we hadn't even...well, there were debates, but they were not in the forefront of...I was all of seventeen, eighteen years old, how gender played a far more significant role, how just gender issues were far more central to them than they were for us because they were not about race, but there were also exposure to other struggles in Nicaragua or Eastern Europe and so forth and crude...my crude understanding of, you know, anything that was...I suppose...you know, that looking more critically at also the so-called socialist countries in the Eastern bloc and all that kind of thing, so I had that kind of exposure and then of course, anti-nuclear movement was very strong and all those movements. So, I came back, I think, very different to what I'd left. But the idea about law, I think, was formed before that, probably in...at school already, the need to be able to do something and that law provided that platform that you could do something about the political situation about what you studied.

Int Why did you think law could do that, I'm just curious?

IH Well, even then, I think, the decision to go into law, although, I think, the seeds were planted then, the actual decision came later, because I didn't start with the law in my BA, I first did a normal BA, for I think, ya...because...ya...I was doing the co-called political, sort of, social science studies, Social Science, Political Science, Industrial Sociology, all those kinds of courses, but, you know, the other options...I wasn't too keen on...although my Matric and my high school years were like Biology and Science and that, I wasn't too keen on...with physical...those sciences. Then there was always the option of teaching, which I didn't think I was going to be...I wanted to be. Then, just law provided the means of...I think there was also, you know, when you saw that politically you were always...it was just laws that you were there dealing with that were working against you and I think the Apartheid Government used laws very effectively, so there was a law for everything, whether you could put up posters, or whether you could march...

Int That's true...

IH ...or whether you got arrested and people were detained, and so there was always the impact with the law, that the law allowed you to detain somebody for fourteen days

without a trial and then extend it to three months or whatever the case was, so, ya, you could at least challenge that law somehow. But then ya, I only decided that then much later that, ok, that's what I wanted to do is do law and my BA didn't have any law subjects in it really. I think another thing that played with me in 1993, so, although I matriculated in 1980, I started Wits in 1984, I did a few courses with UNISA during those three years, but I'd been away from 1981 in the middle of 1981 to 1982 so it was slightly, you know, three years. But I also worked for Anglo American as a, what they call a Documentations Clerk in their Pensions Department, and I got fired from Anglo American by a Mr. Lipschitz, of all names, funnily enough he claimed...the letter, I should have kept it, I don't know where it is now...that I caused racial disharmony in the...at the Company, and he told me as much and said I had disturbed the apple cart, and I recall there were a number of incidents but amongst them was...I had...there was a donation of blood I think, they wanted everybody to donate blood and I said no, I wasn't going to donate blood and I told other people not to donate blood because they thought that whites get preference to blood donations for any blood that was, was (inaudible) and, and I said: how much of the blood was going to go to the border and...for soldiers and things like that. And then there was the Wilson Rowntree strike at the time and I said to people they shouldn't buy Wilson Rowntrees. There was, funnily enough, a very simple incident that I think led to the final breakdown, it was the annual Christmas party kind of thing, where the department would go out to a restaurant for lunch, for the Christmas lunch and you'd get the afternoon off. And, I refused to go because it was a restaurant which was going to, it was otherwise segregated and didn't allow any black people in the restaurant but at about that time they were making concessions and so forth...sorry, it wasn't '93 it was '83...ya, it was '83 not '93...that they would make these concessions for so-called multi-racial companies to come and have their lunches and I refused and they just thought I was being very divisive and very problematic and so I got fired from there.

Int So, you were quite political...?

IH Not until I think, Matric, Matric sort of gave...it also I think made me...the boycotts made me into a far more outspoken person, although I think, I privately held all these thoughts in my head and never was brave enough to challenge them openly, stuff like that. I didn't grow up...my family were not highly political or anything of the sort and I was like moving around from school to school and little town to little town and it was essentially I think, in Matric when I got that exposure.

Int I just want to take you back a little bit because, and correct me if I'm wrong, my sense is that when you went to Potchefstroom there was this conservative community and it was racially divided, but within the actual Indian community itself, it seems to me there was also exclusion going on, on different levels.

IH Ya, I mean, Potch was extremely conservative in the sense that as opposed...I'm not saying Lenasia isn't, Lenasia is as well, may be relative to other places, but, compared to Potch it was, gee, it was sheer enlightenment. Potch was where you were asked: where are you from? And you said: I'm from Bloemhof. And they said: no, no, no, where are you from actually what, you know...firstly there was a division between

being Muslim or Hindu, a few Christians, not many in the school, and then there was the idea that where in India were you from, which...were you Mermon or were you Surtee? What are you? And so those divisions existed, well, it meant something to the people there... I'm not so sure exactly what but it meant that you were sort of put in some stratified layer somewhere. The other thing is, my parents couldn't quite afford to send me to...outside...one other reason I'd gone to Bloemhof, I mean to Potch from Bloemhof, was because Potch had a very small Indian school, they could probably, in terms of numbers have and justified a primary school, but it's far more difficult for them to justify a high school and they...so what they did, they actually sponsored kids like myself, so...if not all, at least the majority of my boarding fees were paid by the Potchefstroom Indian community and that was...and so there were lots of outside...kids from outside from other little towns in Potch, going to school in Potchefstroom so that they could boost the numbers of Indian kids at the school and retain it as an Indian school. At least that's my understanding of what it was because the alternative would be that the Indian kids would have to either go to a Coloured school or you'd have to go to...they would have to go to other towns to school, so that's what...there were probably forty/fifty percent of the kids who were from outside of Potch at the high school, I don't know the exact numbers, but, I mean, it was a little school, altogether there was a hundred odd...from primary school to high school...was, I don't know, one hundred and fifty perhaps, or something like that. Whereas when I came to Lens it was like fourteen hundred kids in the school, one standard was more than the entire school.

Int So, it seems to me that even though you had quite a cosmopolitan, in the sense that there were children from different regions and areas, coming to the school, it somehow didn't lose its ....exclusion? Ironically.

IH No, it wasn't...I mean, I suppose we shared the thing that we were all from little towns against this...but little towns are, I think, by definition very stratified and very conservative and so on, so, where I came from in Bloemhof, ya, it was very conservative.

Int I'm wondering, what about the Matric boycotts actually made you so political what...was it the nature of the boycott or the fact that you could, in fact, resist the state? What was it that gave you that impetus to become so outspoken and more politicised?

IH Gee, I don't know, I'm not so sure, but I think I just got involved in it, the boycotts were being...maybe there was a call from the boycotts and somehow it made sense that all the divisions and the differences and the inequality, that something needed to be said. 1976 then told me a very different perspective than I had when I was in Potch in 1976 itself, so four years later I think 1976 meant little different things to me then...I understood better the difference that the State just spent on education and that's what the 1980s boycott started off, was the difference being spent on education for different so-called population groups. And, you know, it was merely a day to day basis of being in the SRC and making decisions and meeting with students from other schools and so forth, but also having friends getting arrested and detained, I was fortunate not to...I like to think that I was sharp enough not to (laughs)...that I just

kept away from...just sleeping at friends' house and things like that when anything happened, but looking back it seems anybody was detained had a nice badge of honour and proof that they were in the forefront, which I didn't mind, it's all good, but I wasn't detained other than I think, much later...not detained, I wasn't detained, I was arrested. So...ya, but I was...maybe I was just also a typically angry teenager at the time, I was seventeen and this was a more legitimate time so I also recall having lots of arguments with my parents who were very concerned about me, and having political arguments with them in the crudest, most crudest fashion, so maybe, you know, if all that didn't happen I would have expressed it some other way as a teenager. So, I think it was that combination, I was just an angry teenager as well and here was a way to vent it with feeling that I was...I held a moral high ground over anybody and everybody because...then I was bold enough to say, you know, I was on the right side, I wasn't on the wrong side and stuff like that.

Int So, when...you were most fortunate to get this opportunity to go overseas, at the time, I'm just wondering, coming back, how that impacted on you in terms of university or your social and political engagement?

