

Thabiso Kotane Constitutional Court Oral History Project

8th December 2011

Int This is an interview with Mr Thabiso Kotane, and it's the 8th of December 2011. Thabiso, thank you so much for agreeing to participate in the Constitutional Court Oral History Project.

TK Thank you, ma'am.

Int I wondered whether we could start by talking about early childhood memories, where and when you were born, and also family structure and your experiences of growing up in South Africa?

TK I moved around a lot. Initially I was born in Baragwanath (*Hospital*) on the 15th of January 1976. Then my mom and my dad broke up so I grew up with extended relatives. I didn't grow up with my mom. And I started my school in Soweto, Meadowlands Zone 1 in Tseretso Primary. Then the uprisings and the turmoil of the day, they sent me, and shipped me to Bophuthatswana, in Ganalaagte, which is a very place...now it's in, what you call, Delareyville.

Int Who shipped you off?

TK My granny was working in Jo'burg, my mom was working in Jo'burg, and with the political struggles and everything, they thought that I'll end up like anybody else that grew up in the location, so they shipped me to my granny in the rural area, so that I can get my education there.

Int And during the eighties, where were you predominantly? Were you in Bophuthatswana, or were you in...?

TK I was moving to and fro actually, because families they have got their quarrels and everything, so I did my sub A and sub B in Tseretso, and Standard One I went to live with my dad's family. Then I was shipped back to Soweto again where the uprising became in 1985, '86, then that's why I went to stay in Ganalaagte where I studied my primary, middle school, and high school.

Int I'm curious what that experience must have been like for you, as a young person, having to move from place to place with different relatives, and also being away from your mother and family?

TK As a child, I was a very quiet guy, so it built me especially to interact with people, to know people, to know that I can stand on my own. Because at the

age of thirteen, I decided to go stay on my own. I didn't tell my mom, I didn't tell my granny; I only told the granny that I was staying with in Ganalaagte, that you know what, the family structure, we were a lot of grandchildren that were staying with them, so things were not okay, and because I was the quiet one, most my things were used without my consent and everything, so I went to stay in my granny's place. He had a two-roomed house, that's when I started to live alone. But I get my food and everything at my granny's. So I'll just go there on Monday, get my week's stuff, and weekend I'll go get something to wash my clothes with and that.

Int That must have been quite an experience for a young person to live on their own from the age of thirteen?

TK It was, it was. But to be honest, it made me grow faster, because I end up having friends older than me who naturally taken care of me because most of them were...you know in the former Bophuthatswana, as soon as you go to standard six, or standard seven, which is our middle school, you could become a policeman, unless, or go to work in the mines. So most of my...let me just say, adopted family, which is brothers and people that look around, who quite loved the way I was conducting myself, were in the mines. So they were the ones, most of them, who bought me clothes, shoes and those kind of a things, so I didn't have much burden on my mom, who was in Jo'burg, and my granny.

Int What contact did you have with your mother, if at all?

TK Only during this sitting, during school holidays and...mostly we didn't have that much of a...because she was not staying with my granny. I usually come to my granny. She will come, visit those two, three days, and go back to where she stays, and...ja...

Int And then in terms of siblings, do you have siblings?

TK Yes, I've got siblings. I've got a younger brother and a younger sister. I'm the eldest.

Int And what did you do after you finished school?

TK Initially I wanted to become a doctor. When I went to apply, I couldn't get because, you know the structure before of you have to do mathematics, biology and physical science, and in my high school, physical science was not there. So I had to do mathematics, geography, and biology, of which I passed

well, only failed mathematics because we didn't have a teacher then, our teacher resigned in June I think, and we were shipped around...

Int And what happened after that, what did you decide to do when you couldn't get into medical school?

TK What I did, I applied for nursing, which I failed dismally. Then I joined the band where I was a songwriter and I played a little bit of drums. Then I wanted to do community theatre, because at school I used to do the plays, especially, you know, there were this holiday in Bophuthatswana, called Ascension Day where we usually used to do a commemoration of Jesus rising to...ja, that's one of the projects that I used...I used to write sketches and, you know...

Int And subsequently to that?

TK Subsequently to that, my mom said this is not a career; I could not do that, so when she retired at Department of Public Works, they asked somebody to interview me. I became a cleaner, which I was based at Constitutional Court as a cleaner.

