

John Dugard

LRC Oral History Project

Interview 1: 18th November 2008

Interview 2: 19th November 2008

Interview 1: 18th November 2008

Int This is an oral history of the Legal Resources Centre and I'm very pleased to be interviewing Professor John Dugard, and it's Tuesday the 18th of November (2008). John, thank you very much for this opportunity to interview you about the early beginnings of the Legal Resources Centre, and also about Public Interest Law, more generally, in South Africa. I wondered if we could start this interview if you could talk about early childhood memories, growing up in South Africa and where you think your sense of social justice and injustice developed?

JD I was born in...at Fort Beaufort. My parents were then both teachers at the Healdtown Methodist School. My parents were both English teachers who came out to South Africa in the early twenties and met at Healdtown and got married, and I was born in Fort Beaufort which is the nearest town. My father became headmaster of the Teachers' Training College at Healdtown, and while he was headmaster of the Teachers' Training College, Nelson Mandela was a student at the high school. Many years later, when Mandela was in prison, I had a very nice letter from him recalling his memories of my father, when he had been a schoolboy at Healdtown. Healdtown was one of the great African schools, Healdtown and Lovedale, were the Eton and Harrow of South Africa at that time. My father became a school inspector and then we moved from Healdtown to various little villages in the Transkei, Butterworth, Engcobo, Umtata. So I spent my early childhood in the Transkei. For me, it was very interesting that when I grew up I had to spend a lot of time explaining to people where I came from, but then, after 1994, it became easier because I was able to say: well, I spent most of my childhood in Engcobo and that Walter Sisulu was from there, and that Chris Hani was from Cofimvaba, which was close by, and Thabo Mbeki was from Idutywa, which was also very close, and Mandela of course was from Qunu which was also close to Umtata. So, I grew up in what was to become the heartland of the ANC. And I went to, obviously, all-white schools in these small villages. When I reached the age of fourteen, I went to boarding school at Queen's College in Queenstown. It was the practice for children from the Transkei to go to boarding school in Queenstown and King William's Town or East London. And I was er...Queens was a very interesting school. I was there from 1950 to 1953, and that coincided with the...with a lot of interesting political developments. Many of the school teachers were members of the Torch Commando, they had fought up north during the war and that they'd made their allegiances to the Torch Commando very clear. And of course it was also the time of the Defence campaign, the resistance to passes in 1950... '50... '52... '53, and...So politics was not central to our lives, sport was much more important, but nevertheless it was not off the agenda. Allister Sparks who became editor of the Rand Daily Mail, was a few years ahead of me, and David Evans who became a member of the African Resistance Movement and went to jail for five years, was a close friend. So I suppose I became more politically aware when I was at

Queens, that was the time when I used to read more widely than I do today, and at that time read 'Cry, the Beloved Country' and 'Too Late the Phalarope', and other books about South Africa, and I think that did something to develop my interest in social justice. But of course my parents were not ordinary white South African parents. My father was a school inspector who had come out to South Africa for idealistic reasons, and he...he used to entertain black school teachers and school inspectors at home. So it was not unusual for me to have black visitors at home, as I suspect that was quite unusual in most white homes in South Africa at that time. My mother was an English teacher and so she introduced me to English books and I think together my parents had a great influence on my development. I did fairly well at Queens, I achieved moderately at sport, and I was a school prefect, and I participated in debates, and for me, it was a very good period in my life. But having grown up in the Transkei and been to school in Queenstown, I developed a strong affection for the Eastern Cape, and if you ask me where my home is today, my home is clearly in the Eastern Cape when I go back to South Africa, as I do several times each year, I like to go back to the Eastern Cape, and particularly to Hogsback which is quite close to Queenstown and though...that is my favourite place in South Africa. Of course in later years I became a member of the Fort Hare Council, and that...that would mean frequent visits to Alice and that served to confirm my Eastern Cape roots. But when I left school my parents had...my father had been transferred to Cape Town, and there was a question as to where I should go to university. I was keen to go to Cape Town, my father said: go to Stellenbosch for one year, you need to learn Afrikaans; you need only stay for one year. I think my father felt, as an English-speaking South African, that he was disadvantaged because he did not speak proper Afrikaans. So off I went to Stellenbosch for one year but I stayed for five years. I did a BA and an LLB at Stellenbosch and I enjoyed Stellenbosch immensely, but that was a time for my political development. This was also...in my early years at Stellenbosch of course there was the constitutional crisis, the packing of the Senate. And I remember feeling very ignorant, I was...one of my friends who was a forestry student started to engage me in a conversation about the entrenched clauses in the Constitution, and I realised how very little I knew about such matters, and so I took it upon myself to educate myself, and I certainly became very interested in political issues, at Stellenbosch. One must of course remember that the education at Stellenbosch was very different from that...that I would have received at Cape Town or Wits, for that matter. Stellenbosch students were much more conservative, there was a very small contingent of English-speaking South Africans. I was instrumental in the establishment of a discussion group at which we used to discuss topical issues, and it's strange to recall that we once tried to have a discussion on whether abortion should be made legal and that was prohibited by the Rector of the university. So, it was very difficult to discuss controversial issues, but this discussion group did...it developed quite a reputation for quite radical ideas at the time. I remember one of the students who we persuaded to participate in the discussion group was Marius Schoon, who later went to jail for attempting to blow up a pylon in 1964, I think. He went to jail for twelve years, and had a rather tragic life thereafter. But of course, politics was very much part of student life at Stellenbosch, even if it was largely white politics, we were not really aware of what was happening in the rest of the country, though I do remember perfectly the beginning of the treason trial and the arrest of the treason trialists in 1956. The...I was aware, in fact, that the Freedom Charter had been adopted but it certainly was not central to our political life at Stellenbosch. So I spent five years at Stellenbosch studying law, and probably learnt some law in the process, I was very interested particularly in Constitutional Law. (*Am I going too fast or...?*)

Int (No, not at all.)

JD And then after I'd left Stellenbosch, I was determined to see the world. I worked for a few months in the department of...in the Magistrate's Office in King William's Town; my father had been transferred to King William's Town in the meantime. Incidentally, my father had a very difficult decision to make in the mid-1950s because Bantu education was introduced and the white teachers in the provincial education departments, who had focused on African teaching, had to decide whether they would be prepared to continue in Bantu education, as it became, or whether they would resign. And my father stayed on, some left, and I know it was a very hurtful time for my father because some of his best friends decided to resign because they could not tolerate the idea of Bantu education. I was...when I was younger, I suppose, I was critical of my father's decision, but later I came to realise that he had probably done more good by remaining inside the system than staying outside. I've always stayed outside the system but I think he probably achieved more than I ever did. And this was illustrated by the fact that I would repeatedly meet Africans in all walks of life who would speak very fondly of my father, and say that they were pleased that he had remained in African education. Anyway, this brings me to King William's Town, so we are back to the Eastern Cape, which is where my roots are. After a short spell at the King William's Town Magistrate's Court, I relocated, so to speak, to Europe and I spent two years seeing the world. I taught as a supply teacher in London, which was not a very pleasant experience because it was very, very undisciplined, but I used the opportunity to travel widely. I travelled throughout Europe, hitch-hiked most of the time. And I remember vividly Sharpeville, because I was then happily settled in London, and then Sharpeville occurred and that changed my life in the sense that I felt that I should go back to South Africa, whereas at the same time many people felt that because of Sharpeville they should not go back. But I decided to go back to South Africa after...it was eighteen months, I think, and...(You don't want to speak...me to speak about my travels abroad?)

Int I do, I think you should speak about what matters to you...this is your own history...

JD No...one interesting episode...I was in Pamplona...well, it would be...probably be...put it this way, would title this my conversation with Ernest Hemingway.

Int Right...(laughs).

JD I was in Pamplona with a South African friend, John Spottiswood, and we were walking down the streets of Pamplona one night during the festival in the first week of July where the bulls run through the streets, and we were accosted by a group of students accompanied by an elderly man with a white beard. And they were not prepared to get off the pavement and we were not prepared to get off the pavement, and I remember vividly what this elderly man said to us, he said: fuck you! And we responded: and fuck you, too! And that was my conversation with Ernest Hemingway, because the next day when we were at the bullfight we discovered that the man with the big white beard was Ernest Hemingway.

Int (Laughs).

JD But one had interesting experiences of that kind, meeting people and travelling through Europe. Anyway after Sharpeville, I decided to return to South Africa and my intention was to go to the Bar in Cape Town. I'd always wanted to live in Cape Town. And I became Registrar to Judge Dieamont. But Judge Dieamont was on sabbatical leave and that meant that I had to act as Registrar to an acting judge and the acting judge was David de Villiers who was a wonderful man, he later played an important part in South African political life. He was also the leader of the South African team to The Hague in connection with South West Africa. I also did a spell for Judge Theo van Wyk, who later became the *Ad Hoc* Judge in the South West Africa cases. He was a much more conservative, narrow person than David de Villiers. While I was Registrar in Cape Town I realised something that I had not expected, and that was that I did not really belong. Because in Cape Town, as you probably know, there are different groups, more entrenched than anywhere else in South Africa. So there's the English-speaking group, the Kelvin Grove group, and I did not belong to that group because I had not been to Bishops or UCT or Cambridge or Oxford. Then there was the Jewish group, and although I had many Jewish friends, I was not Jewish, so I didn't qualify there. And I didn't belong to the Afrikaans group although I'd been in Stellenbosch. So I realised that it was going to be very difficult for me, as a young advocate, to get work, given the fact that there were these divisions at that time. So, I started to think about other opportunities and then I was approached by a former student, or fellow student from Stellenbosch, Solly Leeman, who was the top student in our class at Stellenbosch, and he had been teaching at the University of Natal, Durban, and he had got a job in Cape Town and his place had fallen vacant and he had mentioned my name, and this was the first suggestion I had that I might teach law, I'd never thought of it before. But I was really at a loose end because I was disenchanted with the idea of becoming an advocate in Cape Town because I realised that it would be very, very hard. So I applied, and strangely, I got the job, and I say strangely because I had no higher degree in law. I should record that while I was in London, I did register as a research student at the London School of Economics, and I attended lectures regularly with Jim Gower, who is the foremost expert on Company Law and also attended lectures on International Law. I was very friendly at that stage with Denis Herbstein who became one of my lifelong friends. Denis (Herbstein) was...later became a journalist and although he was South African, he was prohibited from returning to South Africa during the apartheid years. So I had that experience, I suppose, at the London School of Economics but I didn't have a higher degree, and I hadn't published anything, but they were very hard up, to put it bluntly, at Natal at that time, it had had a number of resignations. So I got the job of teaching at the University of Natal, Durban. And I taught Roman Law II, that was the advanced course in Roman Law, and Company Law, and those were my two main subjects, and I became very interested in teaching Roman Law. I remember that the students obviously thought I was a young lecturer and they could take advantage of me but I used to ask them to translate Latin text and that seemed to silence them. Of course, Natal at that stage, was very interesting, it was a very mixed student body because a number of students who had been expelled from Fort Hare had sought refuge at Natal, Durban, and the then Vice-Chancellor of the University of Natal, Ernie Malherbe, decided that he was going to deliberately misinterpret the legislation dealing with the admission of black students, and he admitted African students at the time when it was really unlawful, arguing that they had already been students elsewhere and he could