IH Ya, I think I had a very different perspective. Probably most South Africans or black South African's political experience is a very crude sort of black consciousness response that everything is in literally black and white; it's that kind of thing. I tell people, like the first time I met the family that I was going to stay with, I mean, even before that I was at a language camp and I met...I sat around a table with two families who were very rural and unlike the family that I stayed with, they were totally, totally unaware about what South Africa was about, they asked me things like, you know, do I buy my clothes in Denmark or in South Africa, literally, where did I live? And I said: in Jo'burg and they said: like no, but where, do you live in a house? Which is not entirely an unfair question because people do live in huts in South Africa so...but they were, you know, for them it was quite...they didn't have any pers...very different views of South Africa. And I said...I wanted to run home because they looked to me as, what in my perception then, was racist, rural boere from Free State and I was just scared at that point and it was the first time actually, that I had, other than the little bit of work experience that I had by then, about three months at Liberty Life, that I had contact with white people, because when I think back about that, I didn't have any...my only contact with white people was at a very different level in my uncle's shop, occasionally, or seeing people on the street, that kind of thing, but no contact in a real sense of engaging and so forth, and this was the first time that I was actually living with people, you know...so when I came back, I think, although I articulated already in Matric that it wasn't, sort of, just black, white, I think, in practice my perception was very black, white, when I came back, I think, it was a bit more progressive than that, that it was beyond that, it was about other things as well, about class as well and so forth. Which made me differ, I mean, it never...I never joined the ANC or...I belonged afterwards to...what I think a lot of people saw as a fringe radical, insignificant Trotskyite group called Action Youth, which had alliances with people like...with organisations such as AZAPO...to some degree with the Unity Movement but, very critical, but...for me the essential difference was this whole thing about national democratic struggle, about it's all about race and we're four nations and we'll fight it on our own and we'll...we were very opposed to the TIC for instance, Transvaal Indian Congress, about having this Indian identity and

that we had to fight this as Indians and we had to establish that identity. I take some of the arguments that yes, there was a need, at some point, to...to raise consciousness of so-called Indians as Indians, and so on, we just felt it very divisive and I think some of the...some of the...what comes home to roost, something...what's the phrase...they come home to roost...what comes home to roost...I forget now...

Int I have no idea (laughs).

IH ...but, you know, when I look back now at all the enormous BEE deals where people who are in the right place seem to get rewarded, not just rewarded, but they get rewarded so handsomely, it's unbelievable...

Int You mean now?

IH ...now, that...and at the expense of what everyone said: oh no, this is going to mean that poverty will go away, it hasn't, it's worsened to some degree, we're fourteen years later, which links a lot for me, the LRC, because it was very ordinary people that came to the LRC that (inaudible) office function, I think, played a very useful role and it wasn't always the landmark Constitutional Case, the landmark case that was going to change millions of people's lives, but sometimes it was just about somebody's life that made it...I don't know if it changed it necessarily, but it made a difference to somebody's life.

Int Sure, ...I want to take you back a little bit, so, you get to Wits, you do Social Science courses, what then leads you to actually pursuing law, is it an immediate or...?

IH No, I think also, you know, again the Social Sciences were very good for, sort of, perspective that conscious...political consciousness and that kind of thing, but they do end up in some dead-end...at best you become some analyst or an academic or something of that sort and again it seems sort of: oh, ya, this is brilliant, I can sit around and debate, but so what? I can't do much, and of course, then the reality about what am I going to do with life, what do I want to do as a career? And again, you know, at university again, I was not part of the mainstream Black Student Society, I think it was...which was again AZASO-aligned and with...and its close links with NUSAS. I was very critical of NUSAS, I thought they were just another branch of the TIC kind of thing...

Int Of the...?

IH Of NUSAS...

Int No, the branch of?

IH Of TIC...not a branch of TIC but another form of the TIC, about this whole thing about white students negotiated and organised as white students, and black students organised as black students and things like that, and so we had lively debates and arguments and stuff as well. I meet some of the people now, from NUSAS, and you know, we chat and stuff like that, they probably think I was a bit of a mad nut earlier. I have also gone through some bitter, bitter experiences at university with more dominant... politically dominant groups that were ANC-aligned, bitter in the sense that the debates sometimes became almost with threats of violence, you know, that we'll necklace you...you know, those kinds of things. I was once, funnily enough, I think it was some of the more level-headed people within BSS that saved me from being beaten up while I was hauled into the BSS office and literally surrounded by a, I don't know, a dozen people and pushed against the wall...I would have been beaten up had some of them not realised that I was in danger and moved me out of there.

Int Were these arguments ideologically driven?

IH Ya, they were ideologically driven, I mean, their perception was that we were being divisive and being critical and our view was that ours was a left position, ya, and it was ideologically driven, but there wasn't the sense of tolerance always, sectarianism was quite rife...when I look back at it I can understand it all, and I don't agree with it and I still sometimes think that the significance of any other group is just brushed aside, it's just assumed that ANC-aligned groups did everything and they contributed altogether to the struggle and the debates and all that. If I look back I think that it was...again...it's like now, it's easy to identify the apartheid government as the enemy and it's easy to make those criticisms because you have the higher moral ground, but when criticisms come from other progressive forces it is a bit more difficult to argue against those because you need to debate them, you need to engage them and...so it's easier to just use labels and say: you're Trotskyite, or you're far left, you're ultra left, you're mad, you're crazy, and all that doesn't work then you just say: well, we need to resort to violence and just get rid of you, just get out of the way. So...and those are probably more difficult than...to deal with, than getting detained or something like that, so you, because, you know, you expect to be detained, you expect the enemy to be able to take you away, you don't expect people who you, supposedly on the same side, to act in that way. But ya, it made me bitter, I think, it made me...but, you know, I moved on and I think one matures and you try and just accept those things after they happen and you can get along with people on a personal level and I...I mean, I had lively debates with people like Dali Mpofu who was in the BSS at the time. There were other people that I see now who were in NUSAS, and you know, I get along very well with them, they...I probably count them as...they're friends of Kate (savage) and I, and stuff like that.

Int So at what point did you decide to do law?

IH To do law...I think I just reached a dead end. I'd done Industrial Sociology, Anthropology and...all kinds of courses, such a mishmash and I realised I needed to make a decision. Again, I thought at some point of doing education and then realised that I didn't think that I wanted to do that. I did think at some point that as a teacher, because amongst all the teachers there were one or two that stood out for me, that

very quietly supported what we had done, without...when I look back at it, there was obviously a danger for them to do that, a physical danger, they could have been detained or arrested and such, but supported very quietly and they were not the teachers that you saw were flamboyant or loud or anything, they did it very quietly, so I think I thought back to that time that I could perhaps be a teacher and play that kind of role at schools...and that I had mostly had teachers that were awfully conservative, and they didn't, other than the few who were open to ideas and debate and things like that, but I didn't go down that route, just again it was the exposure to people being detained, arrested, removals, all those kinds of things that as a lawyer that's what you could, you know, you could challenge those things, you could challenge the laws, you could...besides outside of the system you could from, probably within the system, fight that, although I didn't think that that was all one should do...but ya. So it was partly I think, just sort of, career-wise what else could I do, it wasn't all just passion and fervour...but it was also driven by some romanticised view that I could do something...ya.

Int So you continued at Wits?

IH I continued through Wits, it took me longer than, I think, it should have taken, it was...having worked and gone overseas, I think I was a bit more mature than most of the students but ya, then I took, I think, three...can't remember...I think three years to do my LLB but I was altogether since 1983 till 1990, so I was seven years at Wits. I didn't get the most fantastic results at Wits too...and there, there were problems too, you know, again at law school there was the Law Students Council or something, again which was a white council, we had the arguments about graduation, I didn't go to the graduation, they again...it was 1990, so we were all very...exchanging flowers, and doing all kinds of...shaking hands and all kinds of...you know, there was a huge division amongst black students about whether you went to the Law Students Council ball...dinner for the graduation ceremony. I didn't go to any of Wits' graduation ceremonies, I just waited for my degree in the post. There was the whole SACOS driven, sort of, no normal sport in normal society, that was extended to other things at university that you essentially went and used university facilities for...one of two things, one is your educational needs and the other was if in any way it could enhance any struggle issues, but not sport, social and cultural, and those kinds of things you kept them to a bare minimum. So, ya, even at law school there was this division that I saw, and I finished, what, in 1990...I didn't apply, I think, very widely for articles but realised I needed to. I can't for the life of me think how I came across the Legal Resources Centre, I don't even know how the name came up. I think at the time, like most people, and I still meet people when I talk about the Legal Resources Centre, they think it's the Law Clinic at Wits. I knew it wasn't the Law Clinic but you almost think it's got some attachment to an academic institute, that kind of thing. So I didn't have much exposure...I can't...I still can't remember what made me apply to the Legal Resources Centre.

Int Right. Did you apply as a Fellow?

IH I applied as a Fellow and at that time we were the first Fellows who then became Candidate Attorneys so, but...when I...in 1990, we were still not allowed to be



Candidate Attorneys, we were supposed to only be Fellows and we were only Fellows. And, that's why I was there for a long time, because the transition was going to come and while all the Fellowships were for a year, our Fellowships got extended because of this pending change with the Law Society that we would be able...that the LRC would be allowed to have us on as Candidate Attorneys, and again there were then struggles that we fought with, and Mahomed Navsa will tell you, he was Director at the time, with the powers that be, that we...that they should keep us on as Article Clerks, which we succeeded in and it extended and became longer because the actual rules would only change there in mid, I think, '92, and that's when our Articles would have started...or early... ya, probably the early part of 1992 and then finished in '94, early 1994. That's another reason why I stayed till about September 1994 which was still the IEC.