Int Oh, really?

TK Yes.

Int What period was that?

TK Was it in 1998, I think...1997/'98. Because I graduated in 1994.

Int And so you were at Braampark at that point?

TK Yes, we were in Braampark.

Int What are your memories of that time, Thabiso?

TK We were a family. It was fun, fun, fine time. Everybody knew everybody and because we were integrated with many other companies and everything, so it was very fine, it was good working there, and even the staff were very much united. Everybody was focused to starting and building this court, because it was a new court. And you know, when something is new, you can shape it and build it as you wish. Of which we were very fortunate to have the legal

minds of Chief Justice Chaskalson, the late Chief Justice Ismail Mahomed. And a very fond memory of Justice Didcott.

Int Really...

TK I saw him briefly, but the few chats we had with him, I was still a cleaner then, I was assigned at a working area, so the brief chats we had, he had much vision and hope for the future of this country.

Int Can you tell me a little bit about John Didcott, given that he has passed away, in terms of your chats, what struck you about him?

TK What struck about him, he was a thinker, he had this thinking mentality to say that, this is where we were, and this is how we want to be. Mostly unfortunately, he was very, a sickly person, so we didn't see him very much often until he retired, and subsequently passed away.

Int And then you moved with the Court in the same position, or did you change position at some point when you moved here?

TK No, while I was a cleaner there, the position of library assistant was advertised, I handed in my CV and I was subsequently accepted. And ja, since then I haven't changed positions.

Int And you've worked at the library?

TK Ja, I worked in the library that side, even the move.

Int What was the library...like in Braampark?

TK It was just a small space with rows of shelves and less books. But when we moved there it was fully...the library was full of books, but it was still a lot of work to do with the library.

Int And what do you do with the library in terms of library assistance? What exactly is your role?

TK In my role it is mostly I receive the books that have been purchased, process them, which means stamping them, checking for the faults and giving them to the senior librarian to classify and make sure that they are in the correct jurisdiction, then label and stamp them and put them on the shelves.

Int And as I understand it...you also are a shop steward for the union, and I wondered whether you could talk a little bit about your role and what the vision of the union is?

TK This is my second term as a shop steward. Initially I didn't want to be associated with these things, but I went to a training and when I hear the vision of it, I was very glad because it is non-politically aligned. Which is one of the things, because if you are politically aligned you're inclined to be falling under the union and the directive will be under the political stance of the day. Of which most people think the PSA, which is Public Service Association, is politically aligned to the DA because it is not necessarily politically aligned. And when I see the vision that it is the one that take the public servants interest at heart, that's when I joined it and I went for a training, and it has been good for me. Most unfortunately, we never had serious cases that warranted maybe dismissal, or people being charged that I've represented and be subsequently dismissed, no, I haven't had that.

Int And I also wondered what were some of the issues regarding the Constitutional Court that you've had to deal with in terms of the union?

TK Significantly, most unfortunate...or let me say, fortunately, Constitutional Court it is one of the courts that are very much aligned when it comes to the HR matters, when it comes to other matters that deal with people's...what do you call...interests, especially when it comes to work and everything. I know there was some conflict especially with the parity among the law clerks with the Constitutional Court, and the Supreme Court of Appeal. It seems as if I think they say that the Supreme Court of Appeal were earning a little bit higher than them and everything, but I thought that thing was subsequently internally sorted.

Int Have you ever had occasion to strike while you've been at the Court?

TK Yes, we did...I did join the national strike, remember that lasted about ten to fifteen days.

Int This was last year (2010)?

TK Last year. But I didn't strike for a whole of those ten days because we were busy that time with cases and work, and we saw that we did go strike for two days as the members of the court but we did say that no, it is not that we didn't want to strike, but the thing is with the importance of the Court that it is, we decided to say that, you know what, we will join in faith, and I did notify the regional office that we did strike and we're still in with them and we did send

our mandates and all these kind of a thing, but just because of the...should there be a backlog here at the Court, and especially when the cases are coming, because some cases we had a backlog of two to three years before, but at least at the moment they are going faster and...yes...

Int Thabiso, I know one of your other...you're a multi-talented person, but I know that one of your great talents is writing poetry, I wondered if you could tell me when that started?