therefore admit them. So we had a very interesting group. I remember one of the...one of the students at the time was Johnny Makatini, who became very prominent in the ANC. And...so it was a racially completely integrated class with Africans, Indians, whites. One of my students at that time was Navi Pillay who became a judge of the International Criminal Court and is now Commissioner for Human Rights. While I was in Durban, I suddenly felt the need to practise law because some of my colleagues were in legal practice and the university could not give me a permanent position, I had a temporary position. So I said: well, in that case, I wish to practise while I preach. So I became an advocate at the Durban Bar. And this was a wonderful experience for me because the Durban Bar at that time, was very small and very intimate, very collegial. It had some wonderful people, John Didcott, John Milne, to mention, Andrew Wilson, David Friedman, these were all people who, as judges, later played a very important role in South Africa. And I started off as a young advocate and I had no contacts in Durban, so for the first year I did not get a brief at all, I spent all my time doing pro deo work, but I did a lot of pro deo work in the three years I was at the Durban Bar, I think I must have defended about seventy people charged with capital crimes, and nine of my clients were sentenced to death. This was at a time when the death penalty was fairly rife, and I think the Durban Bar was wrong in allowing inexperienced young barristers to defend people who were charged with serious capital crimes which carried a possible death penalty. Anyway, I got considerable experience, I also learnt to hate the death penalty. I'd...of course I was familiar with the debate about whether it was a deterrent etc, etc, whether it was morally justifiable. But I always felt very strongly that it tarnished the whole legal process, that when one was involved in a case where there was a possible death penalty, that the whole trial took on a completely different complexion, because one was worried about the possibility of the death penalty. And as I say, nine of my clients were sentenced to death, but four of them were killed trying to escape from Pretoria Central after they had been transferred to Pretoria, so only five of them were executed in the normal way. But that was very unpleasant. I remember that the person I shared a flat with, Brian Nicolette, who was allocated five death penalty cases as his first five cases at the Bar, and I think this really was too much for him, he left the Bar fairly soon afterwards, it was just really wrong to allow young advocates to appear in such cases. But that was a wonderful time for me, as I say, there were these young advocates who would later become judges, like John Milne, John Didcott, Andrew Wilson but there were also some senior people, Doug Shaw, Henry May, Cecil Cowley, all of who worked very actively or had been active in political life as well. I did not belong to any political party at this time but I used to socialise with three parties, the Congress of Democrats, the Liberal Party, and the Progressive Party. I used to socialise more with the Congress of Democrats and the Liberal Party, than the Progressive Party, but I did attend Progressive Party meetings. And I remember in the Congress of Democrats I became very friendly with Ronnie Kasrils and his wife Eleanor, who was then Eleanor Anderson. One day in 1962, '63, Eleanor, with whom I was very friendly, asked me if she could borrow my car, a little Volkswagen, and the next day a pylon went down somewhere, and my car came back and I wondered what had happened. And later, I think it was only last year or the year before, I spoke to Ronnie Kasrils about this and he confessed that she had borrowed the car for this purpose. So I got to know people in the Congress of Democrats and I knew people in the Liberal Party. I was very friendly with David Evans, with whom I'd been at school, John LaredoDorado with whom I'd been at Stellenbosch. And after I left Durban and went to study at Cambridge, they were both involved in activities of the ARM (*African Resistance Movement*) and went to jail for five years. And of course I met Alan Paton, who was then a dominant figure in the Liberal Party, and I met other important people in the Liberal Party. And then I used to participate in the old

Progressive Party affairs. I remember once going to...it was just after the people had left, or the dissidents had left the United Party to form the Progressive Party, and I think it was Ray Swart who was contesting the constituency of Durban North, and he was standing against a prominent member of the United Party and it was well known that he did not speak a word of Afrikaans. So I remember going to a political meeting with my Stellenbosch blazer, my old Matie blazer and standing up and asking him in Afrik...asking him a question in Afrikaans, and he refused to answer, and I said I wanted him to answer in Afrikaans, and I was immediately met with cries of 'sit down, you bloody Dutchman'. So that was one incident. I remember another occasion in which the...some friends of mine at the Durban Bar and I decided we were going to hear Verwoerd speak at the Durban City Hall, and one of the members said: well, we'll have a drink first. And so we...we probably drank too much, we arrived late at this meeting in the city hall and we started to heckle very gently, but the trouble is when one has had too much to drink you think that you're speaking very softly but in fact you are speaking loudly and we created quite a disturbance. And then the chairman of the meeting said, when people approached us, he said: don't touch them now, deal with them afterwards. And I remember after the meeting we ran and fortunately there was a downpour and we ran into the rain, but we had these thugs following us to deal with us. So that was a very exciting time in South African political life and I experienced, I think I...what I did discover for the first time I suppose, or I came to terms with, African politics, whereas at Stellenbosch it had been largely white politics, but through the Congress of Democrats and the Liberal Party, I met many Africans and I became involved in a broader spectrum of South African political life. So this was a very educational time for me in Durban. The strange thing was that I felt very accepted in Durban, whereas in Cape Town I felt that I did not belong, that I did not belong to the English-speaking group, the Afrikaans-speaking group or the Jewish group. In Durban I felt that I was accepted by all, and I really enjoyed my time in Durban. I never developed a major legal practice, I had...I did progress beyond pro deo criminal law work, and I did a number of civil cases, I was only involved in one, what one might describe as a political case, that was a case in which I argued and appealed against the conviction of Jacky Arenstein, Rowley Arenstein's wife, for attending an unlawful meeting; Jacky Arenstein was a banned person and therefore was not entitled to attend political meetings. I also spoke at a number of student protests. I spoke, in 1962, at the University of Natal in a protest meeting against the introduction of the Sabotage Act, and again in 1963 against the introduction of the 90-day detention law. I suppose at that stage there was no-one else in the law faculty who was prepared to engage in public protest. Of course, at the University of Natal, Durban, we had close ties with the University of Natal in Pietermaritzburg, and at that time Tony Mathews was...not sure whether he was a lecturer or senior lecturer at the University of Natal in Durban. Tony (Mathews) was a prominent member in the Liberal Party but he also taught advanced Roman Law, and so we worked together on Roman Law but I came to be a very close friend of Tony (Mathews), and Tony (Mathews) was one of the great critics of South Africa's security legislation. While I was in Durban I met my first wife, Jane Irwin, and Jane had just been awarded a scholarship to study at the University of Cambridge. When I was in England previously, I'd visited Cambridge and I had this dream of studying at Cambridge, and...So I set out to get a scholarship to study at Cambridge as well, and I applied for a British Council Scholarship to study International Law which I got, and...So Jane and I were then married and after a few months we went off to Cambridge for two years. And I studied International Law at Cambridge, I did the LLB degree, which is now called the LLM degree at Cambridge in my first year, and a diploma in International Law in my second year. Of course this was both a good and a bad time to be out of South Africa because the Rivonia Trial took place in 1964, and

David Evans and John LaredoDorado went to jail, and Marius Schoon, and friends who were going to jail, and so one followed the news of South Africa with great alarm and interest. While I was at Cambridge I became very friendly with Bob Hepple. Bob Hepple had escaped from South Africa, he had been arrested in connection with the Rivonia Trial and there was some suspicion about the circumstances in which he had left. So, Bob, I think, was not persona grata (persona non grata) with many members of the ANC. It later became very clear that he had not disclosed any evidence at the expense of anyone or done anything wrong, but it took a long time for him to have his name cleared. We became very close friends at Cambridge and we still are. But getting to know Bob (Hepple) also brought me into close contact with South African politics during the period I was at Cambridge. I think I was head of the South African Society at Cambridge, I can't recall. But I went to Sidney Sussex College at Cambridge...Sidney Sussex was quite interesting because I was put into Sidney Sussex College without any choice, and when this happened my mother said to me: oh, you had an ancestor at Sidney Sussex and that there'd been a Dugard who had been there at the beginning of the sixteenth century. And when I arrived at Sidney Sussex and went to the customary sherry party with the master and I mentioned this to the master, he said...the master was a historian...he said: oh no, there were no Dugards in the college at that time, there were very few students, he said, but I'll go and check, I've got the college register. He went out and came back. He said: you got it wrong. And I apologised. He said: in fact there were three Dugards at that time in the college.

Int (Laughs).

JD So I...by pure chance I ended up at my family college. I really learnt a lot at Cambridge, I had some of the great international lawyers, Robbie Jennings who later became president of the International Court of Justice, David Boud who became a member of the International Law Commission, Eddie Lauterpacht, who was my supervisor for my diploma, who was one of the most prominent International Law practitioners, Clive Parry and Kurt Lipstein. And they were a very small group, there were only about sixteen students most of whom were foreigners. I became very friendly with a Ghanaian called Jacky Dacko who was later expelled from Ghana and became a judge in Botswana. And there was also Winston Tubman...whose family... there was one of the inaudible who controlled Liberia at that time, and...So I remember being very much part of the African group, I was...I remember a seminar that we had in which a Polish student said that Africa was for the Africans, and a Sudanese student said: what do you mean by that? And he said: well, Africa for the negroid Africans. And he said: well, what about me, I'm Arab and my friend from Egypt is Arab and there's Dugard from South Africa. Oh no, he said, none of you are Africans, there's the Ugandan, he's the African. And I remember there was a tremendous outcry from the Africans that anyone could make a distinction on the basis of race. But it was a very good time at Cambridge, I was still undecided as to what to do when I left because I wanted to teach International Law, I'd become very committed to International Law, and International Law was a completely unheard of subject in South Africa, there was only one International Law posting at an English-language university in South Africa and that was at Wits and that post was held by Gail Cochran. And when my time at Cambridge was about to come to an end, I learnt that her position had not been confirmed and that there was indeed a vacancy. So I applied to Wits and I was offered a job at Wits. So in 1965 I went...Jane (Irwin) and I

returned to South Africa and I taught at Wits from 1965, with some interruptions, until 1998, so most of my life was spent at Wits. Well it's...let me concentrate on the university. When I joined the Wits staff, the Dean was Professor Bobby Hahlo, who was a German Jew who had assimilated, and he had abandoned all his Jewish ties and...his Jewish ties, and he was very determined to be accepted in South African society, meaning white South African society. I liked (Bobby) Hahlo, I got on very well with him but there had been some nasty incidents involving him and (Nelson) Mandela in which he had behaved in a very unfortunate manner towards (Nelson) Mandela, and (George) Bizos, and these are all recorded in George Bizos' autobiography. The two leading figures in the Wits Law School were (Bobby) Hahlo and Kahn, Ellison Kahn, who was a very good constitutional lawyer and contract lawyer. But he too was very...not conservative, but careful and cautious about what he said. And then you had Paul Boberg who was a very good lawyer but he was very apolitical. And after I'd been teaching there for a very short period of time, it appeared to me that the Wits Law School was very unconcerned about what was happening in South African society, because that was a very difficult time in South Africa. The detention without trial was commonplace, there was the detention without trial for 90 days in 1993 and then in 1990...1966 it was extended to 180 days...no it was in 1965, and then in 1967 it was extended to indefinite detention, through the Terrorism Act. And I had a young colleague Jean Davids, later became Jean Campbell, and we started to write critical articles, critical of the South African judiciary for their interpretation of the security laws. And the editors of the South African Law Journal, (Bobby) Hahlo and (Ellison) Kahn, were very concerned about the journal, they didn't want to stick their necks out too far. And then in 19...trying to think...when was it? Must have been 1966, Tony Mathews and Ronald Albino, who's a psychologist at the University of Natal, wrote an article in the South African Law Journal called "the Permanence of the Temporary" which was an examination of the psychological effects of detention without trial. And Tony Mathews addressed the way in which the courts had dealt with detention without trial. And I know that the editors of the Law Journal had a very difficult time deciding whether to publish or not. I think they had sufficient integrity to realise they had to publish, and they managed to get some of the language cut down. But the article created a tremendous stir. Then I had an interesting experience in 1966, I was teaching International Law and in 1966 the International Court of Justice gave this bizarre decision on the South West Africa cases in which the court held that the applicants had no standing to bring the case before the court. We'd all expected a judgment on the merits which would have been very critical of South Africa. And I wrote a very, very strong article criticising the court, and I submitted it to the South African Law Journal. I remember Bobby Hahlo invited me into his office and said: we can't publish this article. I said: why not? He said: Vel, take the following case, he said: I have "ze" brother and my brother is charged with murder, and he is acquitted on a technicality and I write the article saying that he should not have been acquitted. He said: we can't publish. And I remember Ellison Kahn said: we can't just dismiss it. Yes, why not, said (Bobby) Hahlo, why not? So I said to them, I said: well, if you feel like that, I'll send it elsewhere, I'm sure an American journal will publish it. And they said: that's fine. And the next morning I got to work and (Bobby) Hahlo called me and he said: "ve publish!" And they published, but I still think that this was the dilemma, they had an international audience that they had to worry about, and they had their own integrity to think of, and on the other hand they were worried about the effect that this might have on their reputation. And certainly it...it was well received abroad but it was not well received within South Africa. So I started to write in two fields...(are you a bit chilly or not?)

Int (I'm ok.)