Int So tell me about ...prior to joining the LRC you said you didn't...you hadn't much knowledge about the LRC, but I'm wondering, did you come across people such as Arthur Chaskalson, George Bizos, in your training at Wits or even Felicia Kentridge?

IH Yes, ya, ya, I would have had some...I didn't...you know...knew, I think George (Bizos) probably and Arthur (Chaskalson) but not...I don't think it was overwhelming exposure to them, that wow, these are like people who represented (Nelson) Mandela or...I would have known them in that sense, but not, to be honest, at that stage, I wasn't like, this is the place to go because of these fantastic people who'd be there. Mine was probably a more personal drive and I think that probably came out even in my interview, when I was interviewed there that...I had some...that I wanted to do something that would make a difference and I could...and the LRC could offer that platform and...and means of doing that rather than that...I don't think I even said, ya, I would learn under the wings of Arthur Chaskalson and George Bizos and Mahomed Navsa...Mahomed (Navsa) and I had a huge fight within, I think, three weeks of my being there, because it was in the Basic Conditions of Employment Act, I think, we had to go and read and then we had this session where he and some other attorneys were asking us questions and I had a fight with them and said: I can't remember the actual section, I can tell you what it means, I've read it, I can tell you the section but I don't think it's going to...if I need to know the actual section I'll go and take the Act and read it again and tell you which section it was...so we had a huge argument about it. And I think he, having come from the University of the Western Cape, always spoke about Wits as that university on the hill...no...what did he call it...the Mickey Mouse University on the hill, or something like that. But as much as we argued and fought, ya, we realised...I realised very quickly that Wits had all these fancy debates and arguments and case law and stuff like that and it didn't give us the basics about finding a case and using a noter up, which I learnt at the LRC and where all the niceties of law was, ya, it was very, very different and...in its practice.

Int Imraan, what sort of cases did you take at the LRC when you were there for those four years?

IH I worked first under Ellem Francis who is now a Labour Court Judge, and we did, broadly speaking, I think, two types of cases, we did quite a few of personal injury claims against the police, unlawful arrests, those kinds of things, that's what Ellem

(Francis )did a lot of, so...and Ellem (Francis) didn't drive an automatic (means manual or stick-shift) ...he only drove an automatic car at the time and I drove...I could drive a manual, so I went everywhere he went. The other thing I did was...we did...the LRC had an Advice Office Project...how I understand it, it was that there were Advice Offices in different towns and in the LRC itself it had an Advice Office, so people came for very day to day issues such as being dismissed unfairly, pension issues, electricity issues, I don't know, all kinds of consumer issues, it was all...a whole, whole spectrum of little legal problems they had, and sometimes bigger, but that was also the...for want of a better phrase, the catchment area for the LRC's bigger cases, so those people...amongst the many ordinary, every day to day struggles that people had, was sometimes the case that gave rise to something bigger that somebody saw, that this is a much bigger problem. So we went around to lots of small towns like Parys, and Kroonstad and...I don't know where...Driefontein in Mpumalanga, I think, Ilse Wilson, I went a few times, funnily enough Ilse (Wilson) is...knows Kate's (Savage's) mum quite well...and are we going there for dinner tomorrow night I think, or something, I haven't seen her in years, I think I last saw her at the LRC...at some or other LRC function. That was initially that I did a lot of that and I think, right up to the end I would have done a lot of Advice Office work and the Advice Office work was very rewarding because there were people who came in, as I said with just day to day issues and just sifting out what was Public Interest and what wasn't, you know, so all those divorce matters and things we would say: no, we don't do that kind of work and things like that...but, I mean, there were incidences like, I recall one day a man coming because he had a fight with his sister and the whole issue they were fighting over was, I think they were fighting about a lot of things, but what he came to see us about was a double bed. And I said: what does this double bed cost, it was like R800 and I was like, we can't litigate over R800, it just doesn't make sense and this is a family fight, you guys need to go and sort it out, we can't get involved in a family fight. I went to the reception and, what is her name now, a very tall woman, she might still be at the LRC, I forget...and I said: why did this guy come through, this is not a Public Interest Case, you know, you're supposed to sift this at reception, you just...because they asked a few questions, and she said: well, you know, the guy was just insistent and he said: Public Interest, yes, my case is very interesting and I can tell you when I tell you the story it will be interesting to the whole public, so...(laughs) and his case probably was very interesting to the public, I don't know if it was a Public Interest, but... I also one day, I think, I sat, it was late in the afternoon and there was yet another case...when the Advice Office was changing, it was towards the end of my term at the LRC, the Advice Office was changing and we were being a bit more selective of clients we took on, the guy came to see me about an electricity bill that he had a problem with, which probably could be dealt with, with a few 'phone calls and maybe a letter or two, but I'd suggested...I don't know where, I can't recall where I'd suggested he go and we referred him away, but as he was about to leave I recall saying, you know, I need to take down for my time sheet, because time sheets were introduced, I need to take down your details so that I'd seen you and blah, blah, blah and so forth, and he gave me his name and he said his name was Thomas, Tom and his surname was Rikhotso, and I immediately sat up in my seat and I said: sorry, are you THE Thomas Rikhotso? And he said: yes. So, having known that one of the formative cases of the LRC was the Rikhotso case about, what do you call it, migrant workers and pass laws and contracts expiring at the end of every year, I said: oh, well, maybe that makes your case a bit different and tell me your story and

then I did help him with the electricity bill and thought that...I think the LRC owed him at least some assistance, ten years later, I think it was...

Int It sounds like it's a real dilemma, doesn't it, because in a way you have this urge to help people even with very small issues, seemingly small issues, which to them of course are pivotal, and then of course, wanting to take on the cases that you can really litigate and make a difference?

IH Ya, I know, it's a perpetual dilemma, of course, and...but the LRC did give you the luxury of doing both, to a degree and at the Advice Office that you could make a call or two and sometimes make a difference in Parys, in (inaudible) even if it was somebody's repossessed bed, or something, that you could...because there was a lawyer phoning, that it could make a difference, or the pension office, and yes, sometimes the amounts were so small that it seemed like if you put your hand in your back pocket and gave the people the money it would probably solve the whole problem, in essence, but...but, I think the more important part was that people felt that they could use the law and it was empowering in that sense and that was more important. At the same time, I mean, we were just learning, we were just seeping up this knowledge of just day to day...and I suppose it sounds...you know the LRC always had a thing that because people were not paying didn't mean that you needed to treat them any differently. We then, at the LRC, we had to wear ties, had to wear...at least dress like...look like lawyers because...I also recall somebody coming and saying...we joked about it...but there were clients who wanted to see a white lawyer, probably preferably a white male also because they wanted to see a real lawyer, that you didn't fit the image of a real lawyer, you know.

Int Even in 1990?

IH Oh ya, oh ya, that time, we had these incidents...

Int And these were black clients?

IH Yes, a black client saying: I want to see a lawyer, but I said: but I am the lawyer, but they said: no, but I want to see him rather, the other guy, whatever. But at the same time the fact that you...I think we can't run away from the fact that when you are working for people who would otherwise not have the facilities or the exposu...the...somebody who can assist them, it does take off some of the pressure as opposed to somebody paying for your services, it does take away that...that kind of pressure. Not that I'm saying it takes away the responsibility, the responsibility's still there, but it does give you the kind of luxury that you are...you're walking into a situation where if you were not there then they would not have had it, they just would not have had it. So it gives you some, I think, space to be bolder, more creative or something, ya.

Int I'm wondering, Imraan, when you were there, you just brought up this issue about the, clients wanting to see a white lawyer, as a 'real lawyer', I'm wondering when you

were there, what were the issues around...gender and race parity and dynamics, how did you position yourself...did you position yourself as a lawyer or as a black lawyer, what were the issues at the LRC?