TK I started writing, let me say in Standard Four. Because that is one of the methods that I earned money, because I used to write poems...compositions for other students. You know, when they said that, write about our school, I would write about versions of the themes and pass it around and a little bit bucks on it. I know it was called cheating but then it was not, because mostly I would narrate to them so that they can write. Or sometimes we will discuss and they would write them in their own words and in their own hand.

Int Is poetry something that comes naturally to you or is it a struggle?

TK Let me just say, poetry haunts me. It is something that haunts me. I never sit down and say, today I'm going to write brilliant poetry and everything. It's something that I will have to feel, ignore it, then it will come in a dream, ignore it again, then it will say, you'll never do anything until you write me down. That's when I start writing.

Int (*laughs*) Could you read us one of your poems, please?

TK I've got a lot here, but I'm going to read one that is very much close to my heart, which is April 27th, 1994. Which is our election day, our first election day. I remember I didn't have an ID to vote, so we were issued with these temporary IDs. If you remember Bophuthatswana didn't come willingly like other TBVC states, coming to this side. And most unfortunately they say that it was mismanaged and everything, but I never had that experience, I'm very sorry about that. So the poem that I'm going to read, it is April 27th, 1994, and I wrote it on the 26th, where you know, it was a struggle, people say that it's going to be the end of South Africa, and the others said it's going to be the new South Africa. And you know, that morning of the 27th, I remember very well, my granny woke up around about half past four, she was the first person in the thing. They said, granny, you should have come yesterday when the old person said...she said, no, I didn't want to come with the old people, I wanted to come with everybody else, because it was going to be a separation and a mini apartheid to say that we are privileged because we are old. So I wanted to be with the...

Int She sounds like a remarkable person.

TK My granny was a remarkable...not my biological granny, the granny that I stayed with in the former Bophuthatswana. And she's still alive, and I'll be spending Christmas with her.

Int Oh, lovely, and I'm going to ask you more about her, but I wanted you to read this special poem of yours.

TK It's a little bit long but...

Int That's fine.

TK *"Yonder there at dusk, apartheid disappeared. Yonder there at night, apartheid is buried. Now here we stand with freedom at dawn. Now here we stand with apartheid disappearing at dusk. For many years we have waited; waited for this time to come. For many years we have been deprived; we have been deprived of our vote. Now a day of hope is at dawn. A hopeful answer to our cries. Now our tears will finally dry. And hopefully our sorrow will end. Tears we shared for three decades will dry. The struggle we fought shall end. Time has come to mend the walls. The struggle fruits are now near. African children, here comes the future. Future our forefathers fought for. African children, peace is now at hand. Future with peace is now ours. To you our freedom fighters, sjamboked you were. To you our fallen heroes, stay there with peace, for you have won. Kicked and inaudible at you, you were, tear-gassed you were, sjamboked and killed were you. Yet you raised our spirits for this day. Oh, Africa, yes freedom is about to rise. Apartheid is about to set. Freedom to be born, apartheid yet to die. We Africans have fought for this. We also have died for this. We Africans have paid for this. Now let's thank God for making this day. Now is the time to try and forget the past. Now is the time to build and adjust to the future. Free we all shall be. United we all shall be. Happy we all shall be. As long as we try and mend our differences."*

Int Bravo.

TK Thank you.

Int That was very moving, thank you. I notice you write in English.

TK I do write in my mother tongue, which is Tswana, but most of them are those that are very close to my heart, and that I usually don't publish, and don't intend to publish, but I'm going to hand them down to my children as a legacy that I want to do. I'm currently writing a book called *Fourteen Principles of*

Relations, which is this thing. It is just a self-motivating book but just all the initials of these fourteen principles are the things that I think everybody should know.

Int And what are the fourteen principles?