JD ...Write in two fields in International Law...and I suppose it could be described as Human Rights Law but it was...it was mainly criticism of the interpretation of the security laws. So Jean Davids and I were very critical of judicial decisions in Johannesburg, and then Tony Mathews became equally, or was...he was very critical in Durban. And then in the late sixties we were joined by Barend van Niekerk. Barend van Niekerk had been a student with me at the University of Stellenbosch and he was very, very much a member of the Nationalist Party. I remember him driving a little scooter around Stellenbosch with a National Party flag flying on the back, the **inaudible**. And...but Barend (van Niekerk) had undergone political change and he could not get a job in an Afrikaans university. He apparently applied for...he had a doctorate from, I think, the University of Paris or some French university. He applied for a job at the University of Fort Hare and they asked him how often he went to church. He said: I don't go to church. (*Laughs*). And he started to laugh. And he said he looked around at the selection committee and there was deathly silence, and he realised that he would never get a job. So he came to Wits. And Barend (van Niekerk) joined this group, Barend used to concentrate very much on the death penalty, he felt very strongly about the death penalty. So there was this small group of what one might describe as rebellious, young academic lawyers, (Tony) Mathews, Jean Davids, Barend van Niekerk and myself. And we used to persuade the journal editors to publish our work; they would often struggle to censor our work. Barend van Niekerk was prosecuted for contempt of court in 1970 for an article, a very scholarly article that he wrote on the death penalty in which he showed that the statistics showed convincingly that the death penalty was implemented on a discriminatory basis. And he was tried in the Supreme Court in Pretoria. I remember that he had a very bad cold at the time he was giving evidence, and someone had given him a little flask of mampoer, brandy, and he kept on taking sips of this, and he became more and more flamboyant in his evidence. But in any event, he was criticised but he was acquitted. The judge more or less said that he didn't have the necessary intention, but he had behaved very badly. But at this time we were all threatened with contempt of court. Throughout my time at Wits, I was aware of the dangers of contempt of court proceedings, I was threatened with contempt of court. I remember on one occasion after I'd made some comment about a decision of the Judge President of the Eastern Cape, I was visited by two senior police officers in Johannesburg, one the head of the Security Police in Grahamstown, and the other the head of the CID in Grahamstown, and they came to take a statement from me, for something very trivial I'd said about the fact that perhaps the judge had behaved in a discriminatory manner. And they asked me whether I'd made the statement and I said of course I had. And the head of the Security Police went out to the loo at some stage, and the head of the CID said to me, he said: I apologise to you, this is the most embarrassing experience for me, this whole thing is absolutely ridiculous, but what do you do when the Judge President of the Eastern Cape says you have to prosecute this man? So that brings us all the way to Johannesburg to take a statement from you. And of course nothing happened, there were always threats. Despite my criticisms, I was appointed a professor in 1968, '69, so I was already...I was thirty-two when I was appointed as a professor. And I remember one of the...that there had been an attempt apparently, by a former South African ambassador (Donald Sole) to refuse the...my appointment on the grounds that I'd been critical of the South West Africa cases in 1966. But I gave my inaugural lecture in 1971 in which I spoke about the inarticulate premise in the judicial decision,

and I argued that South African judges were creatures of their upbringing, that they reflected South African racial prejudices and attitudes, and that this accounted for the fact that they gave such pro-government decisions on racial issues and on security issues. And I remember going to a law teachers' conference shortly thereafter, and the then Chief Justice of the Republic, L. C. Steyn, took the opportunity to launch a savage attack on me, he never mentioned me by name, but everyone at that gathering knew exactly who he was speaking about. And he said that they'd considered charging me with contempt of court, but I'd been very skilful, in the sense that I had suggested that judges had acted negligently rather than intentionally in interpreting the law in favour of the executive. But at this...it was...it became quite a challenge for academics at that stage, to see how far one could go in criticising the judiciary. So in those early days, I was very active in International Law and in criticisms of the judiciary. I went to the United...in 1969, it was very strange, one of the...I wrote an article in the South African Law Journal strongly criticising a judge for a decision he'd given on an extradition case, it was a non-political case, but it was an international case, and I said he was very wrong. This was Judge Victor Heemstra who was a staunch Nationalist. But Vic Heemstra was also a member of a body called USSALEP, the US-South Africa Leader Exchange Programme, and apparently he liked my criticism and he recommended to USSALEP, of which he was a board member, that I should be given a...an exchange travel scholarship. So in 1969 I went to Princeton where I taught for...I taught Comparative Civil Liberties for three...for a term, and then I went on a travel tour of the United States. I was allowed to go to any place of my own choice, so I went to all the great universities in the United States and I really enjoyed it immensely. Perhaps I should go back in time, I'm not being very chronologically correct. In 1967, the Terrorism Act was passed and I was very critical of the Terrorism Act. I was also very critical of the...of South Africa's policies in South West Africa, Namibia. And in...my memory goes...in 1967 the General Assembly of the United Nations adopted a resolution in which they revoked the mandate for South West Africa. And I wrote an article in the American Journal of International Law justifying in law the revocation of the mandate, which did not endear me at all to the Department of Foreign Affairs, particularly to Pik Botha. And...and then the SWAPO leadership was arrested and brought to trial in Pretoria, in...my memory's very poor...it must have been in 1967, '68 and I think 32 members of the SWAPO leadership were brought to trial. The case was called 'The State Versus Tuhadelini & Others', and the lead counsel was Namie Philips. Namie Philips was a very cautious advocate, and a lot of other senior advocates at the Johannesburg Bar had refused to take the case, because there was this hysteria about terrorism at the time. And I was consulted as to whether there were any International Law arguments that might be raised, and I said that one should...we might argue that the mandate for South Africa...for South West Africa had been lawfully revoked and therefore the Terrorism Act was unlawful. And Namie Philips said this is ridiculous, this is bizarre. I remember we had a meeting with Namie (Philips) and George Bizos, Denis Kuny, Ernie Wentzel, and I spelt out the arguments very carefully, legal arguments. Namie Philips listened very attentively and the next day he said: it's a tenable argument, we will have to raise it, we have no alternative. And so we argued that, Namie Philips argued it, I prepared the written argument, obviously. But Namie (Philips) argued it and it caused a tremendous stir. This is all reported in George Bizos' autobiography. And this was a major trial which drew the attention or succeeded in elevating the South West Africa case to the Security Council for the first time; previously it had always been in the General Assembly. And the Security Council took notice of the issue following this case and at the...I remember that we had a real...there was a real fear that the accused would be sentenced to death, that the SWAPO leadership would have been executed, but the fact that we had raised this argument about the lawfulness

of the revocation of the mandate, did internationalise the whole dispute, and it became an international affair. The International Commission of Jurors sent out Richard Falk who was a professor at Princeton to observe. And that explains why I went to Princeton later. Apparently what happened was that the judge, Joe Ludorf, was determined to pass sentence of death. And we were later told that he had been summoned to Cape Town and the Prime Minister, John Vorster, had told him not to. It was the first time that we ever heard of a Prime Minister telling a judge what sentence to impose. And they were sentenced to life imprisonment and long terms of imprisonment, but no-one was sentenced to death. So anyway, that was in the late 1960s and then I went off to the United States on this tour, and to teach at Princeton in 1969, 1970, and this, of course, was a very exciting time in the United States as well, it was at the height of the Vietnam war...

Int Sure...

JD ...And I learnt a lot about American political life. While I was at Princeton I was persuaded by the editor of the Princeton Press to write a book on human rights in South Africa and I agreed. And then he left Princeton Press and went off to the University of California Press, and when I visited him later in California he persuaded me that I should write a book on Namibia instead. So when I returned to South Africa I was...I had two major undertakings, one was to write a book on Namibia, and the other was to write a book on human rights in South Africa. And so that kept me out of mischief for many years, I...Well, the book on Namibia, 'The South West Africa/Namibia Dispute', was published in 1974, and it was a collection of documents and writings, but my writings feature very prominently. In the end, I think, at least two thirds of the book comprised my own writings, because I had devoted a lot of attention to South West Africa and Namibia during this period. But once that was finished, I turned to writing on...writing a book on 'Human Rights and the South African Legal Order'. And now that was published in 1978. I think it's the most comprehensive account of the legal edifice of apartheid; it was not a best seller in South Africa. I was very angry because it was published by Princeton University Press, and Princeton University Press, unknown to me, got a number of reviewers to read the book, which is understandable, one of which was...one of them was Albie Sachs, and Albie made some nice comments about the book, and without consulting me, Princeton Press, on the blurb, published a statement by Albie Sachs, just a two-liner saying: 'this book is good and should be read' or something to that effect. And then when it came to distribution in Cape Town, the distribution was done through Oxford University Press, and the Cape Town director of Oxford University Press was terrified by the fact that I...that the blurb contained a quotation from a banned person. And so the...he referred the matter to the government, and the book was held up for five or six months. And eventually we had to remove the cover, and then on the paperback, we had to go through every copy and mark out the quotation from Albie, because I'd been very careful in the book not to commit any crimes, whether that...so that book appeared in 1978. I think we should probably...

Int ...Stop at this point?

JD ...Well, I think we'll go up to the LRC.

Int Alright, if you wish...

JD So to go back to Wits, I was a really ambitious young academic so I progressed, I was appointed to Professor in 1968, '69, then I became Chairman of the Governing Committee of the School of Law, that's Head of the Law Department, and then I was invited to teach at Duke for a year. I came to Duke in 1974 to '75 and that's where I started writing my book on 'Human Rights and the South African Legal Order'. Then I returned to Wits and I was Dean for a few years. I started to develop an association with the United States at this period, because you must bear in mind that it was impossible for a South African academic to visit Europe, we were certainly not welcome in European universities, and we were not particularly welcome in Britain either. But we were tolerated in the United States, I think American Universities liked to find...liked to have someone who was critical of the apartheid regime. So I spent time at Princeton, then I visited all these other universities, then I went to Duke in '74, '75 and my book, the South African... 'Human Rights and the South African Legal Order', is in many respects a comparative study of United States and South African racial and security laws. Of course I haven't said anything about Wits of this period, but Wits was very active in the political field. This was a very difficult time, people were being detained, and there were serious allegations of torture, and a lot of relocation of black communities. Then we'll end on the note of my prosecution. In 1978 I was invited to participate in a symposium on education in South Africa, and I was to share a panel with Dr. Motlana, now one of the great, or who later became one of the great capitalists in South Africa, Nthato Motlana, and the Rector of the University of the Free State. And two hours before the meeting Nthato Motlana was banned, and the clear purpose of the banning order was to prevent him from speaking at Wits. I was very angry about this, and I was also in great pain, I had great back injuries at the time and I was on pain killers, and I was furious, and I called up Nthato (Motlana) and I said: where's your speech, I'll read it. So he gave it to me...and I read his banning order, it was very strange, it...but it didn't clearly prohibit me from reading his speech. And I discussed the matter with other members, lawyers who were at the meeting, Ellison Kahn who was a very conservative judge...and lawyer, and Jack Unterhalter, who was also very cautious, and they said, yes, I could go ahead and read it. So I read the speech, and that night when we were going home, my wife Jane (Irwin) said to me: I'm very, very pleased that you read the speech, but of course it was unlawful. So I said: Jane, I said: you are a biologist not a lawyer, don't tell me what the law is. So she said: alright, when you get home, read your own book on 'Human Rights and the South African Legal Order'. And when I got home I realised she was absolutely correct, that the restriction on reading a banned person's speech was not in the order, but in the legislation, that anyone who had received an order might not, in terms of the legislation, be quoted. So I immediately 'phoned up the 'Rand Daily Mail', and 'The Star', and told them not to publish, but I didn't tell 'Die Beeld'. So next day 'Die Beeld' covered the...carried the whole speech. And so 'Die Beeld' and I were in trouble, and I was investigated, I was told I was going to be prosecuted, and then the...the then Minister of Justice, Jimmy Kruger, told the Vice Chancellor that he would withdraw the prosecution if I apologised. And I remember I had a meeting with the chairman of counsel, Nico Stutterheim and the Vice-Chancellor, Sonny du Plessis, and the chairman of counsel was very keen that I should apologise, and I said: I'm not going to apologise. And Sonny du Plessis said: of course, you're absolutely correct, I wouldn't apologise in your situation either. So I didn't apologise and I was prosecuted together with 'Die Beeld', and I was defended

by Sydney Kentridge and George Bizos. And I remember that Sydney (Kentridge) made a statement on my behalf, I didn't give evidence, and Sydney (Kentridge) recounted how I had come to my decision and how I had realised that I was wrong and that I had 'phoned 'The Star' and the 'Rand Daily Mail' and had asked them not to publish, and this was on the advice of my wife, and the magistrate said: and is his wife a lawyer? Sydney said in that very wonderful voice of his: no, she is a biologist. (*Laughter*). And the whole court just packed up laughing. So that was a bit of ridicule. But it did result in my having a conviction under the security laws, and I was given...I was cautioned and discharged. So during this period before the establishment of CALS and Legal Resources Centre, I suppose one can summarise it by saying that I was very involved in university affairs, I was very involved in academic freedom issues, I was involved in publishing, mainly...I saw it as my task to be critical of the South African system, both internally and in respect of its external affairs, mainly in respect of South West Africa and Namibia. And one might say that I dabbled in litigation at this time, I'd been involved in the Tuhadelini case, involving the SWAPO leadership. But I was also involved in other cases, I was involved for instance, in the appeal against the banning order of Robert Sobukwe. (Robert) Sobukwe was confined to the Kimberley magisterial district and was given an exit permit, so there were two conflicting government orders, one confining him to the Kimberley magisterial district, and one saying that he could leave if he wanted to leave and take a teaching position abroad. And I was instructed by Raymond Tucker and I did that, I think, with Issy Maisels, Ernie Wentzel, I think, so I was involved in other litigation, some litigation involving Winnie Mandela...I can't remember all the cases. I should just mention that I also became notorious at this time for my criticisms, not only of the judiciary, but of the legal profession. In 1967, I was asked by the Liberal Party to give a lecture on Human Rights in South Africa, and I took the opportunity to criticise the Law Society, the attorneys' profession, for the...its failure to protest about security laws, and particularly about security laws that impacted on their own members, and I also became critical of the Bar, but particularly the Law Society. So I had developed a reputation as someone who was highly critical of the legal profession in general, the judges and attorneys in particular. And I think that might be a good opportunity to...I'm just laying the foundation for...