IH I recall...you know, we were always...at the Jo'burg office we were five Fellows and from the five, I think, there was always a tradition, whatever...but probably a policy decision that of the five one of those people would be white and the white person would almost always be a white woman. So, the work issues that arose, Mahomed might remember them and might not, but...but we argued and we fought about these things. There were some things which were just stuff, I recall at the...one of the LRC conferences, my raising the difference between just our leave, that as Fellows, we got different leave and we were regarded as temporary employees, that I raised that issue, but that was nothing to do with race or colour. From my side, my recollection was, as far as race, was probably a few broad themes, but one was the difference between often the white Fellow and us...the rest of us. We necessarily came from a different background, of course, and even amongst the four black Fellows we would have had different backgrounds too, and I would have come out from a relatively privileged one in the sense that I'd grown up in Lens and had gone to a better school than many of them and so on. I recall raising the issue, that I thought that the white woman, because she often had better academic background and results, was favoured in how briefs were handed out and who we got to work with and what we got to work with, what cases we got to work with and it was done very arbitrarily so, can you come and assist me, and gee, they were at law school and did very well, had all the skills and the confidence and so forth, and we had an argument about it. So that while I was there the method then of handing out that kind of work was changed so that we had basically a rotation basis, so that the case that came up, I think...I don't even...I can't recall how the first case was allocated, but it was done more randomly in the sense that we can allocate this one and the next one would be allocated to these, the next one to these, so that if you were lucky you got the great case, if you were unlucky you got the bad case, but it was...then it was luck...it wasn't...before that it was literally the advocates or the attorneys sort of, picking and choosing who they wanted to work with and I felt that it just exacerbated the problem, that you'd have somebody who came from...had a weaker academic background was just enforced, it wasn't saying: hey, you need a bit more help, let's...let's give you more help, let's expose you to more cases and so on. And I think I had that fight with, amongst others, with Mahomed (Navsa) ...and I said to him I think you're being close, you're just close and you favour the white woman, and I was...I was, I think, bold enough to say it in as many terms...At one point when we argued about the Basic Conditions of Employment Act, I was there about three, four weeks and we got to a point where he said: you're very pissed off, aren't you, and I said: yes, I think you talk a lot of shit and I said: this is a lot of shit, we were that cross, but it also, I think, when I look back, that if that happened...and if a four-week old Fellow said that to me I'd probably tell him to get out and fire him, so they were very tolerant I think, also, to accept all the anger and all the criticism and...and, I mean, the LRC withstood all that, you know, I'd gotten fired from Anglo American for similar...not exactly the same...but for standing up and challenging. So, they were I suppose, mature enough to say: oh well, ya, youngster, he'll learn, kind of thing, you know, he'll come right.

- Int Well, what do you think was happening, do you think that the senior people, the leadership, they weren't just thinking about racial dynamics so was it being put under the carpet?
- IH Probably a little bit of both, I think, one is, you know, the likes of Arthur (Chaskalson) and George (Bizos) had been so long involved, that I think, they...they didn't necessarily see it in that way so they'd see the bright youngster, but I can't see how in South Africa you cannot be aware of that, and when you specifically have a programme that is supposed to put black students in the forefront and give them and equip them to make them better lawyers, that you wouldn't actually do that, you should actually do that. And you'll see that, yes there are black graduates that came out of LRC that have done very well, I think there were many of the white Fellows that did much better, but now if that is in fact so, I don't have any statistics or empirical evidence to show that, but if that is so, then the LRC has failed, it's failed because it's just reinforced it. You know, it's taken the people who would have had the advantages anyway and given them a little bit more advantage and credit and given that badge of that, I belonged to the LRC I was on the right side of...morally high ground again, ya. It was that and I think the LRC didn't itself...because it was so caught up sometimes in its own: we're doing the right thing, we're helping people, we are, you know, that whole taking of landmark cases and all that kind of thing, it didn't...it seemed to be oblivious to the fact that there were racial tension within the organisation itself. The...the phrase that probably stuck in my mind was...when I was at university, Tom Lodge once came to one of the demonstrations at Wits and he...other academics also gave...he gave a speech...talk on the history of the ANC...Tom Lodge, the political Scientist...(inaudible) and it was...who has now become very well known...Xolela Mangcu who said: why is it that all the whites are coming to talk and tell us about things and all us blacks are just singing and dancing? And that phrase stuck in my head for a long time, because again, it was I think at the LRC, that all the leadership positions, all the powerful positions were white lawyers, so again our role models were few. As much as Mahomed (Navsa) and I clashed, I knew that personality-wise we probably were very different and in some ways, I think, maybe very alike, he's very fiery and very...his eyes scared me the first time I saw him, but he's a brilliant lawyer, he is an excellent...excellently brilliant lawyer and...but there were few, few...I looked up at Ellem Francis too who was completely chaotic, I mean, he had the most untidy desk but very clear mind, he somehow...he had no systems for remembering what would prescribe or not but he remembered things and prescribed when we needed to get that letter out or do the summons and without any fuss. So we just looked at the rule and drafted the thing in as basic a fashion without any of the flair that other people would have had but got the job done. But you know, Arthurs (Chaskalsons) and Georges (Bizos) were up there. I've got...I think fortunate for me...before I became...before I joined the LRC, I'd had some exposure, I recall now, yes I did have some exposure to Arthur (Chaskalson) and to George (Bizos) and that might be where it got formed, I did some work for, funnily enough, Hanif Vally, and he also became a Director at the Pretoria office later. I'd known him since my university years, he had a law firm initially with (inaudible) and then he formed a firm with...what was he called, Vally, Mahomed and, I forget the name, in town, and I did vac work with them and there was mass evictions in Mpumalanga of people and we got involved in defending people in mass evictions and ...(inaudible) areas like that, Ermelo and so on, but the other thing that I then got

involved in was the Delmas trial, in what was called the Thirty One Areas part of it. It simply meant going to townships to collect statements from people...

Int And you worked with George Bizos?

IH So, I would have worked with George (Bizos) there, ya. And I recall once going to...fetching an old man from Welkom, but ya, you know, so, I would drive to Welkom and fetch...first we'd just coldly go into a township and we would have one contact perhaps, a person...usually some youngster or the other who was an activist and say: this is what we need and then literally go and knock on doors and find people and take statements and sort of try and sort out whether this would work or not, bring those statements back and then discuss them with the likes of George and they would say: ah, this guy I think we need to speak more to the person, we need to get more...I recall we brought this old man out and George consulted with him the night before, for an hour or so and then consulted with him in the car on the way to court and he testified and he was a very, very good witness and...but you know...so, I worked a lot in Tembisa. That...that...ya. Then I worked with George (Bizos) quite a bit, and the other big case that I worked with Arthur (Chaskalson) and George (Bizos)...well there were a number of others, electricity issues in Pretoria and about the interest charge on arrears, but the one that stands out was the Boipatong massacre, the Commission of Enquiry under Goldstone, is of a Fellow, Daphne Chili, and I went out to Boipatong, we were going out on a daily basis. Matthew Chaskalson was then...I can't recall if he was already an advocate or not, and he was working with a firm...another firm was also involved, Cristal Cambanis and...Cambanis and...I forget what the...they were partners, women, and there to draft the memorandum, and I recall having a fight at that time too...not fight, but I raised it with them and I raised it with Arthur (Chaskalson)...probably won't remember...and said that: why we, why is Daphne (Chili) and I just...why are we just being sent into Boipatong day after day to take statements? This is not lending to any training when all of you guys are sitting around doing the memorandum. At least if we can sit in and listen to what...how you are drafting the memorandum, what you're debating, what the issues are, we'll learn these things, but we're simply using our statements to draft the memorandum and then we see the draft of the memorandum, we don't know how this has been drafted, we're not learning much. And by that time I said: I could do a statement in my sleep. But it was also very traumatic, I mean, we were taking statements from people who had seen family members being killed, literally in their room, we'd seen...spoken to people who had hidden in the cupboard or under the bed and you know, I mean there were gory, gory scenes, there were people running down the road who had been hacked with pangas and things like that. If I'm not mistaken, Boipatong was one of those few cases where the number of dead were more than the number of injured or the numbers were about the same, so, meaning that when people were assaulted, that it resulted more often than...the proportions are not...usually you'd find many injured and few dead, that wasn't like this. But it was valuable, very valuable, I mean, we sat in the Commission, we took lots of statements and stuff like that and ya, we worked under the likes of Arthur, I think it was Denis Kuny, and George (Bizos) and ya, that's the first time I had exposure to Richard Goldstone, he was...he chaired the Commission.

Int Do you...when you spoke to Arthur (Chaskalson) about the fact that you wanted to learn more, clearly that was the argument, I'm wondering whether that was taken on and things were changed?