TK It is: Have discipline, which is for the H, and self-confidence. U, for understanding viewpoints of others. And for making yourself a friend to all. And I made the hyphen because I know it will say, you can't be a friend to all every day that is where I am going to explain on it. A, is for admit when you are wrong. N, is for never make a promise you can't keep. R, is for respect and courtesy are very much important. And human relations. E, is for explain thoroughly so that the misunderstanding should be inaudible. The L, is for look, listen and learn. After you did all the three Ls then you can decide well, because you'll have all the facts. Then the other A, is avoid arguments when not necessary. T, is for try to be approachable and sociable. R, is for insist on selfless service and be dedicated. This is one of the inspiration I was given by Justice Sachs, who was very much instrumental in the building, and especially the building from the initial phase, the foresight of how he wanted the building to be and how to represent. And O, is for others first, self last. I know this has been...when I tell people about it they say that, that is not right, you can't say others first in everything. I said, no, they say, do unto others as you want to do it unto you. So it is similarly that thing. And N, is for never criticise in public, especially for abusive parents and abuse...because if you fight in front of people, the children, you take sides and see the difference of the things. And the S, is just stress the positive always. Always look at the brighter side of things.

Int Wonderful. So how far along are you?

TK I'm on chapter five. The thing is that I've got all the research that I have...the thing is that I don't have much time to write for now, because I'm studying with Unisa, I'm doing my information science diploma, also raising two kids, as a single dad.

Int How old are your children?

TK My firstborn is fourteen. I had him (means her) when I was twenty-one, and the last-born is ten.

Int And they're both boys?

TK No, both girls.

- Int Both girls...
- TK Yes. and I always wanted girls, I don't know why. I still didn't have an answer for now, but I always have wanted girls.
- Int How do manage having a full-time job, writing books, and caring for two children?
- TK It is not easy, but women have been doing it for many years so I'm trying to...not emulate them to try, but I'm trying to maybe, but...working it's very nice to work in the court. The workload is very much high and everything. But I do have weekends and I do have, like I said, poetry haunts me and if I don't write whatever I'm thinking then, it will haunt me until I have to stop and write it down, so ja...and my book, I started this thing when I was still at school, these fourteen principles. And they also wanted me to put them down in writing and everything. Then after that I said, after I do that I can just write a book with this, you know, emphasising any, all those kind of things. So this is a project that I'm doing at the moment.
- Int Thabiso, I wondered, in terms of your relationship with the judges from the first Bench, you mentioned Justice Sachs, you also mentioned Justice Didcott, I wondered whether you could talk about any other judges that you may have had interactions with?
- TK Justice Tholie Madala. He was one of the funny judges that I think. He was very friendly and he always tried to ask me about sports, depending especially with soccer, and you know, the nineties were very, very good in South Africa, especially when it comes to sports with the rugby, soccer, African Nations Cup, and ja, it was nice. And also to interact with the staff with a friendly face. He was...he's sorely missed. Especially, it was very sad when he passed on.
- Int Was there anyone else? You worked for quite a long time, you had Justice Chaskalson, then you had Pius Langa as Chief Justice?
- TK I was very close to Justice Sachs, because I...he said his father used to work for...who was this judge that represented the ANC? Bram Fischer, who was also very close with my extended grandfather, which is Moses Kotane. They were very, very close. And he is the one, because he's that, he's an arty guy, he loved art and everything, he's the one that also encouraged me to keep on writing...said, keep on writing, keep on writing, and make sure that you keep the stories alive, especially. And I'm also thinking, I'm still in the planning phase of writing my feelings about the Court and the art.

Int Really?

TK Yes. Especially the Moving into Dance, what it represents to me, which it means cohesion, everybody is dancing in the wrong direction, so the role of this court is to try and steer it to make it at least one step, so that it can be coerced from the executive until to the man on the street, so that it can have an example. The African Great Steps, which means our past leaders, and you know...there is this Blue Dress that you said, I like to call it the Haunted Steps. Because it represents all those people who passed on, who we will never know where they are buried. But their spirits live within this court because they've all strived for a free and just South Africa. So it is one of the things that I'm toying with in my mind.

Int Tell me more about the art, I'm curious how that moves you?

TK I was very fortunate to...the first, first, first art introduction of the Court, I was taken by Justice Albie Sachs. And with the point where...because he was so much attached to this building. Even now you can attest and I think he still collects some other art he's been working all around. One of the things that he told me about this court is that this was a place of pain, which was a prison, it housed Mahatma Gandhi, Nelson Mandela, Winnie Mandela, and normal criminal people, those just arrested, and those unjust arrested. And like a phoenix here stands this court that you've got so much accolades, it's won awards, built by South Africans, after, you know...so also the spirit of the people that were here, (Justice) Ismail Mahomed, who was very much a jurist of the time. I remember the funny time when Justice Ismail Mahomed was still a Chief Justice and there was also a Supreme Court Judge President who one day inaugurated...was it (President) Thabo Mbeki? I remember, because he didn't know the role, because we didn't know who was the senior judge on that thing. I remember watching him on the TV, you know, being directed to do this and do this, and...I think maybe that was one of the reasons that elevated the role of the Chief Justice and not to have separate power houses, but only the one supreme...