Int Absolutely.

JD ...Because one has to...this...these last comments will serve to explain something about the establishment of CALS.

Int Ok. John, thank you very much for a very lucid outline, I didn't even have to ask a single question. (*Laughs*).

Interview 2: 19th November 2008

Int This is the second interview with John Dugard and it's Wednesday the 19th of November (2008). John, thanks once again for participating in the Oral History Project. The point at which we stopped yesterday was really where you were talking about the period just before the establishment of the LRC, I wondered whether you'd like to continue from that point on?

JD Yes, I would like to go back in time and say something about the development of Legal Aid at Wits, which led, in time, to the establishment of the Legal Resources Centre, the Centre for Applied Legal Studies. In the...I suppose it must have been the late sixties and the early seventies, we became very interested in establishing a Legal Aid Clinic at Wits. Felicia Kentridge was very active in this, and our goal was to establish a clinical law programme at Wits, operating through the clinic, through a Legal Aid Clinic. This of course was completely novel to any South African university. But we did start a Legal Aid Clinic, and I remember Felicia (Kentridge) was the first Director of the Legal Aid Programme, and she had a number of very active students who helped her. One, I remember, was Rosemary Blum, who I knew very well. This also became an important topic for other South African universities, and in 1971 the University of Natal in Durban held a conference on legal aid which was funded by the Ford Foundation. Tony Mathews was largely instrumental in setting up this conference. And just to give you some idea of the controversial nature of legal aid, this conference, held at the University of Natal, invited a number of South African judges to participate, and the Minister of Justice gave instructions that judges should not attend this conference. I think one of them, Judge Didcott, did indeed attend. But this gives you some indication of the extent to which legal aid was seen as a political issue. The conference was a great success from my point of view, one of the advantages was that I met the Dean of the Duke Law School, Ken Pye, it was on this basis, as a result of this meeting, that he invited me to spend a year at Duke, but I've already spoken about my stay at Duke. So legal aid became very important in South Africa and I can't recall exactly when Clinton Bamberger visited South Africa, but it was in the early seventies before the establishment of the Legal Resources Centre. Clinton (Bamberger) really came as an advisor on legal aid, and the establishment of a clinical law programme. And just to go ahead in time, the clinical law programme did develop and it became part of the academic curriculum at Wits, and it was, and remains, a great success. And other South African universities have also introduced clinical law programmes. In the early seventies we started to think in terms of developing Public Interest Law. I don't think at this stage we were quite clear in our minds exactly what we wanted, and we used to speak regularly to Ford Foundation, Bill Carmichael visited South Africa in the early 1970s, so did Bill Moody from the Rockefeller Brothers Foundation, and when I say we, I think the people who participated in these discussions were Felicia Kentridge...Felicia took a leading role...Geoff Budlender, Raymond Tucker and myself. Arthur (Chaskalson) was not, at this stage, involved. And this continued over the years, the Ford Foundation had funded the legal aid conference in 1971, and this was a major project for us as far as Ford was concerned. And so it continued without any clear indication of where we were going or what we were going to do. And then in the mid 1970s, I

think actually it was after the...after 1976 which was the year of the Soweto uprising, and at about that time the American Foundations became much more interested. At this time, the Carnegie Corporation which had always been involved in South Africa mainly through its president, Allen Pfeiffer, who had a long association with South Africa, and also became very interested in legal projects, and they appointed David Hood. David Hood had been Dean, I'm not quite sure whether it was in Hawaii or at Wayne State in Detroit, but he had been Dean of a law school. And David (Hood) was a very unusual foundation officer in the sense that he was...he had a smaller foundation and he knew that he had the full support of his president, and he was in a greater hurry, there was a greater sense of urgency on his part than there was on others who had larger foundations to worry about. In any event, in the mid 1970s, Ford, Rockefeller Brothers, Bill Carmichael, Bill Moody and Carnegie, under David Hood, started to talk about a package deal in terms of which the three of them would establish some foundation, or establish some public interest enterprise. Ford was still cautious about the timing of the creation of this body, what form it would take, and David Hood was very impatient. And so what David Hood did was to say: right, I'm going to establish a Centre for Applied Legal Studies which will then take the initiative in establishing the Legal Resources Centre. And the Centre for Applied Legal Studies will become the academic research wing of the Legal Resources Centre. And I think that came as a shock to Ford in particular, because they realised that they would be forced into giving support, perhaps without the preparations that they would have liked. So Carnegie made this grant and I was asked whether I would become the Director, and of course I'd been very involved and I found it a very exciting prospect. Of course it meant, to some extent, a career change for me because I'd seen myself very much as an international lawyer and this would mean that I was obliged to spend more and more time working on domestic issues. Then we faced the task of finding someone to direct the Legal Resources Centre, which the Centre for Applied Legal Studies was now involved in, in setting up. And I remember having meetings, mainly with Felicia (Kentrige) and Sydney Kentridge and Raymond (Tucker), and talking about possible candidates. And the name that came up repeatedly was that of Arthur Chaskalson, but none of us really believed that Arthur (Chaskalson) would accept because Arthur (Chaskalson) had a very big legal practice, he had a very general practice, he wasn't...he had been involved in the Rivonia Trial but since then he had expanded his practice to cover commercial matters, and we felt that Arthur (Chaskalson) would not abandon this very successful legal practice. And so Sydney (Kentrige) and Felicia (Kentrige) had a talk to him, and to our surprise, Arthur immediately accepted, so that was a major coup. So the Centre for Applied Legal Studies was then in existence, that was in 19...I think the Centre for Applied Legal Studies came into existence...was it in '78 probably, and the first task was to set up the Legal Resources Centre. And Arthur (Chaskalson) and I visited the United States on a fund-raising exercise and we spoke to people about the importance of fund-raising, or Legal Resources Centre at this time. And Jack Greenberg from Columbia University visited the Centre for Applied Legal Studies, as our guest, to help us establish the Legal Resources Centre. Jack (Greenberg) was a very experienced legal practitioner with great insights and knowledge about Public Interest Law, having directed the Legal Defence Funds for many years, and it was interesting that he and Arthur (Chaskalson) became firm friends almost immediately, I remember introducing them and they just clicked immediately, and so that was really a very successful team, Jack (Greenberg) and Arthur (Chaskalson). So the Legal Resources Centre was set up, I think it was end of '78, beginning of 1979?

JD Yes, the beginning of '79. And at this stage we had to...the...we had envisaged that the Legal Resources Centre and the Centre for Applied Legal Studies would work closely together, as the idea was that the Centre for Applied Legal Studies would research issues that would then be litigated by the Legal Resources Centre, and so the two would work very closely together. But at this stage, I think the Legal Resources Centre developed different ideas about the relationship, and I've never...I'm not quite sure exactly why this was, but my impression is that Arthur (Chaskalson), who was a well-respected legal practitioner, wanted to get the support of the legal profession for the Legal Resources Centre, and indeed he did get the endorsement, of certainly the Johannesburg Bar, of which he had been chairman at some stage, and also the Law Society. But I think he realised probably that CALS, under my leadership, was less acceptable to the legal profession because I was not a member of the Johannesburg Bar, I'd been very critical of the Bar as an institution for its failure to protest against apartheid, and I'd also been very critical of the Law Society, the attorneys. And I think the fact that, as I indicated in my last interview, I had recently been prosecuted for quoting a banned author, didn't help because I was seen to be fairly irresponsible and I had appointed Halton Cheadle as my deputy director and Halton (Cheadle) had been banned, and I think he'd also served a short term in prison as a result of violation of his banning order. Halton (Cheadle) was much loved by the Labour Movement, but again Halton (Cheadle) was not mainstream legal profession. So I think the Legal Resources somehow felt that we would be an embarrassment, and so they started slowly to place a distance between the two institutions. The...David Hood had envisaged a scheme in terms of which the Centre for Applied Legal Studies would have a Board of...I forget what...a Board of Trustees and the Legal Resources Centre would also have a Board of Trustees and Arthur (Chaskalson) would serve on my board and I would serve on Arthur's (Chaskalson's) board. I established a Board of Trustees for the Centre for Applied Legal Studies, Arthur (Chaskalson) was included together with George Bizos, Denis Kuny, and Raymond Tucker, and what one might describe as the usual suspects, the people who were involved in human rights work, who were much loved by human rights activists but not by the legal profession. Arthur (Chaskalson), on the other hand, established a Board of Trustees, which excluded me, which came as a surprise to me, and which tended to include respected members of the legal profession. So Arthur (Chaskalson) was obviously reaching out to the legal profession. David Hood was very angry about this, and he wanted to have a showdown with Arthur (Chaskalson) on the subject, and I persuaded him that it was not worth it, I said that I could understand Arthur's reasoning, that he did not wish to alienate the support of the legal profession and that Halton (Cheadle) and I were seen as more irresponsible members of the legal profession. So anyway, I persuaded David (Hood) to leave it. But then it became clear that the Legal Resources Centre did not wish to work with us in terms of litigation. One of the minor problems was that we had embarked upon a censorship programme. The Publications Appeal Board in South Africa at that time was very vigorous in its activities in banning books, movies, we saw that as falling within our field and the Legal Resources Centre, as I recall, did not wish to become involved in that. I had already started appearing before the Publications Appeal Board. And then, I can't recall exactly what happened, but Halton (Cheadle), who had been an attorney in Durban, wanted to practise law, and the question arose as to whether the Law Society would allow him to practise from the Centre for Applied Legal Studies, and the legal profession, the Law Society, refused. At about the same time we appointed new staff to the Centre for Applied Legal Studies, we appointed Fink Haysom, Fink was also a person with an irresponsible record, I hope he has acknowledged that. Fink (Haysom) had been a

prominent student leader in NUSAS, Fink also had a criminal record, and when we appointed...there was Halton (Cheadle), Fink (Haysom) and myself, and we said that one of the qualifications for working in the Centre for Applied Legal Studies was that one had to have a criminal record. Which was not meant seriously by us, but I think it was an indication of the fact that we were somewhat more irresponsible perhaps, activists, than members of the Legal Resources Centre. And then we appointed Clive Thompson, a prominent labour lawyer. And we had difficulties with the legal profession because Halton (Cheadle), Fink (Haysom) and Clive (Thompson) all wished to practise law, to put their research into practical form through litigation. And one of the difficulties was that Halton (Cheadle) and Clive (Thompson), and to a lesser extent, Fink (Haysom), were very involved with the Labour Unions, and they had clients who were Labour Unions, and the legal profession objected to the fact that they might practise as attorneys from the university, and they also objected to the fact that they were representing Labour Unions. They took the view, the legal profession took the view, that they might represent individual unionists who had got into difficulty, but they could not represent Labour Unions as Unions. It was purely commercial, the attorneys in the Law Society did not like the situation in which Halton (Cheadle) and Clive (Thompson) had the monopoly of a particular Union. And of course they worked very closely with people like Cyril Ramaphosa and Alec Erwin, Johnny Copeland, these were active unionists who worked very closely with Halton (Cheadle) and Clive (Thompson). I well remember the scruffy unionists, Cyril Ramaphosa in short pants and leather jacket, Alec Erwin likewise, Johnny Copeland...I mean now Johnny Copeland is one of the wealthiest men in South Africa, I believe, and so is Cyril, and Alec Erwin was in the Cabinet. But the LRC was also, I presume, informed that it could not represent Labour Unions, that it could take individual cases, but that it might not represent unions and that was unacceptable to the legal profession. So it was quite clear that we were engaged in activities that were unacceptable to the legal profession and that meant that the Legal Resources Centre which was determined to maintain the goodwill of the legal profession, found us somewhat of an embarrassment, particularly as a result of our work in the labour field, and to a less extent the Legal Resource Centre didn't see censorship as a key issue. And so we...*(thank you, that's for my gruff voice)*. So the...we set...we had to decide what to do about the practice of law, and so it was decided to set up the firm of Cheadle Thompson & Haysom, because the Law Society insisted that it might not operate...they might not operate as attorneys from the university. And so Cheadle Thompson & Haysom was set up just across the road from the university within what was a stone's throw away, and that was the origin of the firm Cheadle Thompson & Haysom. I was very upset about it because I could see that this was going to create problems for the Centre for Applied Legal Studies because it in effect meant that we had two identities. Physically we were not far apart but it certainly created problems and it came about as a result of the fact that the Legal Resources Centre was not prepared to use us as the research wing. I suppose it would have been very difficult for the Legal Resources Centre because they would not have been able to represent legal unions, and we were very involved, particularly in the health and safety side of the union's activities, and we engaged in some very important litigation at that time. But it all took place through Cheadle Thompson & Haysom. So the main difficulty, I think, was with the unions. And then we experienced another difficulty and that was over the Group Areas Act. Group Areas Act zoned central Johannesburg, white, but there was no accommodation for blacks in the...their own areas, particularly coloureds and Indians, and so they'd moved into central Johannesburg into the more run-down flat buildings, and the government embarked upon a programme of prosecution, and this led to the creation of a body called ACTSTOP, which was devoted to stopping these evictions. I should go back in time and just mention that there was a very