IH Ya, it was, we really did get involved in some...but Arthur (Chaskalson), I think, he...I always had the impression, and we worked on other things too, that he was very...he was very humble, he was not...while we all probably held him in awe and we were told by everyone else that you're going to work with Arthur (Chaskalson), don't fuck it up, just...Mahomed (Navsa) and everybody else...you've got an opportunity now, you're going to Arthur Chaskalson, be, you know...so we had that sense that we were in special company and as far as especially the law is concerned, but I think aside of that, I recall once we...can't think...remember why, but we were somewhere in Braamfontein doing some consultation, went into the evening and there were a number of lawyers there...a number of people there, I was obviously now the Clerk, he was the only person who said: how are you getting home, do you need a lift, and offered that lift and I think genuinely meant so, and...which nobody else was interested...who you would have thought the person...the stature he had, he could have just said to somebody: please can you guys arrange a lift or even not have been bothered, could have...he could have gotten away with saying that somebody else needs to be concerned about that, and he wasn't, he always seemed to be concerned, but of course, I think, that sometimes it slipped. He didn't argue against the whole issue, that yes we needed to be exposed and then saw to it that we were then more exposed to the actual drafting or at least we were present when the debates took place and how those things happened...so we were there when important consultations took place. Which was very useful to say: we're having this important consultation with clients and our people, you must sit in, you must be there, like, whereas before that it was like, we've got the statement, why are we going to call the clerks, we're not going to call the clerks, we don't need to call the clerks, I didn't think they thought about it, that it was important for us to do.

Int When you were at the LRC did the Constitutional Litigation Unit start and were you involved at all?

IH I wasn't really involved, I think...it did it start...I can't think...I think it must have just started.

Int Just started, maybe.

IH Ya, it must have just started. There was...towards the end, I spent a few months also and I wouldn't say I was instrumental in it, I think a lot of people played a role, but I played some role in...because we weren't having any exposure to the criminal matters, or very little, only those with a political overtone so that it became criminal in that sense, so the programme started with having an exchange with the Public Defender's office and so then I went to spend a few months at the Public Defenders', which I felt was very useful and managed to put us more into court, you know, just appearing daily in court, defending people and the simple little things or accompanying somebody else, another Public Defender. If I look back now and I

don't know if the Article Clerk situation has changed, it probably has, but if I look back now, I think, if I would venture that, if there is something they should change is to be a bit more bold with throwing Article Clerks into the deep end, as they would in smaller firms, be set, go to court and...we were not, I think, given sufficient exposure to that because, I think, there was this feeling that because people were not paying we can't afford for you to go and mess it up. The Public Defender's office took a different view and maybe the LRC should adopt similar approach. They gave us the most difficult cases or the so-called unwinable cases but also ones which didn't have huge significance so it was the shop lifting case which...the consequence was...first time offender, you'd get a R300 fine if you're found guilty and a suspended sentence...ya...imprisonment, suspended for five years, yes, so you know, it would be a R300 fine and you were hardly expected to win those cases because they were really difficult, but we were given those so we couldn't really mess them up. If we lost we lost, which we most often did. And I think the LRC ought to perhaps take on those so-called unwinable cases, more of those unwinable cases, because if you do win them you do learn and I don't think we were given enough exposure to go to court, because also a lot of the cases we did were the big, you know, which...yes, correctly so, qualified lawyers had to do, but I'm talking about the Advice Centre...

Int Sure, I'm curious, I wonder whether the sort of caution that's been adopted...that was adopted while you were there at the LRC, has something to do with the fact that they were using the Test Case approach and trying to get cases in which precedents could be set. Do you think that might have been a reason?

IH Oh, of course, ya, ya, I mean...I'm trying to think...we did go to the Magistrate's Court and I went with Thandi Orleyn...I'm trying to think what the issue was...oh, it was...I don't know if it ever went into Test Case... but it was an issue about debt collecting agencies charging a legal fee...costs...charging costs and how they would do that is calculate it from a basis that their accountants would say that on average to get...to do this kind of debt collecting the administrative costs should be so much and they'd average that out by doing an accounting exercise and said: we've made so many calls from you, we've tried to trace you, we've done this, and we've now issued a summons and blah, blah, blah, and if you looked at the Act it was only legal representatives that could claim those costs, and we challenged that, never went I think to...to...I don't know if it ever went to the point of being a Test Case but I recall that, and Thandi (Orleyn) and I looked at that and we went to some court in Ventersdorp, or something...I can't remember...somewhere in...Potch...or somewhere like that and did the case, and ya, I appeared, with Thandi (Orleyn), and she was there to hold my hand, but I appeared and drafted papers and everything and it was...it was...I learnt probably more in those few weeks about...relatively simple matters...but then...then...ya...but I think it is about looking for the landmark case that doesn't give the clerks exposure to court work...

Int Fair enough.

IH ...it's a huge difference sitting in court listening to somebody else argue than actually arguing it yourself, and standing up, and I think, if I had to do things again I would have liked more of that exposure, more and more.



- Int You were also there at a very crucial time in South Africa's history because transition had just about happened when you entered the LRC, and you know, there was all these CODESA hearings, I'm wondering whether you were privy to how the LRC was going to then adjust in terms of ....it had all the while fought apartheid legislation, and now it was going to have to deal with the ANC in government and perhaps even take on cases against the ANC and I'm wondering whether you were privy to those kinds of debates and discussions?
- IH Not...not...no...not, I think the private ones, I don't think I was, I mean I was a clerk at the time so I wasn't involved in that. There were other discussions within the LRC, I think we were having, about how we're going to deal with...I think Geoff Budlender for instance, brought up very aptly in a speech I think, he heard about...that apartheid laws were the scaffolding holding up the system and that while that scaffolding was away there was still a lot to do to get rid of the (inaudible) and divisions and inequalities. Ya, but I wasn't...I wouldn't say I was very much part of that...those...debates...
- Int As you know, the LRC has gone on to take key cases against the ANC...the Treatment Action Campaign, etc, so in a way it has adapted, I'm wondering at that time...
- IH I should have taken them Billy's (Masetlha's) case (laughs) and see if they would really take on that case, which I think has many, many Public Interest overtones, which people don't realise.
- Int Which case is this?
- IH Billy Masetlha, I'm acting for him, you know, he was the DG for Intelligence and, you know, a lot of people...a lot of people...oh the Spy Case and so on...but the Security Branch and Intelligence at that time played such a role in South Africa and was so abused...the idea of having an Inspector General for Intelligence and an Oversight Body in Parliament, a standing committee on intelligence, something like that, it stands for, is a great idea, because it says Parliament and an independent person must have oversight on intelligence to...when Saki Macozoma is put under surveillance, he can complain and there's an investigation and somebody can say yes, it was lawful or not, or whatever. The other debate is where should the Scorpions be placed, and I think the major thing that got missed out...I think it's of huge Public Interest...the LRC ought to be challenging these kinds of things, ought to be dealing with these. Ironically, I see how with Barney, who is an ex LRC person is now acting for...to be a consultant for the Ministry of Intelligence. But the issue is not where, for me, it's not important where the Scorpions are placed, the argument from my client, from Billy (Masetlha), was about whether there was...one of the arguments or two of them...was that the Intelligence functions the Scorpions are playing, the role they are playing, the one is that they were using foreign intelligence agents, the other they were using private...sometimes ex-apartheid companies that do intelligence work and therefore there was no control over intelligence if it was also like...but I think the

more important thing, is that the likes of the Scorpions then do not have the oversight function, they have complete reign, a free reign, to be able to survey, tact, follow, do all kinds of things of ordinary human beings under the guise of crime and corruption and that that power could be used politically as very similar fashion to what was done in the past with the likes of, well, the Security Branch, where you use it as a political arm. Just yesterday, I represented this guy, Muzi Kunene, in a bail...it wasn't a bail application but, where they've arrested him for allegedly shooting his own son through the ear where the bullet came out of the mouth. Now I heard stupid and absurd things in the apartheid era, I've heard now a totally new thing. This should be...it's an attempted murder charge, allegedly between a father and son, should not attract a Captain from Head Office, I've got his card and his card says...I was told first he was in the Organised Crime Unit...but his card says he deals with crimes against the State. Even if it is true that Mr. Kunene shot his son in the ear and the bullet came out the mouth, I can't see this as a crime against the State. He is now being charged apparently with murder as well. I mean, the irony is...I recall when at the LRC at that time, without this new Constitution, you could have somebody arrested on a Friday night and see a Magistrate on the Friday night for the Magistrate...for a Judicial Officer to consider bail. LRC ought to, under this Constitution and it's probably because crime is so rampant but it's a different issue about how you deal with crime and how you deal with the rights of the accused. Now, it is a matter of fact, if somebody gets arrested, you see which schedule the crime falls under and you can do barely anything, hardly anything until Monday morning. This is exactly what happened with Mr. Kunene. His son who he says has a problem with drugs, has a problem with drinking and has been...a problem with money and stuff like that...is vulnerable. Mr. Kunene has got an affidavit a few weeks before where he said he thinks he is going to be arrested because he was told. The LRC, I mean, those are cases it should challenge, why is it that on a Friday...he gets arrested on Thursday, we can't deal with him until Monday morning and all the police and the prosecutors to say on Monday morning without showing us anything, nothing, not a medical report that somebody actually had an injury through their ear. We want a postponement for seven days. It means tomorrow I can say that Arthur Chaskalson shot at me and if the law acts fairly, Arthur Chaskalson could be arrested on Thursday and come out the next Monday. That's how it would work. If it happened more, which it happens every day...every day this is happening, there are thousands of people being put into jail merely because police can now decide whether we get them released or not. I can tell you that fifty percent...eighty percent...I don't know what the percentage is...when people do get released is because they get bribed and that's...it's just opened up more room for...it's no more the Magistrate that decides there's no...as lawyers, we wait for Monday. And then Monday they ask for remand for another seven days because they're going to now conduct further investigations and we wait for another week. That's what happened yesterday, we did that.