Int I also wondered, working in this environment, in the Court with all this art and creativity...does that in some way imbue you to continue writing?

TK Yes, it does, like I said, I'm still toying on this book that I'm writing, especially to introduce the people, especially from...when you enter from this other side, you know, there's a hole that side, it was initially in the Old Fort, that is the thing that I'm going to do...just to take...especially with the art, you know, that what you call, the one at the entrance of Dumile Feni, the black thing...it is so Afrocentric, like we black people believe in ancestors, and you know, we do believe that it represents something, especially to welcome the people in here.

The pain of the past should be the joy of the future. I know they say the youth of today are the lot future but if we listen to them, especially the writers, the poets, and everything, they still have similar struggles like we used to have, they're still rebellious like our mothers used to be when they used to run away, when you come back, those kind of a thing, and I think we are moving in the right direction. The state of our country, mostly it is ignorance, whereby most people ignore the power of the past. And also communication with our kids, which I feel very...maybe because I'm a single dad or something..., which I like to talk with my kids about everything. That I don't know, I will go ask. Because information is power so that they can make sound judgment on their call. My daughter is now a teenager, she might be experimenting and everything, and you know that is something that I would like to be, not to be the greatest dad but I'll do my best to be the one that is very much **inaudible** in her life. And the other thing that is, education that is very much...what I can say is that, that myself, I didn't have career guidance. I wanted to become a doctor, but the education system didn't allow me to, because I was given geography, mathematics and biology. Which means I'd either be a geologist, a mathematician, or a doctor, which is the biology. And of this I should need physical science to combine those things. But now youth of today are very much fortunate because you can study whatever you wish for. I was very blessed to have a talent of writing, singing, composing. Most unfortunately I didn't pursue that and sometimes it does haunt me also to go sing and...but I'll see what the future holds. As soon as my kids are up and I'm okay also.

Int I also wondered, you mentioned that your paternal grandfather was Moses Kotane, is that correct?

TK Not direct, not direct. Because my grandmother, she's the one who knows because when she married to the Kotanes, Moses was still the patriarch of the Kotane family. Which means he was the father of the whole clan. And when Moses Kotane municipality was opened, all the Kotanes were there...most of them were there, and it was very moving to find that you've been living four streets away from the other Kotanes that you didn't know because you have been married to someone else. And it really made the family to come close together, and also gave me hope for South Africa. Because I love this country. I know it sounds like a cliché but...

Int No, no, not at all.

TK I love this country and I've seen friends go abroad and come back, say that, no, we miss the Chisa Nyama (*braai vleis/barbeque*) we miss the night life of Jo'burg and Cape Town, and all this kind of a thing. But there's nothing like the beautiful weather of South Africa. We don't have earthquakes, we don't have hailstorms, those come seldomly and everybody becomes shocked and becomes a catastrophe when one roof has been blown out because it's something that happens once in a while.

Int I also wondered, Thabiso, when you were growing up, did you hear much about Moses Kotane and his activities, or did you understand what his role was?

TK I didn't hear much about him, I only heard when we've got senior family members, when his kids said, he went to Russia, he never came back and then I will keep on asking, who is this Moses Kotane, I want to go and search, his name is blacked, and even now if you can search Moses Kotane, there's only maybe one document from the PSA, from the...what do you call...the Communist Party, SACP, that says anything about his life, but it is not much documented very much. And I know there is someone in the Kotane family who is trying to trace and to find people who knew him in Russia, wherever he was, but I also would like to know and find him and to find out what's the progress with that.

Int I wondered whether you could talk about your granny and the influence she may have had...the granny that you stayed with?

