

Charlene May

LRC Oral History Project

20th August 2008

Int This is an interview with Charlene May and it's Wednesday the 20th of August (2008). Charlene, on behalf of SALS Foundation, we really want to thank you for agreeing to participate in the LRC Oral History Project, and also for your patience. I wondered whether we could start the interview, if you could talk about your early childhood memories growing up in South Africa and where you think your sense of social justice and injustice developed?

CM I grew up in Cape Town, a place called Elsie's River, that's on the Cape Flats. Probably not the nicest place to grow up in...in that it's...well, it's on the Cape Flats so it's one of those notorious gangster ridden areas. People aren't too rich. Although I think the people weren't too impoverished with me growing up either. Poverty is a lot worse there now than it was while I was growing up. Ya, so born and bred in Cape Town, grew up there, went to both primary and high school there, and after that attended the University of the Western Cape where I studied law, and then attended UCT for practical legal training for six months. And then came to the LRC.

Int So in terms of growing up where you did in the Cape Flats, and you mention gang elements, but in terms of general apartheid was that something that in a way impacted on you?

CM I remember snippets of it, probably just because...I always say that I'm too young to have known that what growing up was, was apartheid (laughs), so I think that it was very normal for me growing up, but normal in terms of this is what I knew. But growing up on the Cape Flats meant that I think that we did see a lot of the student uprisings. And I remember my sisters in the 1980s coming home early from school, police and soldiers running through the neighbourhood and things like that, going to the schools, people coming home with arms full of...you know, with loaves of bread because they've just thrown over a bread truck and everyone was happy (laughs) about that for some reason. So I think that I experienced it very much through other people's experience of it, and not exactly knowing, you know, where it fits in. One of the things that I've recently...and I think it was in, last year I started working with Henk (Smith) on one of his matters out in...on the west coast in Paternoster, and I remember going there as a child, we camped there regularly because my father was crazy about fishing, and I...one of the things that I remember is having to go to the loo, and not being allowed to go to the loo at the hotel in Paternoster and being thrown out and the very first meeting I went to for this community was held at the hotel and I could go to the toilet. And I told Henk (Smith), you know, I remember standing outside and my father arguing with someone about me being able to use the toilet, and I'm here and it kind of feels, you know, very strange walking around and being able to go in and being able to use the loo and you almost...(laughs)

Int So when you were a child did you question that when that incident happened, for example, did you ask why it is that you weren't allowed to use the loo?

CM One of the strange things is that I didn't grow up in a very politically open family, so even though all of these things were happening it wasn't things that people necessarily spoke about. Especially my parents. My mother is still not very...you know, she'll occasionally say something about this political figure or that, but she's not very open about discussing these things, and even in our house growing up with my sister then, you know, being students, being high school students and throwing stones and doing all of that type of thing, I remember there being arguments in the house with my father about them doing things like that. But never discussions around this is why it's happening, this is what is happening. And this is the injustice of it or, you know, these are people that are fighting against oppression or whatever. It was never anything like that. And strangely enough I think that we're only having those types of conversations in my family probably over the last five years, I think where my father feels comfortable enough or my mother feels comfortable enough to bring up these types of things, but I think it's also just the generation that they grew up in. It was very much, you know, this is the way that things were, and...even though they realised that it wasn't right, they didn't really question, it was done to their parents and their parents' parents, so they just kind of, you know, accepted that this is the way that things are.

Int I'm also wondering what were some of the formative influences that led you into the legal profession? Why law in particular?