Int Yes. Imraan, when you finished off at the LRC, was there a reason for you to move on or ...was it because your Candidate Attorney's date had ended?

IH My Candidate Attorney's date had ended, I went to work, in 1994, at the IEC for three months, I asked George (Bizos) whether I should or shouldn't go, he gave me very good advice and said: you must go because this is akin to National Service, you wouldn't have gone to the army and border and this is what you must do, this is

National Service, you must go. But it meant that I interrupted my articles for three to four months. When I came back, and this is the LRC, and it's been a stickler for formality and sticking to the rules, I had twenty days to serve, twenty days of my articles and they insisted I come back and serve those twenty days, those twenty days turned out to be something like three to four months extra, simply because when I got back and made my application for my admission, the Law Society said you had broken service, and I went to George (Bizos) and I said: George (Bizos), you said if there was a problem I should come to you. So I'm probably one of the very few Clerks who had their admission application done by Senior Council. So George (Bizos) did that application and we found cases and things like that, where somebody had broken service because they became a Town Councillor or something like that and I did get admitted without any problem, but George (Bizos) had to...which normally is just a formality, the admission application, and George (Bizos) had to actually argue it to some degree and...the broken service and so on. But that's why I took three to four months because it had to be set down and all that kind of thing.

Int So this was to the Bar?

IH No, admission as an attorney. Then I got an offer to go work at Bell Dewar & Hall and I discussed it with people at the LRC and they thought it was very good, it was a good firm, they were doing some Public Interest work...

Int Bell Dewar?

IH Bell Dewar & Hall, ya and they weren't the biggest firm but they were sort of a medium sized firm and I worked there for a year and a half, a little more than a year and a half...I didn't like it...didn't like it...

Int Why was that?

IH Again I think, some was probably just my fault but other was, you didn't charge fees at the LRC, which didn't expose you to the need and the drive for costs and making money and targets of that nature. The issue at hand and the problem at hand was more important than what it cost. That...so...so going to an environment where you are asked after the end of the month: have you reached your target, and have you collected the money for your target, and have you now sought new work, and have you obtained new work, was, I think, a bit too much, and, because I came from a Public Interest background, I needed, I think, exposure and training in commercial litigation and...although I had been admitted...that exposure I felt wasn't given, or...or that there was very little appreciation that the development of a young lawyer was also important, it was succumbed by the need to bring in the target...to bring in the money, and, you know, in a big law firm like that when something important does come up then you do the slog work and the bigger lawyers do the big fee-earning stuff, so Bell Dewar & Hall did the Boesak investigation...Dan Church, which I was involved in, funnily enough because I was...could speak some Danish, some documents, not main documents, wasn't because of that but, you know, I got to deliver to (Allan) Boesak his report in Cape Town and got to spend the night in a

hotel in Cape Town, in a nice hotel, and fly back and charge a fee for delivering a file...two files. The two or three senior lawyers got to go to Denmark, business class, delivering the report to Dan Church. I think there was an irony about money and how much was spent in the investigation by a private law firm (inaudible). Ya, I think it was useful, very useful, I learnt how to charge fees, which I need to do now, I'm still really bad at it that's why I'm not a rich lawyer. I still have to overcome the whole issue about how do I value myself in monetary terms and it's a thing that flows from the LRC, I've been...and this is not for public consumption, I don't want it to be said out there...when I did this whole Muzi (Kunene) thing, because his...his real attorney is in Durban, he said he is going overseas, I don't know if he went and then his father took ill, but I can understand his dilemma of flying all the way to Jo'burg, getting a hotel, getting a car with no fees, with no guarantee of fees, he can't do that, and I eventually 'phoned him because council and I were really concerned about him and we said: we need to find this guy, we need to see him or else he's just all alone. So I've been busy with this case since Friday and went to Court and that, yesterday, and we were going to go on an urgent application yesterday evening, that's why I couldn't meet with you yesterday, sorry about that, because I went for that case...

Int That's ok.

IH ...and he said to me but...you know, if I was rich I would have said: yes, let's do it... but let's conserve our energy for the bail application on Monday because I don't have any money and I said to him: Muzi, but did I ask you for any money, I didn't ask you for any money, I didn't say to you that this is...and he said: no, but it still takes a lot of effort and a lot of money to get to court and I think, let's just wait till Monday. But we would have gone on an urgent...yesterday afternoon or evening...and that's probably the LRC coming out that when something like this happens what do you do? But the reality is it takes two or three days out of your practice when...it's just Kate (Savage) and I...it's...you can't...and I still do cases where I think it's fair and...well, too, I think, people have been treated badly and again it would be cheaper for me to take the money out of my pocket and give it to them than doing the case, to spend three or four days on somebody who earns two thousand...one and a half thousand rands a month and we're going to get four months, it's cheaper literally, to take out five thousand or ten thousand rand and give it to them from my bank account than actually spending four days on the case, it's literally...

Int So you went to Bell Dewar & Hall and you spent a year and a half there, and then?

IH Ya, then I left and worked with William Lane who was a senior partner at some point there, he was already in his late sixties and...a fantastic man...and he was a Commissioner at the IBA, Independent Broadcasting Authority, which is the predecessor of ICASA, and I worked as his Special Assistant, Special Advisor kind of thing so he (inaudible) although he is a very good lawyer, but any research or anything like that then I would go and do that. I didn't stay there for long because then I was offered a position and come a bit full circle, by Thandi Orleyn, offered me a position at IMSSA as a Director, Regional Director, and I worked there for a while, played an instrumental role in restructuring it because it was an ailing organisation, it was pretty heavy on top. Very structured...because I had experience in Labour Law, I

recall writing all the letters for retrenchment including to myself, was very bitter when the position that I thought I was best qualified for, I didn't get it.

Int In IMSSA?

IH In IMSSA yes. And immediately said: I'll take my voluntary severance package or whatever and leave, and left and then started...by then I'd also become an arbitrator and a mediator, '95 I think it was, and started doing...then established a practice with no office, nothing, I used to go to a coffee shop and wait for calls and read the paper.

Int Right. This was in 199?

IH 1997...'97, '98, ya. I was very bitter with IMSSA, but I carried on doing work as a panellist, as an arbitrator and as a mediator. I thought they hadn't heeded the calls for changing but...changing from an economic perspective, slimming down, being more lean and stuff like that, and that...then Thandi left and that wheel also turned full circle in a very strange and a weird way because they ended up owing me so much money, and I kept saying: when are you going to pay? They kept saying: we will pay you, and they didn't, where I got to a point where, I think, they were owing collectively all the panellists together about...anything between three and five million rands, they were owing to panellists, so they were basically using panellists' money to pay salaries and keep the offices going while the offices couldn't sustain this, they were just too fat. I then, with the assistance of a friend of mine who was at university with me, sued IMSSA...some of the books you'll see...all those law reports there, you'll see they say IMSSA...we attached everything, I mean physically everything in its Head Office and ya, I think some people will say that I brought IMSSA down, but I don't think it would have lasted much longer anyway, it was just the manner in which...to liquidate after that. But I literally bought a library at the auction for R1400 for the entire library; I'm talking of hundreds and hundreds of books with the shelves for R1400. So, it was a very sad ending to an organisation because there were lots of things that happened, but ya...it was...if I didn't have access to the law I would not have done that...I was...

Int How do you feel about doing that, considering that you'd worked with Thandi Orleyn at the LRC and you'd worked with Charles (Nupen)...well you hadn't worked with Charles Nupen but as you know, he'd been involved in IMSSA...people with LRC background had been involved in IMSSA, did that not conflict with your decision?