important human rights conference organised at the University of Cape Town. Again my memory serves me poorly, I'm not sure whether it was 1978 or 1979. This was addressed by Mick Corbett who later became Chief Justice of the Republic, and he called for a Bill of Rights. But we had...again it was funded by the Carnegie Corporation...er...by the Ford Foundation, and we had a lot of very prominent foreign visitors. And from the...this conference emerged Lawyers for Human Rights. And Lawyers for Human Rights was also closely associated with the Centre for Applied Legal Studies and Legal Resources Centre. The first chairman was Johann Kriegler, he was responsible for the name Lawyers for Human Rights, but Arthur (Chaskalson) was on the steering committee or the board of control, whatever it was, so was I, George Bizos, so there was this...there was a three-pronged assault on apartheid. Legal Resources Centre, or rather the Lawyers for Human Rights worked for members, we attracted the members from the legal profession. And in the early years there was no directorate of Lawyers for Human Rights, so CALS was responsible for Lawyers for Human Rights in the early years as well, we were responsible for the administration. Lawyers for Human Rights tried to involve lawyers in their activities, and there were two important activities, one was appearances in the Pass Courts which later became important during the 1980s, but the other immediate one was the involvement of lawyers in ACTSTOP. And Lawyers for Human Rights and ACTSTOP took it upon themselves to ensure that everyone who was faced with prosecution for living unlawfully in a white area would be defended. And we figured that this would place a great burden on the State because all cases would result in major litigation. Anyway, lawyers took it upon themselves to devise all sorts of strategies to resist the Group Areas Act. One of the arguments that was raised was that of necessity, that people had moved from their own group areas into the white group areas for reasons of necessity, and necessity is a defence to a criminal law prosecution. And Jules (Browde) was very active in ACTSTOP, Jules (Browde) later became president of Lawyers for Human Rights, but at this stage he was not. But Jules (Browde) argued the case for necessity. I remember that Mervyn King was the judge and Mervyn King gave a very strange judgment, he upheld the conviction but he criticised the government for its failure to provide housing to people and drew attention to the needs of people who were without housing. So Jules (Browde) argued that point. Then I had a...I was asked to take the case of a certain Mr. Werner, a young coloured man and his family. And during the small hours of the morning I suddenly thought of a good strategy and that was to attack the validity of the Group Areas Act. Now this had been tried in the...I think in the 60s, in a case called Lockhat, which had its origins in Durban. And in the Lockhat case, an Indian business man had argued that the Group Areas Act zoning central Durban for exclusive white occupation was invalid because it was unreasonable because it was discriminatory, and that under South African law delegated legislation and the proclamation that delegated legislation had to be reasonable and non-discriminatory. And this went to the Appeal Court and the Appeal Court...I think the argument succeeded in the Natal Court before Judge Hennochsbeurg, but then went on appeal and the Appellate Division in one of its most shameful decisions, held that it was valid. In effect the Appellate Division held that the government could do what it liked and that it was not within the function of the Appellate Division to interfere. And I think it also held that this did not amount to discrimination. Anyway this was an Appellate Division decision. Now in South African Law, Appellate Division decisions are not sacrosanct, they can be challenged, but in practice they hardly ever are challenged, it's very difficult for a lawyer to go to the Appeal Court and say: you were wrong before, now you must remedy the situation. Anyway, I was thinking about the Werner case and I thought: why shouldn't we challenge the validity of the proclamation zoning central Johannesburg for exclusive white occupation? And I thought: well, the Lockhat case was an obstacle in

our way, but it was not insurmountable because we could raise new arguments. And one argument that I wished to raise was that the South African government was obliged to comply with international human rights standards because it was a member of the United Nations, and it had signed the Charter of the United Nations which prohibited discrimination, and this was a new argument. And so it made it possible for us to argue that Lockhat had been wrongly decided, because the court did not have regard to this aspect. So I thought in law it was possible and then I thought of the practical advantages. I realised that if we challenged the validity of the proclamation, that it would result in the suspension of all other prosecutions while this case was heard in the Supreme Court, and then we would appeal, and we'd go to the Appellate Division, and this would take several years, during which time the prosecutions would be suspended. And already this time we knew that the government was trying to co-opt the Indian and coloured communities which were largely affected, and we thought that there might be some political settlement. So it seemed to have every advantage. Anyway, this idea came to me one night and I had to appear in the...next day in the Magistrate's Court for Mr. Werner, and I stood up in court and I said: your Honour, I wish to challenge the validity of the proclamation zoning central Johannesburg for exclusive white occupation. The Magistrate was a bit taken aback. And I said: your Honour, you have no jurisdiction in this matter, in terms of the law if a proclamation is challenged you have to refer to the Supreme Court. And the law was very clear. So he said: well, you're right, we will refer it to the Supreme Court. So at this stage I was very excited and I 'phoned up Geoff (Budlender) and I said: Geoff, this is what I have done. I spelt out the advantages, that this would result in the suspension of all prosecutions for several years, I said there was the obstacle of Lockhat's case but this was not insurmountable and we could of course argue that the court had erred, it wouldn't be responsible to do this, and I said of course this will be a major undertaking, because we will have to appear and have to prepare a so-called Brandeis Brief, in which we present all the evidence about the extent of the discrimination or the consequences of discrimination, the consequences for health, family life, social life, cultural life, this will be a major undertaking. And I said: this will be a wonderful opportunity for the LRC and the Centre for Applied Legal Studies to co-operate. We will do the research, Arthur (Chaskalson) and advocates from the Legal Resources Centre will present the case. I was very excited about it. Silence on the other end. Geoff (Budlender) said: well, I'll think about it. A couple of days later came back the response: Legal Resources Centre said it does not want to get involved. This came as a real blow to me. So then I realised that we would have to do it ourselves, and I spoke to one of my friends at the Johannesburg Bar, Ernie Wentzel, Ernie was one of the most prominent human rights lawyers in the country at that stage, and Ernie (Wentzel) said yes he would take it free of charge, and Ernie (Wentzel) and I agreed that he would lead the case and I would be his junior, because I wasn't a member of the Bar. There was one minor obstacle I thought and that was that Ernie (Wentzel), as a member of the Johannesburg Bar, would have to get permission to appear with a non-member. But my feeling was that this was not a problem because it was a case that was being handled pro amico, there was no money involved, and it was in the public interest, and I had no doubt that the Johannesburg Bar would give Ernie (Wentzel) permission to appear with me. But I was wrong. The chairman of the Johannesburg Bar was Bill Schreiner who was a good friend of mine, and whose father had been a prominent judge of the Appellate Division. The Schreiners were a very, very well-known liberal family, Bill Schreiner's aunt, or was it his great aunt, was Olive Schreiner the writer. I was amazed when Bill Schreiner said: no, the Bar rules do not allow a member of the Bar to appear with a non-member. This will give you an example of the difficulties that we had with the legal profession, on the one hand, Halton (Cheadle), Fink (Haysom) and Clive (Thompson) had difficulties with

the Law Society, now I was confronted with this problem from the advocates. I was furious, I was very stubborn, so I said: well, right, we'll go ahead and we'll do it on our own. And so I had an attorney, it was Shuan Chetty, who was very active in ACTSTOP, he briefed me as...so that it was a proper attorney/advocate relationship. We didn't want to use Cheadle Thompson & Haysom because that would have been seen to be too incestuous. And Jonathan Burchell, who was a senior lecturer at Wits, appeared as my junior, and together with ACTSTOP, we did a tremendous amount of research for a year or so. We went...we went into all the medical records, and the housing records, and we compiled a brief in which we were able to show the extent to which the Groups Areas impacted upon health, family life, social life, cultural life, education. It was a massive undertaking...I...really, I don't know how I survived it. But in any event we went ahead and we argued this case, and I remember I argued at the end that South Africa was obliged, as a member of the United Nations, not to engage in discrimination and that in testing the validity of a proclamation on grounds of unreasonableness, one was obliged to have regard to South Africa's international obligations. The prosecutor went berserk, he objected: my Lord, he said, my learned friend is raising political issues, this is a purely political issue, this is nonsense. But anyway, I went ahead and we argued the case and we lost, obviously. But that...that had taken over a year. And then when we lost we appealed and we were given leave to appeal, fortunately, and we ended up in the Appellate Division. I was arguing this point and Jules ((Browde)) argued the necessity point so the case had...Jules' case was the State versus Adams, mine was the case of the State versus Werner, and we argued the case together in Bloemfontein. One of the arguments that had been raised against us was that we were contesting the validity correctness of a previous decision of the Appellate Division, and although we did not get a very warm reception from the Appellate Division, at no stage did any judge suggest that we had behaved improperly in contesting the validity of a previous decision of the Appellate Division. And that, I felt, vindicated our strategy completely. Anyway we lost, but of course by this time the whole climate had...political climate had changed, and the Tricameral Parliament was about to be established. And at about the same time the...another argument was raised in the...by ACTSTOP, and that was that a person could not be evicted unless there was available...alternative available accommodation, and Richard Goldstone and another judge upheld this argument. And I...I didn't argue that case but I argued the same case, same argument before another judge and he also upheld this argument, and that was the end of the Group Areas Act. It was the judgment of (Richard) Goldstone's that alternative accommodation was required, it never went on appeal, but then the establishment of the Tricameral Parliament meant that the government was now determined to co-opt the coloureds and Indians, and so they did not wish to proceed with the...

Int So this must have been 1983?

JD It was about 1982. Well, the Tricameral Parliament came...

Int Sure...in 1983.

JD ... Into existence in '83.

Int Right.

JD But it was all happening and I haven't...my memory is not good about the dates. But that really, I think, made it very clear to us that...was that the Legal Resources Centre and the Centre for Applied Legal Studies were very separate, that we had separate boards of control, Arthur (Chaskalson) was in my board of control, I was not on the Legal Resources Centre, the Legal Resources Centre did not represent Labour Unions, Cheadle Thompson & Haysom did, we also did censorship work and we appointed Gilbert Marcus, who became a specialist in this field. I must say we had great success in the field of censorship, I think we managed to persuade the head of the Publications Appeal Board, Kobus van Rooyen, that he should review the whole system, and he did in effect, he became much more enlightened and many movies and books were unbanned largely as a result of Gilbert's arguments. But...so say they did legal...we...we did the Unions, censorship, and then as a result of the Werner case it became quite clear that there was no possibility of the kind of co-operation that had been originally anticipated in terms of which we would be the research wing of the Legal Resources Centre. So thereafter, we each went our own separate ways really. We remained close because it was a...it was a small group of lawyers and our personal friendships remained very strong. I remained friendly with Arthur (Chaskalson) and Geoff (Budlender) but we didn't work together. We did...there were other projects, I remember there was one case in which...which involved an issue of International Law which Arthur (Chaskalson) asked me to advise or to work with him on, but that never went to court. So there were one or two cases in which the Legal Resources Centre did try to involve the Centre for Applied Legal Studies. But by and large, we went our own way and Legal Resources Centre had some major victories, particularly in respect of Section of what was 10(1a) of the Urban Areas Act. There was the Rikhoto case and the Komani case, these were important victories, and they also dealt with population removals, relocations...You mentioned Driefontein the other day, and I think Driefontein was handled by Geoff (Budlender) on behalf of the Legal Resources Centre. But we also engaged in such exercises, and another example...I think at this stage I was seen to be a bit wild, I always took the view that it wasn't necessarily important to be professionally responsible in an unjust society, you know, I think this was a philosophy that we had at the Centre for Applied Legal Studies which was not shared by the LRC, it was determined to be professionally responsible. In the mid 1980s the government wished to create a new homeland, KwaNdebele, as part of its homeland strategy, but KwaNdebele was so small that it was not a viable state and so they had to extend it, and they wanted to do this by including a section of the Lebowa homeland, which was for the North Sotho, in KwaNdebele, KwaNdebele were a separate ethnic group and the government wanted to include the North Sotho community of Moutse into...into KwaNdebele. And I was approached by the Moutse community and so we took on the defence of the Moutse community to prevent them from being incorporated. And again I didn't quite know how to handle this, but then I thought that what I would argue was that the enabling legislation, in terms of which the Moutse would be transferred to KwaNdebele, required that there should be separate homelands for separate ethnic groups. And I thought: well, why shouldn't we argue...take the government at face value and argue that the whole purpose of the legislation was to get ethnic purity, and it was contrary to the intention of the legislature to incorporate a non-Ndebele group into KwaNdebele. And again I think this was ridiculed by the LRC, people said it was a ridiculous argument and that it was taking...it was...to some extent it was argued this was an apartheid-based argument, I mean we were deliberately using the apartheid argument in order to obstruct the incorporation of the Moutse community. This also took a tremendous