CM It was strange actually for me because at high school it was the only thing that I ever thought that I was going to do. And I don't know where that came from and I think it must be because...although we weren't very politically conscious in my family, we certainly are very argumentative people. So, certainly where we perhaps did not debate politics, we debated other things. And I think it flowed from that. The idea of...I don't know, being somehow very eager to debate things and not just accepting things at face value, and I think that that's what led to me studying law at the end of the day. And then getting to study or starting to study law at UWC, and at first thinking that I was going to do criminal law, and I think that was just the influence around me. When you finish high school in an area, such as the area where I grew up in, very few of the people that started school with you, are with you in high school, and a lot of them are in jail and a lot of them are in gangs and a lot of them are in trouble. So that's where you lean towards, because that's what you know. And I think that having started at UWC and being exposed to something else, and also the long history that that university has, within apartheid and within the struggle, a lot of that came to the fore. And then I think it was also just the fact that none of the subjects really interested me as much as the things that other people weren't taking. Like the International Human Rights and the Public Interest law subjects. And the gender. No-one else was doing that, I mean, people were doing commercial law and corporate law and things like that. But that was the type of subjects that interested me. And within my last year of 'varsity, just doing human rights law and doing juvenile justice and things, the mind shift of thinking, well, perhaps this is what I want to do. But not really knowing exactly how you go about doing this in real life, and where it fits in. Because of you look at the private law firms, there isn't a lot of options with regard to going within a human rights field. When people do human rights or do public interest law as pro bono it's not a department within the firm, so it's not something that people specialise in. So I was very limited with regard to options, and after graduating

with my degree I actually spent about nine months at home. Not being able to find a job and the only place that I could find a job was with the Legal Aid Board. And not being sure that I wanted to do criminal law anymore (laughs), kind of shying away from doing that. So I spent nine months at home desperately looking for a job and something that I could relate to. And then finding out about the LRC and the work that the LRC was doing. Which is really coincidental as well, because my sister was on the Board of an organisation, and she worked for the organisation, and Vincent Saldanha was also on the Board...

Int Was it the Legal Aid Board?

CM No, it was actually an organisation out in Manenberg. So her having met Vincent (Saldanha) and Vincent talking about this is his day job, she said, oh you know, she met this very interesting man and this is what they do. And then me going on line and doing research and reading the cases and realising that some of the cases that I'd actually studied at 'varsity that I found was interesting was LRC cases. But by then it was mid year and I didn't stand a chance of getting in, so I went to UCT and did my practical legal training course there. Which is also a little bit of a culture shock, going from the Cape Flats to going to UCT (laughs).

Int You mean at university.

CM Ja, the University of Cape Town.

Int Had it transformed in any way when you got there? You were there in nineteen...?

CM No, I was 2003. Ja, it was 2003. No, it was certainly...it was certainly racially diverse. But if you compare it to where I came from, the University of the Western Cape, where I think the majority of people are people from a disadvantaged background, people from, you know, either black, coloured, Indian, you know, those types of racial groups, whereas going to UCT you certainly felt like the minority all of a sudden. And that's quite a bit of a culture shock.

Int I'm also wondering in terms of doing Practical Legal Studies, was that in addition to the LLB...?

CM Yes.

Int ...or part of it?

CM No, it's in addition to the LLB. You can do it in two ways actually, it's...you can do it the way that I did it at the university, which is then a six months course and you can then add that onto your Articles or your Articles of Clerkship and a year falls away. Or you can do it through the Law Society once you start your Articles of Clerkship,

and then it's about, I think it is a couple of weeks, a week's theory **inaudible** programme. Which I think is not as probably as beneficial as having done it for six months. But I still ended up for some reason that I still don't understand, I still did two years of Articles (laughs).

Int Right. At the Legal...?

CM At the Legal Resources Centre. Never left (laughs).

Int So your sister had met Vincent Saldanha, you applied here, you got Articles and so you came here, and when did you start?

CM I started in 2004.

Int And so you did the two years of Articles, what were the rotations, who were your principals, what were your experiences then?

CM I think the only person that I did not rotate was Chantel (Fortuin). Within the Women's Rights Project. Simply because at the time she'd gone to the Bench and so I never actually worked within that project or worked with her. But I worked with everyone else. I spent extensive time actually working in the NPO Support Project, which is where I'm still now.

Int And that's the...?

CM Non-profit Organisations Support, so it's strengthening civil society. And I landed there simply because I was doing...I was rotating and at the time Ricardo Wyngaard was in the office. Ricardo left at the end of, I think, 2004, and I got...well, Ricardo left and all of his files were here, and at the time there was big capacity issues. So I ended up with his files for...well, I've closed them subsequently but they followed me straight through. So various people that supervised me in 2005, just supervised me on those matters. And I took to the project and...ya, I describe it as doing commercial law for people that don't have money (laughs). Ya...so along with the NPO project, I think the other things that just stood out was, I still do a lot of the refugee matters that comes into the office.