IH I think that the IMSSA in 199...when was it...I can't recall now...it was in 2000 or something like that, when I did that, no, I think that IMSSA had changed a lot. It had not been the IMSSA that it was a few years ago. It needed to survive and you needed to do certain things, but you couldn't be paying...you can't have fifty five or fifty people and have eleven directors, you can't attach a new project and then employ another five people every time you have a new project or a new idea to generate more funds. And you can't use donor's money for an enterprise that, unlike the LRC, actually generated income, when...the parties paid...at least the labour parties paid for the services that they used. But now you can't then use donor money for that kind

of thing, it just was wrong, it was wrong. So I didn't...I still don't feel bad, I feel that the IMSSA that I knew and had worked at, was very different a few years ago...a few years later...it's indicative...when I sued them and when nobody defended the action, which would have been a way to resolve the matter...the day that the goods got attached, the manager literally gave the keys to the sheriff and walked...went home, he just left and went home. He didn't even stay to check that the inventory was taken and the assets and everything else of IMSSA was protected. He just walked away. This is an organisation that was going to die anyway, the only difference would have been that the few people as directors, would have still gotten their salaries for the next few months and us as panellists...which most people...I recovered I think literally half of what I was owed, the other panellists just lost, they just lost everything. I mean, it would have gone that way, anyway. I merely brought...I didn't liquidate it...it got liquidated three months later...but brought home something that would have...precipitated something that would have happened anyway. I feel it was sad, it was terrible that an organisation like that...again, none of those people who were so instrumental at IMSSA came to assist it, came to see how can things be changed. I'll give you a very practical...the day it got...there was waist-high piles of paper because people bought the files, the actual files, were not interested in the paper, they just chucked out all the paper, they just wanted the lever arch file. Chucked out all the paper, there was records that went...stand back seventeen, eighteen years, that had just been strewn all over the...what was I going to do, I mean I was trying to get a bakkie to put shelves and books into a bakkie...what do I do, like, that kind of thing. They literally recycled it, somebody said: I'm taking all this to have it recycled, literally took it and took it to paper recyclists. Nobody, nobody was around, nobody came and said: hey, Imraan, don't...it's irony from a mediation organisation that nobody came to talk and said: but we can resolve this, we can work this out, so I think, you know, even Thandi (Orleyn) and Charles (Nupen) and everybody, nobody came to rescue the organisation and talk up for it and stand up for it.

- Int Do you think that might have been because most people had moved on to the CCMA and they had their hands full?
- IH Probably, probably, but, you know, it had a valuable role, but I think, in a sense it was maybe good because it couldn't...it couldn't continue the way it was, and look at Tokiso...Tokiso is financially a strong organisation, it's very strong...
- Int Tokiso?
- IH Ya, ya. I just heard the other day that they have a turnover of something like twenty five million, you know, they employ I don't know how many people and stuff and they've made it into a profitable enterprise, profitable, as in making profit, like they do not exist on donors and sponsorships and handouts, they collect fees from their panellists and from their clients. So maybe IMSSA's time needed to change, it needed to be replaced, I don't know.
- Int So what did you do thereafter, you were... you were thinking of a private practice or you'd set it up?

IH No, I think I just then, by default, I needed to earn a living...one of my first cases I did was with...funnily enough the same friend...he said to me...I would have taken anything...to do...to represent somebody in a criminal trial and...not a trial, it was just an appearance and I left and I think, my...one of my first...in private practice for myself... my first thousand rand in the morning, in the most bizarre circumstances because the case was then just withdrawn against the guy, because they didn't have enough evidence. But I earned a thousand rands for the appearance, so, I think it was by default, I just needed to start and what else could I do but be a lawyer, be an attorney, so that's how...so it was between being an arbitrator mediator and I thought I need to start a practice and took on...and what I knew best was Labour Law...so I've specialised in Labour Law, and so, that's what I do, I mean I do...ninety nine percent of what I do is Labour.

Int So you've been involved in private practice since 2000?

IH No, since 1997.

Int 1997.

IH Ya...no...no...ya, in private practice as in my own, ya. I've been an admitted attorney now for like twelve or thirteen years, or something.

Int Right, ok. Looking back on your time at the LRC, how would you think it has...has it helped you in any way, has it shaped the way you think about things and in what way?

IH I still have the immense sense of fairness and what's right needs to be done and that it's not always...to my disadvantage sometimes, I have to keep kicking myself and telling myself that I need to put food on the table. But I still fall far of that. Again, I'm not saying this for any public consumption but I represent Billy Masetlha and if he'd gone to any private law firm...Muzi Kunene was represented by (inaudible), had to give up that because he just couldn't afford the fees, and they had to ditch him, they ditched him because he couldn't afford the fees. I...frankly...also with a very, very, very understanding counsel that I had, they'd reported me for not paying their fees because the Bar Council said that they are obliged to do so ethically...so they had to...as a formality, I mean, not both of them, one, the Senior Counsel said: I'm reporting you because I have to, not because I want to, and I had to write to the Bar Council why I couldn't settle that bill and that the council understood, and that was I'm talking of this year. So, that...that, I think the sense of public interest that I need to do something for people and I've got...I'm a lawyer, I can do this, I can represent something they can't do, they wouldn't have access to that. Sometimes to my detriment, I'm not a wealthy lawyer but I earn a living, I can live, I think I'm fortunate compared to many people but it's...the LRC, I think, has instilled a sense of justice. Nobody wanted Billy Masetlha's case two years ago, Billy Masetlha was two years ago... the fervour and the sort of...now, I think, at least neutral if not in favour of (Jacob) Zuma view was not even expressed. I had a case at the time...I was acting

and the arbitrator in that case said to me: I see you are representing Billy Matselha. I said: yes, and he said: you're not expecting any government work are you? I said: well, ya...It did, I think, LRC, help in saying that you can take on whoever, it doesn't matter. I have great admiration, I think, for my client, the day we sat with him and we said that: you are no more challenging Ronnie Kasrils, now, if we are going to take this matter further, you are challenging, head to head, the President, and he did not flinch and he said: then let's do it. And I suppose that was my time to think, well, either we do it or we don't, either I do it or we don't, I'm going to step out of this, this is not for me.

Int You still take political cases, it sounds like?

IH That is...it fell into my lap, it's not one I sought, but I think, I was, I think, I suspected I was amongst a string of lawyers who did not want to take the case because it was so sensitive. And it is still...so, it's very political, and ya, if you look there, they'll tell you that I've taken on (Thabo) Mbeki and I'm not...I've been...I've been...I was told I was in (Jacob) Zuma camp and I said: I'm not in any camp, I'm a lawyer, I represent...I had this argument with the ministers...can you give me a five minute break, I just need to go to the loo?

Int Sure, sure. *break*

(Recording switched off. Continuation of Interview on Track 1b)

Int Yes, so we were talking about the fact that you take...

IH Ya, I mean, you know, it's political in the sense that when you're challenging authority then it becomes political, but...but the important public interest issues are the side issues which is also motivated by the need for funds. Is again, we've sought funds from the government, from the state, and they've refused, and we've likened it to: why have you paid (Jacob) Zuma funds, why have you paid Magnus Malan's funds, legal fees, and why have you paid Botha Basson's fees? They've given us a stupid argument that it's...because what (Billy) Masetlha did was not in the cause and scope of his employment, and I've asked: is it...is what Botha Basson did in the cause and scope, and they talk about third party liability not wanting to attract. And I said to them that: my view is that...in Botha Basson's case you would have wanted to attract third party liability so that you could pay out the victims of his atrocities and why would you not want to attract that, those were victims of apartheid. You should say: yes, we want to pay out those people who suffered and who...who suffered damages, so, it's a sad irony. They've now sort of agreed that they might pay, because we got an acquittal last week in the criminal matter, they would pay some of those fees, but again the legal advisors said to me: no, no, it's a case of...he is actually guilty, he's lied and all that, and I said: but, I don't want to debate those issues with you but let's assume you're right and Billy Masetlha is guilty as you say of something, of having committed some crime, you know that that is still not the issue, the issue's got legal representation and that's what I am, I'm a lawyer, I'm not...doesn't mean because I represent a murderer that I justify murder or...rape, or whatever, the fact that I



represent somebody who is challenging (Thabo) Mbeki doesn't mean that I'm...that I personally have something against the President or I share his political views, even if I represented Jacob Zuma doesn't mean...I'm not, you know...yes, sure you would take on a case because of something...you'd take it on because...ya...you can identify to some degree, but we're all, as lawyers, on different sides of the political spectrum because we take on different cases. I'm sure if you look at the...George (Bizos) acted for Billy (Masetlha) in the Khampepe Commission.

Int I'm wondering, Imraan, , the LRC in the post apartheid era and especially now since you've left, has been (inaudible) of two things, one is not trying to get funding from internal sources because they have a huge funding problem, as such, and the second thing is that not having a specific focus, so you as a lawyer for example, if someone comes to you, you may may not be clear about what to refer...