amount of research into ethnicity and the respective population of KwaNdebele and Moutse. Anyway, Edwin Cameron was my junior in that case, Edwin was not then at the Johannesburg Bar, he was a member of CALS at that stage, so he did not have to worry about permission. And we lost in the Transvaal Provincial Division, we went to the Appellate Division, and we went to Bloemfontein and the...I'd said to the Moutse community: you must put on an ethnic display. (*Laughs*). And these guys who were really...who were urban dwellers, went over the top, they appeared in skins in the...they sat up in the gallery in their skins. And counsel for the State was Henry de Villiers who was the leading apartheid lawyer who'd handled a large number of cases for the government, particularly in respect of population removals, and that type of thing, and the Appellate Division obviously enjoyed it because there was Henry de Villiers, the legal architect of apartheid, arguing that the purpose of the legislation, I think the promotion of Bantu self-governing homelands, was not to create ethnically pure homelands but to establish separate territorial units. And there was I, the opponent of apartheid arguing, oh no, the purpose of this legislation was to create ethnically pure homelands and you couldn't possibly include a North Sotho-speaking community in KwaNdebele. And one could see that the judges were really enjoying it. And much to the surprise of many, and to my own surprise, we won. And that was a major achievement because it obstructed the...the government could not proceed with KwaNdebele homeland. They later attempted the same argument in...or the same strategy in what was then the Orange Free State. There was the homeland of QwaQwa and they wanted to incorporate what in effect was a township of Bloemfontein, Botshabelo, into QwaQwa and we argued that Botshabelo was ethnically mixed, and we won that case as well. But that argument succeeded in 1990 after de Klerk's speech, it succeeded in the Appellate Division. But I mentioned these two cases the Werner case and the Mathebe case, the Moutse case, because I think these...indication of the fact that we at CALS were much more innovative, and we were innovative because we were not constrained by the legal profession. Whereas the LRC was determined not to alienate its constituency, the Law Society and the Bar, and we at CALS had been rejected by both the Law Society, which tolerated Cheadle Thompson & Haysom, but they gave them a lot of difficulties, I can't recall all the details but if you speak to Halton (Cheadle) you'll hear all about the difficulties that he had with the Law Society. And I had some major difficulties with the Johannesburg Bar, which were very hurtful, and...So I was always disappointed in the fact that David Hood's vision did not materialise, but in retrospect I can see that it was because Halton (Cheadle), Fink (Haysom) and I were irresponsible. I think we all felt that we were doing good work and that we had to be irresponsible if we were going to be innovative. Of course during this time Fink (Haysom) was arrested and detained for a long time as well, and again that...we at CALS stood by Fink (Haysom) completely, but there were some in the legal profession said: oh there's no smoke without a fire and how can you have someone like this working for you, someone who's in detention? So it didn't do us much good. I think the LRC and CALS did work together in the establishment of the Black Lawyers Association. The Ford and Carnegie, Rockefeller Brothers were determined to establish a Black Lawyers Association which Arthur (Chaskalson) and I assisted in and Dikgang Moseneke was very active in that and he became, I think, the first president. And the other area in which we did co-operate was in seminars...I went to the Aspen Institute in the United States in the early 1980s to attend a conference on Justice and Society which was moderated by a Supreme Court judge. And it was a wonderful experience, a small group of about thirty people, and I thought well it would be a very good idea to pursue in South Africa. So we set about organising seminars in Mount Grace Hotel which is in the Magaliesburg, a short distance from Johannesburg, and we would invite about thirty to forty lawyers, black, white, advocates, attorneys, and academics, and judges

who were carefully selected. And I remember when I discussed this matter with Richard Goldstone who was enthusiastic, he said: you'll never get more than two or three judges to attend. So I said: well, we'll try. Ten years later we had, I think, we'd invited somewhere in the forty or fifty judges, and judges felt very left out if they weren't invited.

Int Yes...

JD And we used to have these seminars every year. And of course one of the attractions was that it was a weekend with your peers in isolation, good food, good wine, but with a very free exchange of ideas. And many of the judges said this was the first opportunity that they'd ever had to meet black lawyers. And I think these were a great success the...and the LR...Arthur (Chaskalson) and members of the LRC participated in the Mount Grace seminars. Just by way of a digression, I think this indicates the difference between Arthur and myself, that Mount Grace became a meeting place for lawyers, and Mount Grace held, or the LRC held, I think, a meeting with its Board of Control at the Mount Grace, and it later appeared that it had been monitored by the Security Police. And Arthur (Chaskalson) was very upset, understandably, and Arthur said that he and the LRC would never go to Mount Grace again. I said but you know a whole...this whole venture depended on going to Mount Grace, it had become part of our identity. And he said: well, we must go and see the manager. The manager was an ex Rhodesian. And Arthur (Chaskalson) and I went to see the manager and we said to the manager: there are allegations that the LRC meeting was bugged. He said: yes. He said: what am I to do, I'm living in South Africa, the Security Police come to me, they say: we want to bug this meeting. What am I to do? He said: I'm very sorry! I apologise, I'll go on my knees before you, but these are the realities. I was prepared to overlook it because I accepted in South Africa that bugging was a natural part of the way of life, but Arthur (Chaskalson) was very strict and he said: no, the LRC would never go to Mount Grace again. So we had to find other venues in the Magaliesburg which were never quite as pleasant or as successful. But on the subject of bugging, to digress, I remember there was...Wits called in a specialist to find out whose 'phones were bugged and they concluded that six members of staff were having their 'phones bugged, I was one and Eddie Webster was another. Eddie Webster 'phoned me up and Eddie was furious, he said: do you know our 'phones are being bugged? And he said: what are we going to do about it? I said: Eddie, can I ask you a question? Yes, he said. Eddie, how would you have felt if you had not been one of the six? There was silence. (*Laughter*). And he said: yes, I see your point. Because at that time it was...you know, one had to accept that meetings were bugged. But we had wonderful exchanges at the Mount Grace seminars, and it's interesting that many of the lawyers who attended the Mount Grace seminars became judges in the Constitutional Court and in other courts, and they are prominent advocates, and I really think it was a major educational exercise. And although that was organised exclusively by the Centre for Applied Legal Studies, we did work together with the LRC on that, and Arthur (Chaskalson) was a very prominent member, so was Geoff (Budlender). So we did co-operate but, as I say, the original idea that we would be the research wing of the LRC and they would actually do the litigation, that did not materialise and I think it was unfortunate, and I think that...well, today you see that CALS and the LRC are completely separate, and that was not originally contemplated. So that's why I said that I have mixed feelings about the way in which LRC and CALS developed. And what came as a shock to me later, was that there was an attempt to revise history and not...I hesitate to

add...by Arthur (Chaskalson), but I think by Felicia (Kentridge). Felicia (Kentridge) liked to forget the fact that the main...that one of the original tasks of the Centre for Applied Legal Studies was the establishment of the LRC, and we were instrumental in the establishment of the LRC. And Arthur (Chaskalson) and I went overseas together in 1978 to promote the LRC, to raise funds for the LRC, and I was very distressed to find that Felicia was saying that LRC had not been established by CALS. There's documentary evidence to prove this. And of course the other thing is, that I got on very well with David Hood, he was wild and eccentric, Arthur (Hood) did not get on with him at all, they were very different personalities, and there's also an attempt, I think on the part of Felicia (Kentridge) again, to minimise the role of David Hood, but I think one has to see David Hood, Bill Carmichael and Bill Moody together, as the American Foundation Office who were responsible, and I think that David Hood requires particular mention because he was the one who was very impatient and insisted that we move now. So, so much for the LRC.

Int I'm wondering, John...

JD ...And CALS.

Int ...I'm wondering when you say there was an attempt to revise history, what exactly was that attempt?

JD Well the attempt...Felicia (Kentridge) liked to see the LRC as something that she had established on her own without the assistance of the Centre for Applied Legal Studies. And in fact, David Hood established the Centre for Applied Legal Studies with the primary task...initial task, of setting up the Legal Resources Centre.

Int Ok.

JD So we got...in other words there was a grant from Carnegie Corporation to establish CALS to assist in the establishment of the LRC, and this was a way, really, of pushing forward and Rockefeller Brothers, it made it impossible for them not to come forward and fund the LRC.

Int Right. And you had a long-standing friendship with Arthur (Chaskalson) and you went abroad with Arthur (Chaskalson) to fund-raise, etc...

JD ...And with Felicia (Kentridge)...

Int Yes. I'm also wondering did you ever discuss with Arthur (Chaskalson) this different direction that CALS and LRC was going in, and the separateness, and has that ever been a topic of discussion between the two of you?

JD Yes, well, I discussed it at the time of...in the early days, obviously, in respect of my non-inclusion in the LRC Board, and at the time of the Werner case. I think that, you know, Arthur's (Chaskalson's) attitude was that he just wanted the two institutions to develop separately, he didn't like to face the fact that the two were operating separately in a structural way. So we never had a confrontation on the issue. David Hood was keen that I should, but I was happy that we were both serving the common good, so to speak, and if it hadn't quite worked out the way we had originally planned, so be it, we went our separate ways.

Int From other interviews I've done, particularly with CALS members, there's often this perception that the LRC somehow was extremely cautious and that's attributed largely to Arthur's very careful stewardship, whereas they felt that CALS and certainly Cheadle Thompson & Haysom, was really at the more radical end and the cutting edge, and I wondered whether you could talk a bit about that, how you understand it?

JD Yes, well, I think that...that's clear, Arthur (Chaskalson) and I are very different people, Arthur (Chaskalson) is very cautious, but Arthur (Chaskalson), you know, if...I think the difference between me and Arthur (Chaskalson) is that Arthur (Chaskalson) is politically radical but professionally cautious. I am probably not as politically radical as Arthur (Chaskalson) is, but I had very little respect for professional caution in apartheid South Africa. And I suppose this can be explained on the basis that Arthur (Chaskalson) had been a prominent member...Chairman of the Johannesburg Bar, that he was part of the institution, whereas I had not had that experience. And I think there was also a difference in leadership. Arthur (Chaskalson) kept a very strict control over his staff and I did not, it's not my nature, in my view one should give members of one's staff a free hand. And certainly Halton (Cheadle), Fink (Haysom), Clive Thompson, Gilbert (Marcus), Edwin (Cameron) took full advantage of this and they went their own ways, and that sometimes they overdid it. But the result is that we had very, very, very good people, and if one looks at their subsequent careers, you'll see that they...they were not at all constrained at CALS.

Int Absolutely. I'm also curious because it seems to me that quite early on there was a core group, and I think that's probably similar histories, of members of LRC as well as...CALS, who had come from the same...student activist background, the NUSAS background...

JD Yes.

Int ...And quite early on it seemed to me that people such as Charles Nupen etc, wanted to really start a labour contingent within the LRC, Labour Law, and I'm wondering what your sense was why there was such reluctance within the LRC to pursue Labour Law?

JD Well, you must speak to Halton (Cheadle) about this some time. I think the point is that the legal profession objected to a Public Interest Law group representing a union, because they felt that one was in effect capturing the market, so to speak, and they didn't like the idea of a Public Interest Law firm with a union, which had funds perhaps, or at least they perceived that the union had funds to pay, large sums of money to pay, and they felt that should go to profit-making lawyers. In fact the unions didn't have money, and they didn't pay Cheadle Thompson & Haysom handsomely at all, they were without funds, and so we were doing a public service.