Int With William Kerfoot?

CM With William. I have some of my own matters but I worked under William when I was doing my Articles. And then I spent an extensive time in Steve's (Kahanovitz) housing practice, because at some point Steve went to go and become National or acting National Director, and a locum was appointed, that came in twice a week. and so I looked after the files while the locum wasn't here.

Int Who was that?

CM Lloyd Padayachee. So while the locum came in twice a week, I looked after Steve's (Kahanovitz) files as well. So I spent extensive time working on the housing matters. And then of course there was Richtersveld in the land project, which, I think, every CA that you will speak to will talk about Richtersveld. And Richtersveld started in my first year of Articles and it only finished last year (laughs).

Int Gosh.

CM Ja, so that's probably been the one case that I've been involved in for the longest period of time.

Int And in terms of the case that you've enjoyed the most or the...public interest law area that you've enjoyed the most...?

CM It's always difficult because I think that they come...it's such a diverse field and all of them deal with such different issues. And I actually place myself under a lot of pressure with regard...and when I finished my Articles thinking, you know, I now need to decide which area of work it is that I'm going to specialise in, and I still haven't found the area of work that I want to specialise in because I'm fascinated by everything. And so I can't tell you that there's this particular or this specific case. I like the NPO stuff simply because of the impact that I'm able to have on it. Or the impact that my work is able to have on normal or, you know, average man in the street kind of people. Because the work deals so much with civil society, getting community based organisations organised to be able to deliver a service to people. So the impact of that is much broader than, you know, dealing with one particular matter that deals with one particular issue. And I think that that's what I enjoy. And also because, one, it gets me to meet...or allows me to meet people from diverse backgrounds and it's never the same situation twice, and it's never the same type of people twice, and the fun is going out and getting invited to come out to the project and actually meet the people, and meet the community. And I think that that's the one part of the job that I love, is going out and meeting people.

Int When you speak to your peers, who've gone off into other law firms etc, how does your experience compare to theirs in terms of litigation experience and overall experience, exposure?

CM The people think I'm more crazy (laughs), including...I have friends that work for the Legal Aid Board now who thinks I'm completely crazy that I work for the LRC. And I think that...that it's difficult to measure also because law is not...you know, with regard to litigation I perhaps don't have as much litigation experience as someone who works for the Legal Aid Board. I have a best friend from high school, through to 'varsity, through to...and she works for the Legal Aid Board. And she has a lot more litigation and criminal litigation experience than I would ever notch up. But that's simply because I think that my interest shifted from going to court and actually, you

know, representing someone, to being able to say, but there's other ways of also advancing public interest law or advancing people's rights. And...so that's really been my focus area. But then I also look at some of the cases that I've worked on that I've been involved in the litigation, I've been involved in briefing counsel, and preparing pleadings, and preparing documents, and I think that, you know, people who work for, whether it's the private law firms or the Legal Aid Board, is never going to get an opportunity to work on a case like that...and is never going to get the opportunity to be able to say that I did something like this and it has an impact on so many people. So I think it's quite, you know...it's quite different. And I think that that's probably the justification that, you know, I have at the end of the day when people say, why are you still working at the LRC? Well I get to do things that they don't get to do (laughs).

Int Right. In terms of coming into an office where there are lots of men, and perhaps not even women...plus the racial distribution might not be as comparable to other offices, what were your particular experiences?

CM I think that when I started in the office it was a lot different because...well, the racial makeup was certainly was a lot different than it is now. And...and so I think that one of the advantages has been certainly that I've been able to grow into the situation that we are in now, and it's not something that I came into and, you know, it hits you in the face. It's been a gradual process where people have left and the office has grown smaller and so you're able to deal with it and process it, I think, a lot better. People are probably going to shoot me for this, but it is a little bit of a boy's club, and you certainly feel that it's a boy's club...if you're the only woman in the room, and you're pregnant and there's all this testosterone going around. But I think that (laughs), one of the things I always say is that I survived growing up in a house with my father who's terribly, terribly argumentative and terribly difficult. And nothing compares to him (laughs). Even a room full of men (laughs) on a Monday morning. This just doesn't compare whatsoever.