TK She was the disciplinary, and we were thirteen grandkids from different siblings and relatives that stayed with her. So it was a big, like a communal family where everybody's things is everybody's things. And I'm a very much individualistic person, I like to keep to myself, and that's why I ended up at the age of thirteen to say that, you know what, best I take my things and stay and went. So she taught me how to cook, how to clean, and to do anything that the kids used to do. I used to go watch the cows, enjoy the cows, and go plant and plough. Because we had a huge garden, we never...the only things that we used to buy was meat sometimes, and a bread. But we had cows, we had chickens, we used to own a farm, not a farm but a field where it was rented from the white farmers, so every year he might give us about ten bags of meal, so we take it to the grinding, to the mill, so that it can be ground to make pap. And we have the garden which my granny meticulously prepared because we didn't have this water, that system, we'd have to go to the tank, fill the tank, roll it to go water the plants and all that. But fortunately it was nice because where...it was not only me doing this, we were about thirteen so we can share jobs in between, until I became a rebellious teenager and go stay on my own. Of which it was a blessing and a curse also because I had to grow fast to make right decisions. And very fortunately, like I said, I had my kids when I was already twenty-one, and even now I'm still respectful to the adults. I used to drink, nobody saw me drunk in my family, till today they would never say that he used to drink, but ja...that's how I am even now.

Int I wondered, you've worked for the court for a very long time, why did you stay so long and continue to stay? What is it about the Court environment that you find particularly attractive?

TK It's not necessarily about the environment as such, because as the years continues, you outgrow the place. Like now I'm saying that I'm studying towards my diploma because studying and being a single parent, it is a little bit difficult. But to stay on, mostly it's because of, like I said, I'm planning to write a book, so I want to get as much information, especially with the building, not with the people inside, because personalities change and chain of commandments also do change like the first Chief Justice Ismail Mahomed and Chief Justice Chaskalson, Chief Justice Langa and now Chief Justice Mogoeng. And Chief Justice Sandile Ngcobo. And also this transition that is going now whereby the Office of the Chief Justice will be its own department, I just want to see how it unfolds, and ja, there are still things to see especially with the new department that is being formed.

Int Thabiso, I've asked you a range of questions, I'm wondering whether there's something I've neglected to ask you which you'd like to include in your oral history?

TK The move, I'd like to...especially, let me just say about the building of the court. Initially when it was here, when Justice Sachs took us here, when it was still rubble and everything, he told me that the court is going to be here, and there's going to be...we look at him and say that, you know, this is just afar...we'll be going down in this flat place, how are we going to do that? They gave us the model, we did see that there were ramps and everything, we didn't even notice what was happening. And he kept us informed about the changes and many changes and many changes until the building was like this. Initially when we moved here, when they told us you'll be in...I call it planet library because mostly we don't interact with the administration that much because we are there at the far corner, and everything. It was very much nice to firstly have a conditioned place, because there it was a normal library. If it's cold, it's cold, if it's hot, it's hot. And here at least we...let me just say that we got the best of everything. Because even now this side the air conditioning, aircon, it is now that much nicer than the library, because in winter we are very warm, we've got our heaters and everything. In summer it is a little bit breezy. So the move was the very much important. That is the most memorable thing that we had. Especially when they started showing us our offices and to have your own office in a very long time, because we used to have...it's still an open place, but at least you have your workplace that is in, it was very nice.

Int And in terms of working in one place, the library for that long have you developed good working relations, are there tensions? What are the tensions?

TK Well, I've worked...I've got good relationships, especially with users of the courts. I feel that...I was the one who tested the system, when they started to

put the new system and everything, to check if the website does show whatever it does, and everything, which is a self-initiative and it broadened my...that's why I wanted to do information science. Because initially I wanted to do law. And they said that, no, you can't do law when you work in a library. Then I started doing research about the library and I saw that it has got a branch, a lot of things that especially that is much computer infused, which is in this IT developmental stages, it is very much good to have IT knowledge. So I'm pursuing that. After I do this, I'm going to do knowledge...

Int Management...

TK Knowledge management, then after that I'm going to do strictly IT. Then I'm going to fuse them together. Because there is so much development that is coming, especially when it comes to storage. We started with those big, big, big...

Int Computer...

TK Computer ones, now everything is becoming smaller and the memory becomes bigger. Before the computer was bigger and the memory was smaller, now it's losing weight and gaining brain.

Int Thabiso, thank you so much, what a wonderful interview and I learnt so much from you, and continue the power of positive thinking.

TK Thank you.

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