Int Right. The 1980s was also a particularly repressive time, it was also a time of intense resistance as well, I'm wondering, apart from the cases you've already mentioned, what other significant work did CALS do during that period, leading up to 1990?

JD Well, CALS, as I say, was very active, mainly in the labour field, and then I was active in the Group Areas Act and in the population removal. And another area in which we took the lead was in representation in the Pass Courts, acting together with Lawyers for Human Rights. We, in effect, made it impossible for the Pass Courts to operate, because the Pass Courts operated on the assumption that each case would take one minute, and if you have a lawyer who stands up and says: um, Your Honour, etc, you delay matters, you know, if you take ten minutes for a case instead of one minute, you've screwed up the system. And of course the Pass Laws had become unmanageable for a number of reasons, but we did, I think, contribute to the ending of the Pass Law prosecutions. Fink (Haysom) and Halton (Cheadle) were very active in challenging emergency regulations, particularly in the Eastern Cape. This was an area in which Fink (Haysom) was particularly active, they...There was a lot of difficulty, a lot of trouble in Uitenhage, it was both ANC, UDF and labour-related and...I'm just trying to...there was a medical doctor who was in the Department of Health who gave Fink (Haysom), I think, information about the manner in which detainees were being treated. And so we were very active in that field too. I don't think we were involved in any of the challenges to the Emergency Legislation, there was a lot of litigation at that stage, and most of it took place in Durban because the judges in Natal were more enlightened. I think that we saw very much as our function to educate the judges and certainly we did succeed in that respect. In the 1980s I was engaged in a great debate with a colleague of mine at the University of Natal, Durban, Raymond Wax and he called upon all judges to resign because the laws that they were required to enforce were morally indefensible. And I argued that it was better to have a moral judge on the court who was doing his bit, within the limits of the law, to promote justice, and I think that, to some extent, I rehabilitated myself with some judges because they saw that I wasn't quite as radical as they had thought because I did not call for judges to resign and I called upon them rather to behave progressively. And many of them judged...many of them did... We had...CALS has published a book on the...

Int ...

JD ...You've seen that book? Which deals with the various...with our successes or failures..

- Int Yes...I'm also wondering, quite early on the LRC had two significant victories, which you've mentioned, the Komani case and the Rikhoto case, and it's been said that, I'm not sure whether that's fair or unfair, and I wondered what your perception of this is, since then the LRC hasn't really...garnered any significant victories...particularly in the post-apartheid era, I'm wondering whether you think that that's a valid... perception?
- JD I...I really have not followed the course of the post-apartheid era. I know Geoff (Budlender) has done some wonderful work in social and economic rights in the...in the Western Cape. But I do find it strange for instance, that the...CALC has again become more active in the social economic field in the Johannesburg area and my daughter (Jacky Dugard) and Stuart Wilson have become very involved in the provision of electricity, housing, water...
- Int ...Someone said...
- JD ...I think...I'm not sure whether this prevails today, but I think the LRC is still very mindful of the fact that it is...it has the support of the legal profession.
- Int And some say that the LRC has in fact taken on cases like the TAC case, and then there's Grootboom, in the post-apartheid era, but, as you rightly mentioned, CALC has more recently taken on core public interest issues like provisions of basic services, which the argument is, that the LRC, in fact, ought to have taken.
- JD Yes.
- Int So...
- JD I don't know how decisions are taken at the LRC, I didn't know under Arthur's (Chaskalson's) leadership and I don't...I haven't followed the situation, I knew Bongani (Majola) very well and that he seemed to do well. Janet (Love) I don't know well, I know her...So I don't know how the decisions are taken today.
- Int Ok.
- JD And the other thing is that the Lawyers for Human Rights does a lot of work in the refugee field which again is an area in which I think the LRC and CALC might be more active. But I think there's so much work to be done that it doesn't do any harm to have a multiplicity of human rights organisations, as long as they do co-operate and my impression is that they do co-operate, and that...that is important.

Int Since 1990...well, from 1990 onwards, what do you think...what do you think have been some of the core issues that have arisen that you think were public interest issues that CALS and LRC should have taken?

JD I think the...I think the important issues are social and economic issues. I was on the technical committee, together with Halton (Cheadle), that drafted the Bill of Rights in the 1996 Constitution, and when we included social and economic rights we were criticised, fortunately from the right, from the...the...I don't know if it was the Democratic Alliance at that stage, the Institute of Race Relations, and the business community, they said these were not justiciable rights, and that was wonderful, because I think it meant that the ANC felt that there was something special about these rights if they were unacceptable to the right wing. So the ANC, much to my surprise, went ahead with them, because the ANC should have foreseen that they would be the victims, so to speak, of socio-economic rights. And I think it's inevitable that the courts have given the government a honeymoon in respect of the implementation of socio-economic rights, delivery of services. But now it's becoming quite clear that the government is not particularly interested in delivering social services. So I think there's a great need for litigation, and I think housing is an obvious one, and the LRC was a party to it, I think the Community Law Project in UWC was also involved in that. TAC was another important, very important case, and then there have been the water and electricity cases in the Johannesburg region. So I think this is where...

Int ...Picking up on that...

JD ...The most important issue should be contested today.

Int ...Picking up on that, and if you look at, for example, the Eastern Cape, apparently judges do pass favourable judgments in public interest issues, but it's found that the State doesn't actually in fact comply with those judgments...

JD But I think that's true generally, and I think this reflects on the judges, perhaps on the lawyers as well, because if you look at implementation of Grootboom for instance, the order given by the court was not as tight as it should have been. I think the court should have perhaps taken a leaf from the page of the US Supreme Court in the Brown case, where it ultimately ordered that schools should be desegregated with all deliberate speed, it should have set some sort of programme. And if one looks at some of the recent cases, at least the water case, one finds that the judge has set a programme, and I think that lawyers need to ask the court for orders which will compel the government to set programmes and then lawyers need to monitor them. I don't know the extent to which Public Interest Law groups in South Africa have failed in this respect, that's not my impression, but I've been out of things completely for...I...in effect, have been out of things in South Africa since 1995. I went to Cambridge in 1995 for two years, I went back to South Africa for one year, and then I went off to Holland.

Int ...I'm sure you've followed this, there's been a crisis in the judiciary, there's been the Hlophe issue, there's been attacks on the Constitutional Court, what are some of your concerns for the judiciary and for rule of law in South Africa in that context?

JD Well, I'm very concerned about the future of the Constitutional Court and of the Constitution. I used to teach jurisprudence in...at Wits, and I dealt with many cases in which governments in various countries had torn up Constitutions, and the judiciary had acquiesced, cases in Uganda, Pakistan, Lesotho, Swaziland. And I always used to say to my students in the 1990s: of course this could happen in South Africa. Oh no, no, we have...they would say that we have a fixed Constitution, and this is colleagues as well, we have a Constitution which is now part of the fabric of South African society. And I said then and I say today, that you cannot rely on it and I think the fact that a body has been created in South Africa to protect the Constitution, illustrates the fact that there is an awareness on the part of many constitutional lawyers that the Constitution is not beyond overthrow. And I think it's unfortunate that none of the...that (Thabo) Mbeki and the present ANC leadership were not deeply involved in the constitutional negotiations. Cyril Ramaphosa took the lead, Cyril has an emotional interest in the maintenance of the Constitution because he was...it was his baby, so to speak, but I don't think that's the case with other ANC leaders now. I think that one has seen that in the present constitutional crisis, that there is no great political respect for the Constitution, as one finds in liberal circles in South Africa.

Int Listening to...you talk about the development of the LRC and CALS, if you had to look back, what are some of your...how would you have foreseen a better working relationship between CALS and LRC?

JD Well, I would quite frankly have liked to see the original scheme work. We would have...the LRC would have been the litigation wing and we would have been the research wing, and I think it would have been good if we'd worked together, if CALS innovative, perhaps more radical, irresponsible ideas, had permeated the decision-making of the LRC as well. I think that we could have worked much more successfully, together, because there was no doubt that the LRC, particularly with Arthur (Chaskalson) and Geoff (Budlender), Chris Nicholson and the others, had very accomplished lawyers, and I think they would certainly have advanced many of the ideas that CALS propagated, more successfully.

Int I'm also wondering, I understand from Gilbert (Marcus) and others, that CALS has just celebrated thirty years...

JD Yes.

Int ...And I wondered whether you could talk a bit about that reunion because you really are the founder of CALS...

JD Well, I...

Int ...And it's been an important institution.

JD Well, I was present, it was a very nice function. I resigned from CALS in 1990 and I kept close contact with CALS, particularly during the early 90s when Dennis Davis was Director, but since then I have lost contact, I revived my interest through Jacky (Dugard). But my own career has taken a very different course in the last ten years, I've become very much more involved in International Law affairs.

Int And on a much more globally...

JD Yes.

Int Right. And in terms of what you do now, so since you left CALS, what has your trajectory been?

JD Well, I left CALS in 1990 and I was very involved in the constitutional negotiations in the early '90s, I chaired a committee at Kempton Park for the Interim Constitution that was on the examination of discriminatory legislation. Then I was later on the technical committee that drafted the Bill of Rights in the 1995/96 Constitutional Assembly. I've had my disappointments, I would like to have been on the Constitutional Court, but I realised that there were others who were better suited, better qualified. I was also, quite frankly, disappointed that I was not made a member of the Human Rights Commission. In retrospect I'm delighted because I don't think that Commission has been a great success. But I was interviewed, I was nominated by the committee, and...I haven't seen Tony Leon's book, but I think he records what happened was that Mandela 'phoned Tony when he was on holiday in Geneva, I think, and said: Tony, we need Helen Suzman on the Human Rights Commission and Tony agreed, and said: yes, of course, we do. And Mandela said: well, then you agree that we drop Dugard? So Tony said: no, why should one exclude the other? And he said: well, we can only have one white liberal on the...So, I was...I mean, it was bizarre, I was seen to be the white liberal and candidate, and Helen (Suzman) replaced me, and she was later disappointed that she'd accepted, she said it's a pity that I didn't take it. But I was very disappointed at the time. And then (Nelson) Mandela said to Tony (Leon) that there would be something else for me, and I thought that I would be on the TRC, and I was expecting a call, but that call never came. And then I had a number of other disappointments, I mean quite...then I went to Cambridge for a couple of years.

Int This was to teach in Cambridge?

JD Yes, I had a very big visiting professorship, the only visiting professorship in England, in Goodheart's Chair, and I directed the Lauterpacht Research Centre for International Law. And I went back to South Africa in 1997/1998, I was very

interested in International Criminal Law and I wanted to be a member of the negotiations for the International Criminal Court. And there was a group of like-minded states which included South Africa, that nominated me for...as chairman of the drafting committee, which was a key...would have been a key function in the establishment of the International Criminal Court, and Jackie Selebi, presently the controversial Commissioner of Police, was then ambassador, he was a wonderful ambassador in Geneva...

Int Interesting.

JD ...And Jackie Selebi was approached by a group of like-minded states, and according to Jackie, because he told me personally, he was very enthusiastic about my appointment, and it was vetoed by Dullah Omar. And Dullah was a...I'd always thought was a friend of mine, he'd attended Mount Grace seminars. And I think for... then, I was reaching retirement age at Wits, and I realised that...I felt, not that I was not needed, but that I was not wanted. And so when I had an offer of an academic job that would take me beyond the retirement age in South Africa, I grasped it. And then I became a member of the International Law Commission, and again that was interesting too. Kadar Asmal initiated my nomination by the South African government, he persuaded Thabo Mbeki to accept it, and they bypassed Dullah Omar who was the Minister of Justice, and I heard later that Dullah (Omar) was furious that I had been nominated for the International Law Commission. I could never understand why. I think there was in the...though at the time there was a sort of hostility towards white liberals. I was never a member of the Liberal Party, I worked...I used to advise Helen Suzman personally, but I was never active in the Democratic Party. But I was seen to be a white liberal as opposed to a white radical. So, I had my disappointments, but the main reason was that I was about to reach retirement age, and I felt I was too young to retire.

Int Right.

JD And then I was appointed to the International Law Commission so that meant that I became involved in international issues. And then I was later appointed as Special Rapporteur for the occupied Palestinian territory, so that kept me busy there too. So that explains why, to some extent, I have...have not kept in close touch with constitutional human rights developments in South Africa. I return to South Africa two or three times each year, I teach at the Centre for Human Rights in Pretoria, so I keep in touch insofar as it is possible. My main focus of attention has become International Law.

Int Right. Fair enough. I'm also wondering, John, there are two questions that I realise I would like a bit more explanation of, one is in terms of funding, from what I can gather, there was always competition for funding resources, particularly from US sources, between LRC and BLA, and I'm wondering whether that was the same for CALS as well, whether...