IH I don't know what to refer, I don't know.

Int So what do you think has happened since you've left, ...what has changed?

IH Maybe...I don't know...but I don't know what the cases...what cases I can refer there. I really don't know and I...and I think, people like me, who run small practices, especially...and even big practices, are the old advice centres, those funnels that can collect and receive cases that could be of importance, but I don't know what they'll take on and what they won't. And I think they would be politically sensitive, I don't think they would...and I think parts of this case that I'm talking about are of huge public interest, they are constitutional issues, and...

Int Are you saying the LRC wouldn't take them on?

IH I don't think they would, I think they would be too fearful, that they would be seen as an accom...but I think they wouldn't appreciate that there are differences...it's not about Billy Masetlha, there are issues about fairness, about the right to be heard, and the right to be...to be...it was just the basic (inaudible) apartheid issue that needed to be considered. And now, the oversight role of Intelligence I think is crucial, nobody's seeing that as a legal issue, and how it can be abused and misused, how we must not repeat what happened in the past. I think that...for instance, the Inspector General's office is an appointment by the President or by the Minister...I think it's the President...it shouldn't...it should be the equivalent of a judge who can make...it's ...quasi-judicial in the decisions it makes...you must read the reports about...the guy doesn't know...he hasn't an inkling of the law and weighing up evidence, he simply says: we concluded that this person was wrong and we didn't believe what he said and therefore...the reasons he gave us are not the ones...we didn't find those to be...the reasons. Like, no balance of probabilities, counter evidence, what the evidence was, what evidence on the evidence...nothing...the most crude stuff you can see, yet he made findings that somebody did...that my client had acted unlawfully, unlawfully. It's, you know, people's lives get affected by those things.

- Int What do you think has made the LRC scared of taking on politically sensitive cases as you say?
- IH The lines are far more blurred, no more like the old days, the old days...
- Int You mean under apartheid...?
- IH Ya, under apartheid...under apartheid it was easy, you were on the right side if you opposed apartheid, if you opposed the state you were on the right side, it was very easy. Now, there's issues...specially now there's issues of factions and things like that so you can't take on...you can't take on somebody whose challenging the state because you're going to be seen as anti the new establishment, which shouldn't be a problem.
- Int You've had an interesting trajectory, in the sense that you've...you came a particular path and then you fell into the LRC and since then you've continued in your own way to take on political cases, as well as Public Interest Law cases, I'm wondering...
- IH Not many, but ya...
- Int Sure, I'm wondering, in terms of ...reflecting on your experiences in the LRC and looking and how you now take on cases, has that in some ways honed or influenced you?
- IH Ya...ya, I think, having done even this criminal work in the past few days, I don't do Criminal Law, I think it is a remnant of the LRC that...it's not something I do it's...it's...you know...again the lines are clearer in the cases that I do, do take up. The criminal cases as...as the front line...headlines about the guy getting arrested in a restaurant, yesterday, and this friend of mine called me and he...he...I went to him for some advice the night before...he does Criminal Law day in day out and he says: Ag, I see we've both hit the headlines and I said...and he jokingly said, but he says: but all our clients are innocent until proven guilty. But he does genuinely act for people who commit crime on a daily basis, from armed robberies to all kinds of things, and I don't hold it against him, I mean, that's what he does...that's what he...as long as he does it properly and he does it ethically, well, you know, there's nothing wrong in it, I don't hold it against him at all. I, on the other hand, I don't think I would be as comfortable with that day in day out. Though I would say that whether the person is guilty or not, the same goes, that he or she still needs legal representation and I should do that job.
- Int Sure, ok. One final question before I leave it open to you, is the LRC ...from people I've interviewed in the US, they think it's the greatest Public Interest Law Organisation in the world. Do you think that in South Africa it's given that level of recognition by the legal fraternity and perhaps business, etc.?

- IH A lot of people don't know about it, I think, a lot of people still think it's the Law Clinic at Wits, they think...when you talk about the Legal Resources Centre... because it's also got the name Legal Resources Centre, I think it sounds like an academic organisation. So, I think, amongst, not all lawyers, but amongst some types of lawyers it has very, very high regard, so it's always good to say that I trained at the Legal Resources Centre, people do have a sense of respect for that and I have certainly benefited from that. So where did you do your articles? And I say: at the Legal Resources Centre and the fact that people like George (Bizos) and Arthur (Chaskalson) and Mahomed (Navsa) and others that you worked under, I think, counts for a lot. But I don't think it has...in South Africa, I certainly don't think it has the recognition and...amongst companies, I don't think they appreciate at all what the LRC does. I don't know any more, what the LRC does, I can't refer cases. The funny thing is, I mean, Achmed...Babs... Mayet...he's the Director...
- Int Achmed Mayet, yes.
- IH Achmed Mayet, he's a Director in the Constitutional...I mean, he's a close friend of mine, we were at university together, I haven't seen him in several months now...
- Int I've interviewed him yesterday.
- IH Oh, but I mean, I like Achmed (Mayet) a lot because we go...I know him as Babs...because we go back to university, but the LRC is not...I don't know if it's not seen as not having any more heavyweights around, that might be part of it, but it is certainly, I think, it's not getting out there what it really does...if people like me, who are ex LRC, don't really know whether I can refer a case there or not, where they can say...or at least engage them and say: will you take this on or not, then...then I don't know, I mean Mahendra (Chetty) who is a Director in Durban, is a very good friend of mine, again I see him from time to time and we talk on the 'phone, but he was an attorney when I was...started as a Fellow although we were about the same age. No, I don't think it has the recognition it should have in South Africa, it ought to have a far higher profile.
- Int Ok. I'm wondering whether there's questions I've neglected to ask you that you feel ought to be part of the oral history interview, that you would like to include, or issues?
- IH Ya, I think there is something...I think that I can't not say. You know, we always focus on these high sounding aims and objectives and issues about law and stuff like that but I've worked under George (Bizos) and George (Bizos) does not come without his faults. We did work once against the AWB and Eugene Terreblanche in Ventersdorp and we were suing him and...it was also around this time of the year where we had the Christmas party and we were going to have a spit braai. I was meant to get the lambs, I was also meant to get a very important case for George (Bizos)...a few cases...he stopped me in the corridor and he said: have you got what I was looking for? And I said: oh, George (Bizos) I've got a problem, I still can't find the one case, and he said: what case? I said: you know, the case that you wanted me to find with Eugene's (Terreblanche's) case and...and he said: I'm not talking about the

case, man, I'm talking about the lamb, the lamb, let's talk about the important stuff. And, I think, that George (Bizos)'s love for people and food and that is important because I've seen many lawyers that can apply the law fantastically, they are brilliant but they are passionless and they don't have a personable style and they miss the point about...that law is about people and it seems sort of...it seemed to me, oh ya...but it was refreshing that the Senior Counsel, George (Bizos) Bizos, who I knew, could say the lamb's more important...and as for him, whenever you went anywhere you had...there was chicken taken and salad from his garden and those things...I'm working with another Senior Counsel at the moment and I love working with him because he's a personable person and I think that that's what gets missed out, is that ultimately we always deal with people, it's not how clever we are, that, there could be cleverer lawyers but if you don't represent and have the interest of the very ordinary people, and those very ordinary people down there have very real problems we don't have, then we don't have the opportunity to show how brilliant we are. You know, people say to me: ag, congratulations, you won Billy Masetlha's case, but I had no case without a client, I had no case without a client who was brave or wants to take on the issues and things like that. So for me that little episode with George (Bizos) and George's love for food and life, was important, and it's probably why I have this practice, I've been approached recently by a reasonably big firm who I'm going to go and talk to next week or so and they said to me, funnily enough, when they were...the one partner asked the other partner: but why haven't we...they said why haven't they poached me, a big law firm...and funnily enough, I'm not going to tell you who he is, but the partner whose name now is part of this law firm, was one of my supervisors at the LRC, as well, and one of the guys said: well, I don't know whether Imraan would want to leave...I've been to his office and I don't know whether he'd want to leave his set-up, he seems to be quite ensconced in it and enjoy it. And I do like this, it gives me the feeling of family and to do what I want to do as well, that I can take on those cases that don't pay, and that nobody's going to ever pay, much to my children's' disadvantage who then can't...then say I can't afford them the quad bike I wouldn't buy them anyway (laughs) but they probably wish their father was a rich, rich, rich lawyer so that I could...not only have the quad bike but have the farm on which they could ride the quad bike (laughs). But I think I get to see them more and...and that's...ya...that's also important for me, ya.

Int Imraan, thank you very much for your time and for your candour, and I really appreciate it.

IH That's fine, ya, thanks a lot.

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