Int So what are some of the tensions in an organisation such as the LRC since you've been there, what's changed since you've been here and what are some of the concerns you have?

CM I think one of the advantages also, like I said, with growing into it, has been that I didn't land smack right in the middle of a funding crisis or a funding situation, but it's been a gradual process and I think that money has always been a problem and funding has always been a problem. And so it's not this great crisis, well, I've never felt that it was this great crisis that we're going to have to start closing our doors. But I think that the advantage with that is also that I haven't been here for twenty years or thirty years, so I've never for instance felt that my job is threatened in any way, and maybe, I don't know, there's a certain amount of arrogance associated with that. But I've always felt that the LRC would be needed and that the organisation is needed and that the organisation was going to be here. And so that's never really been an issue for me. But that's certainly been one of the growing things over the last couple of years has certainly been with the restructuring, reorganising, whatever you want to call it, of the organisation, and people leaving because they, you know, got better opportunities, or

they certainly felt that their positions or that their jobs were being threatened. And I think that that's probably the biggest thing that we've had to deal with at the LRC over the last three or four years, has been that process that's been ongoing. One of the ongoing things has also been the problem of...and it's very...I think it's the crisis as the organisation seeming inability to hold on to black staff members. And it's...I think it's not one thing and I think it's a series of things but I think that it's something that certainly needs to be looked at seriously and needs to be addressed. And I think it's something that needs to be addressed on an ongoing basis. Certainly when you look at the funding situation and you look at, you know, bringing in new people and transferring skills and ensuring that the LRC is going to be around for the next twenty or thirty years, it's something that, you know, needs to be a key focus area for people.

Int I'm also wondering, in terms of you deciding to stay on, why did you decide after your Articles to stay on?

CM (laughs) I think one of the biggest things was probably that I didn't know what I wanted to do, and...like I said, you know, I put myself under enormous pressure with regard to deciding: is this what I want to do? Is this not what I want to do? And what field is it that I'm going to specialise in? And I still obsess over it to a certain extent. But I think that that had a big part to play in it because going to a private law firm meant that I would be restricting myself to doing a certain type of work. And I was just not, I think, not ready to be able to say, this is what I want to focus on, I want to do family law, I want to do divorces. And working at the LRC allows me to run my practice, to do the NPO work that I like doing, but it also allows me to do a whole range of other things that interests me and that will impact on other people. So I can do the refugee things that I enjoy doing, I can work on the gender things and the women's rights project issues that I think are important. And I think that was one of the most...that was probably the biggest reason, my biggest motivation for staying. All of the job offers that I had post Articles were very focused in a particular direction and this just allowed me, I think, to grow a little bit more. And I think it's one of the disadvantages actually that you don't stay on necessarily at a law firm post Articles, is that, yes, well, technically in terms of the Act you're qualified and you can now be admitted as an attorney, but that doesn't really, you know, mean that you're completely shaped or formed or know what it is that you want to do. And I think that that's very often where people get stuck into things that they find five years later they actually don't enjoy doing.

Int In terms of taking on government in a post apartheid context, is that something that you have concerns about given the current crisis, or do you feel that the LRC...that's their mandate? I'm wondering where you're positioned in this as a public interest lawyer?

CM I think one of the things that I do a lot of, because I interact with civil society, is that I also interact with a lot of the government departments. And the NPO Project itself, the project doesn't specifically litigate around any particular issue. So I think the relationship is a lot different. It's not as...I don't want to say antagonistic...it's not as defensive from government's side...or I should say, it has not been in the past as defensive as it is certainly increasingly becoming now. And that's one of the things

that I can say as someone who's work in the past has not been focused on litigating against government, so we've had a very, you know, good, cordial working relationship with a lot of the things that we've done together. And there is this sense of defensiveness that has certainly crept in with regard to, you know, just information is not as easily accessible as it used to be, people are not as easily accessible, and people are not as honest and as straight-forward about issues as they used to be. So there's certainly a mind shift, I think, from government's point of view and I think that you see it in a vast range of different things, whether it's disbanding the Scorpions or prosecuting Jacob Zuma (laughs). It's something that's there and it is increasingly becoming more of a concern. Whether it's a crisis yet...