JD ...Is that still the situation?

Int ...No, no, there was a time during the eighties, but not...

JD ...I'm surprised to hear that because the foundations that funded the LRC and CALS were very keen about establishing the BLA, and they spread their funding. I should actually mention, on the subject of funding, that this was another division or difference between LRC and CALS, that the LRC did get a lot of funding from local sources, and because it was a responsible body, it did get funding from local sources. We had...we got no funding from local sources, at one stage we decided that we should embark upon an attempt to get funding so...I remember we went to a meeting with Barlow Rand, which was then one of the big companies in South Africa, and had a meeting with the fund giver of Barlow Rand. And I told him what we were doing, and I told him about the human rights work we were doing and work we were doing, in respect of black unions, and he said to me quite openly...I was with the Wits fund raiser...he said quite openly, he said: I'll be quite frank with you, we in Barlow Rand, are not in favour of black trade unions, I'm sorry. In the end we got nothing. But it was a wonderful experience because I dined out on this in the United States, I told them that because of our work for unions, we could not raise money in South Africa, and that was true, so we gave up trying to raise money locally. I think we may have got a small grant from Anglo American, I can't recall, but we really got...we got the message loud and clear from Barlow Rand. And I think that also was something that set us apart from the LRC, the LRC was dependent upon local funding, and I think they realised that we would be an embarrassment to them, partly because of the union work, and partly because we were seen to be more radical and more irresponsible.

Int You left CALS at a time when funding was probably not an issue?

JD I never had difficulty with funding at all.

Int Right ok. And subsequently it's probably...

JD Yes, well, after the end of apartheid it became more difficult, but during the apartheid years I never had difficulty with foreign funders, and they were always extremely generous.

Int One of the issues that arose, particularly from the Ford Foundation, was that the LRC was criticised, during the eighties, for not having enough women and not having enough blacks on board...

JD Yes.

Int ...I'm wondering whether that was an issue for you at CALS, and it was probably very...particularly difficult to recruit black lawyers at that point?

JD Yes, well, I was aware of that fact, we were careful to have black members of staff, and so we had Ramarumo Monama, who was one of the...CALS when it was first set up, comprised Halton (Cheadle), myself and Ramarumo Monama who was an attorney who had been working for Webber Wentzel, and he was very much a part of the CALS body, and then we got Dolly Mokgatle, Reagan Jacobus. But it's true, we didn't...we were not as successful as we should have been with black lawyers. I think Ramarumo Monama and Dolly (Mokgatle) were both very good.

Int There wasn't...

JD But, we were never faced with that...criticisms, as I recall. I know that Ford Foundation was upset about it in respect of the LRC.

Int Right, you've mentioned Reagan Jacobus, whom I've interviewed recently...

JD ...Well, what is he doing now?

Int He's an advocate in the Durban Bar.

JD In the Durban Bar, ja.

Int And he and Paul Benjamin and others have had a very interesting trajectory, but they've come to LRC and then...gone onto CALS, so it's a close history...

JD Yes, Paul (Benjamin), I haven't mentioned Paul (Benjamin), of course Paul (Benjamin) joined the Labour Union Unit at Wits and, I mean, I don't know why the firm did not include the name Benjamin because Paul (Benjamin) was very much a member of the Cheadle Thompson & Haysom and Benjamin...

Int ...Right (Laughs)...

JD ...and he was very active in health and safety in the union field.

Int John, I've asked you a range of questions, I'm wondering whether there's something I've neglected to ask you which you feel ought to be included as part of your oral history interview?

JD I can't...I'm just trying to think, I mean, there was so much that happened during that time. I don't think I have anything more that needs to be said.

Int Ok. I wondered whether we could end the interview with a memory you might have, whether it's about the LRC, or CALS, or working with someone that you feel really reflects the importance of what CALS and the LRC and other public interest, well, those were the two, were trying to achieve, particularly during the period that you were involved?

JD Well, the goal of CALS and the LRC was to advance human rights in South Africa and I think, together, and with the Lawyers for Human Rights, Black Lawyers Association, we did advance a culture of human rights, and I think that was a...and I think one sees that culture reflected in the new Constitution, and in constitutional litigation. Many of the people that were active in these bodies are now judges in Constitutional Court, High Courts, prominent lawyers and some in government. So I do think that that was our major undertaking, and I think it was our major achievement as well.

Int Ok. Thank you very much, John.

JD Pleasure.

(Interview resumes briefly...)

Int So you were just mentioning about the influence of the human rights culture on the UDF leadership?

JD Yes, but I just wanted to go back in time to speak about relations with the ANC in exile. In 1989 there were two important conferences, one was held at Newnham Park in Oxford, and that was organised by Ronald Dworkin, the Professor of Jurisprudence at Oxford, and that was attended by lawyers of the ANC. The government was very hostile to the idea of judges attending, but some judges at that stage just rejected the government's orders and did attend. And in 1989 Lawyers for Human Rights sent a delegation to Lusaka and we met with Oliver Tambo, (Thabo) Mbeki, Joe Slovo and we...I don't think Kader (Asmal) and Albie (Sachs) were there, and we spoke about a new Constitution with a Bill of Rights. And I should mention that during the 1980s, we, at CALS, spent a lot of time discussing the shape that a new Constitution ought to take, and in 1982 I put forward the idea of a Constitutional Court, I think I was the first South African to do that. And...which is somewhat ironical is that in the early 1990s, following the abandonment by de Klerk of apartheid, there were a lot of conferences at which the new Constitution was discussed, and I was...I was very active in promoting the idea of a Constitutional Court. And I remember one conference organised by, I think, the five freedoms, where George (Bizos) and Arthur

(Chaskalson) were very critical of a Constitutional Court and they would have preferred to see the ordinary Supreme Court continue as before. I think that's rather ironical given the fact that Arthur (Chaskalson) later became President of the Constitutional Court. But we did, at the Mount Grace seminars and at other meetings, discuss the future.

Int Right.

JD So I think it's important to realise that during the 1980s there was a lot of talk about the form that a new Constitution might take with a Bill of Rights and a Constitutional Court. So that was just a postscript I wished to add. But to return to the subject of the UDF and the ANC in exile, I'm not sure of the extent to which the average member of the ANC in exile has absorbed that human rights culture, whereas I th...in fact I think the UDF did, because they were active during the 1980s when human rights was a very central issue in their programme of action.

Int Does it give you, as I'm sure it does, the current lack of human rights discourse in South Africa, particularly around statements like 'we must kill for Zuma'.

JD Well I think that's a reflection of the fact that the human rights culture has not permeated as much of South African society as we had hoped, or had been led to believe, and I think this is reflected in the statements of Desmond Tutu as well. I might just mention that I was legal advisor to Desmond Tutu when he was head of the South African Council of Churches. I challenged the withdrawal of his passport, I had a very close association with him and he had a very close association with CALS. I later became his chancellor when he became Bishop of Johannesburg, but that's another story.

Int Thank you very much, John.

John Dugard–Name Index

Albino, Ronald, 8
 Arenstein, Jacky, 6
 Asmal, Kader, 32, 35
 Bamberger, Clinton, 15
 Benjamin, Paul, 34
 Bizos, George, 8, 11, 13, 17, 19, 36
 Blum, Rosemary, 15
 Boberg, Paul, 8
 Botha, Pik, 10
 Boud, David, 7
 Browde, Jules, 19
 Budlender, Geoff, 15, 20, 22, 25, 28, 31
 Burchell, Jonathan, 21
 Cameron, Edwin, 23, 27
 Carmichael, Bill, 15, 16, 25
 Chaskalson, Arthur, 15, 16, 17, 19, 20, 22, 24, 25, 26, 29, 31, 36
 Cheadle, Halton, 17, 18, 20, 24, 27, 29, 34
 Chetty, Shuan, 21
 Cochran, Gail, 8
 Copeland, Johnny, 18
 Corbett, Michael (Mick) –Former Chief Justice, 19
 Cowley, Cecil, 5
 Dacko, Jacky, 7
 Davids, Jean (Campbell), 8, 9
 Davis, Dennis, 31
 De Klerk, F.W., 23, 36
 De Villiers, David, 4
 De Villiers, Henry, 23
 Didcott, John, 5, 15
 Dieamont, Judge, 4
 Du Plessis, Sonny, 13
 Dugard, Jacqueline (Jacky), 28, 31
 Dworkin, Ronald, 35
 Erwin, Alec, 18
 Evans, David, 1, 6, 7
 Falk, Richard, 11
 Friedman, David, 5
 Goldstone, Richard, 21, 24
 Gower, Jim, 4
 Greenberg, Jack, 16, 17
 Hahlo, Bobby, 8, 9
 Hani, Chris, 1
 Haysom, Fink, 18, 20, 24, 27
 Hennochsbeurg, Judge, 18
 Hemingway, Ernest, 3, 4
 Hepple, Bob, 7
 Herbstein, Denis, 4
 Hlophe, John, 30
 Hoekstra, Joel,
 Hood, David, 16, 17, 24, 25, 26
 Irwin, Jane, 7, 8, 13

Jacobus, Reagan, 34
Jennings, Robbie, 7
Kahn, Ellison, 8, 9, 13
Kasrils, Eleanor (Anderson), 5
Kasrils, Ronnie, 5
Kentridge, Felicia, 15, 16, 25, 26
Kentridge, Sydney, 13, 16
Kriegler, Johann, 19
King, Mervyn, 19
Kruger, Jimmy, 13
Kuny, Denis, 11, 17
LaredoDorado, John, 6, 7
Lauterpacht, Eddie, 7
Leeman, Solly, 4
Lipstein, Kurt, 7
Leon, Tony, 31, 32
Love, Janet, 29
Ludorf, Joe, 11
Madlala, Pinky,
Maisel, Issy, 13
Majola, Bongani, 29
Makatini, Johnny, 5
Malherbe, Ernie, 5
Mandela, Nelson, 1, 8, 31, 32
Mandela, Winnie, 13
Marcus, Gilbert, 22, 27, 31
Mathews, Tony, 6, 8, 9, 15
May, Henry, 5
Mbeki, Thabo, 1, 30, 35
Milne, John, 5
Mokgatle, Dolly, 34
Monama, Ramarumo, 34
Moody, Bill, 15, 16, 25
Moseneke, Dikgang, 24
Motlana, Nthato, Dr., 12
Nicolette, Brian, 5
Nicholson, Chris, 31
Nupen, Charles, 27
Omar, Dullah, 32
Parry, Clive, 7
Paton, Alan, 6
Phillips, Namie, 10, 11
Pillay, Navi, 5
Pfeiffer, Allen, 16
Pye, Ken, 15
Ramaphosa, Cyril, 18, 30
Sachs, Albie, 12, 35
Schoon, Marius, 2, 7
Schreiner, Bill, 21
Schreiner, Olive, 21
Selebi, Jackie, 32
Sisulu, Walter, 1
Shaw, Doug, 5

Slovo, Joe, 35
 Sobukwe, Robert, 13
 Sole, Donald, 10
 Sparks, Allister, 1
 Spottiswood, John, 3
 Steyn, L.C., 10
 Stutterheim, Nico, 13
 Suzman, Helen, 31, 32
 Swart, Ray, 6
 Tambo, Oliver, 35
 Thompson, Clive, 18, 20, 27
 Tubman, Winston, 7
 Tucker, Raymond, 13, 15, 16, 17
 Tutu, Desmond, 36
 Unterhalter, Jack, 13
 Van Niekerk, Barend, 9
 Van Rooyen, Kobus, 22
 Van Wyk, Theo (Judge), 4
 Verwoerd, Hendrik, 6
 Vorster, John, 11
 Wax, Raymond, 28
 Webster, Eddie, 25
 Wentzel, Ernie, 11, 13, 20
 Werner, Mr., 19, 20, 23
 Wilson, Andrew, 5
 Wilson, Stuart, 28

Cases:

Appeal against the banning of Robert Sobukwe, 13
 Driefontein, 22
 Komani, 22, 28
 Grootboom, 28, 30
 Lockhat versus Group Areas Act zoning, 19, 20
 Mathebe, 23
 Moutse community and KwaNdebele homeland, 23
 Rikhoto, 22, 28
 TAC, 28, 29
 The State Versus Tuhadelini & Others, 10, 13
 The State versus Werner, 21, 22, 26

Legal Resources Centre Oral History Project

PUBLISHER:

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

Location:- Johannesburg

©2010

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. These digital records are digital copies of electronic documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

DOCUMENT DETAILS:

Document ID:- AG3298-1-040

Document Title:- John Dugard (x2) Interview

Author:- Legal Resources Centre South Africa (LRC)

Document Date:- 2008