Int Ok. I've asked you a range of questions, I'm wondering whether there's something I've actually neglected to ask you which you think is important as part of your experience at the LRC?

CM Gosh...can't really say...no...I don't think so.

Int Ok. I wondered whether you could talk about a particular case, I know you've given me examples but something that you feel really embodies why it is that you wanted to become a public interest lawyer, and what's sustained your interest?

CM (laughs)

Int And probably is indicative of the kind of work that the LRC does.

CM I think it's easy, I'm going to chicken out...it's easier to talk about things that I'm busy with now, and why I'm interested in it now (laughs). With Chantel (Fortuin) being gone, I'm doing the Women's Rights...doing all of her Women's Rights things. And before I started doing Articles I did an internship of about three months with the Women's Legal Centre. So I was very passionate about women's rights issues. And that's been re-awoken in me for the past couple of months working with...and Chantel's files, and there's a particular matter that deals with Muslim personal law. And we've recently had...I don't know if you're aware of this but Muslim marriages and Muslim personal law is not recognised in the South African legal system.

Int Oh, right, so that's Sharia law?

CM Sharia law. So if you get married in terms of Sharia law, your marriage here is not recognised. And so, we've recently had a very good judgment that's recognised a duty of support flowing from a Muslim marriage, which has been very well received. But I think that with regard to recognition of Muslim personal law, and particularly marriages, has been a big problem. And whether or not it's organised civil society that's not been able to organise themselves sufficiently to push government, to push legislation through, or whether it's just government not having the political will to do it, that hasn't happened. And I think that now is a good time to push and to say, well,

you know, there is one victory but there needs to be...you know, you need to build on that. And so the matter that we're dealing with now is...deals with a divorce that's taken place where a wife is claiming maintenance in terms of Sharia. And right now we're at the beginning phase so we're still just writing letters to the other side hoping that, you know, if this is a devout Muslim man, as he says he is, then he would do the right thing. Well then we probably won't have a case and she'll be happy and it won't impact on anybody (laughs) else. So you are kind of torn in two because on the one hand you want to do what's best for the client and you just want her to be, you know, get the compensation that she's entitled to: maintenance for the kids and maintenance for herself for the three months, it's all that she really wants. But on the other hand you also realise that if...if he decides not to act in terms of Sharia law, then this potentially looks like something that can be taken forward and that can impact on a massive amount of women in, not just the Western Cape, but in South Africa, who's basically, you know, after divorce is left with kids, no maintenance being paid and having to go through the civil courts here, where maintenance is 50/50. So it's...you know...it's a lot less than she would have received if it was done in terms of Sharia law.

Int I'm also wondering in terms of what you'd like to continue doing, is there a particular project that you're doing now, or case, that that's the kind of work that you're wanting to continue doing?

CM I think certainly working within this project has meant that, you know, I've found passion for pushing women's issues and bringing it to the fore. Because I simply think that, you know, we make such wonderful strides forward as women and then we take twenty steps back for every five steps that we take forward, because we always place other things and other issues before ourselves. And I think that that's probably one of the biggest problems, and we're never going to find a solution to it because that's, you know, that's what we are. So I certainly have become more passionate about that and certainly looking forward to next year coming back, after maternity leave, and then...and focusing a lot more on doing women's issues and work around women's rights and then continuing to do the NPO stuff that I think that I'm doing now. Because I think that it's an important, you know, the project is important, I think the work that we do is important. Simply if you look at the role that community organisations and civil society played back in apartheid and in the seventies and the eighties. And that's where the voice of dissent lies. And you need to be able to continue keeping that voice alive, especially in the directions that we're moving now, it's important to get people socially aware and to get people aware of what their rights are and which channels to follow in order to access their rights.

Int Charlene, I want to thank you very much for a most interesting interview, and good luck with your work and your baby.

CM Thank you (laughs).

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Legal Resources Centre Oral History Project

PUBLISHER:

Publisher:- **Historical Papers, William Cullen Library, University of the Witwatersrand**

Location:- **Johannesburg**

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DOCUMENT DETAILS:

Document ID:- **AG3298-1-096**

Document Title:- **Charlene May Interview**

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

Document Date:- **2008**