

Reynaud Daniels

LRC Oral History Project

8th August 2008

Note: Partial Embargo until death

This interview transcript is substantially edited and specific excerpts and pages are placed under embargo.

The audio-recording will not be made available under the embargo.

Int This is an interview with Reynaud Daniels and it's Friday the 8th of August (2008). Reynaud, thank you very much, on behalf of SALS Foundation in the United States, for agreeing to participate in the LRC Oral History Project. I wondered whether we could start the interview if you could talk about your early childhood memories, growing up in South Africa under apartheid and where you think your sense of social justice and injustice developed?

RD Ok. Phew. (*Laughs*). Sheldon (Margardie) warned me about this. (*Laughter*).

Int I'm sure...

RD I didn't pay much attention but...Ja, my family...my family's always been involved in the anti-apartheid struggle, from the 1940s. My grandmother was a member of the ANC Women's League, and the person I thought was my grandfather...it's a long story...but the person I thought was my grandfather was a Communist Party official. And, he, kind of, went off the deep end a little bit and my grandmother always said: it's because the cops beat him on the head while he was detained. And, then we were involved with SASO, most of my family was involved with SASO and quite deeply involved, and then they moved to ANC. Both of my parents died when I was very young, so I was adopted, and by my aunt and her husband, who was white, so it was a mixed marriage. Obviously this was an illegal marriage at that time. And they both went into the ANC, into MK, that was in the '70s. I was born in Pietermaritzburg, and we moved to Durban after my biological parents passed away. We stayed with my grandmother until we were adopted. It was myself and my three siblings. One of the key issues for me, which foreshadowed my interest in human rights, was that we grew up in the shadow of an oil refinery, Mobil Oil Refinery. Merebank has one of the highest levels of children with chest infections in the world.

Int Really?

RD Ja. I've read that 40 percent of all children there have chest infections or respiratory disease of some sort.

Int Gosh...

RD And it clearly has something to do with the oil refinery. The community been taken a stand on this and taking action against it.

Int Gosh. So there must be high cancer levels too...?

RD My grandmother died of interstitial lung disease, and many of my cousins have problems with their lungs, they are asthmatic, and so on. I too have emphysema, but it is largely due to smoking, I've no doubt. But when I was born I was told I had very weak lungs. So, as I grew up I had a sense that somebody out there thought it was an ideal place to locate oil refineries, close to a poor community, with no voice. So that, for me, was a very key issue. And then, of course, in apartheid South Africa if you grew up in a struggle family, racism and oppression is part of ones life, so it was just natural that I would join LRC. I think, ultimately, that I decided to become a lawyer because my sister was detained; that was in 1986 or thereabouts...

Int So you had three other siblings or two other siblings?

RD Ja, three, two sisters, one brother.

Int Right.

RD My sister was detained and she was kept in solitary confinement that was in '86...

Int During the States of Emergency?

RD Mm, and she was there for about three months, and, I mean, she went through hell, but she still doesn't talk about most of it.

Int Sure, by the experience...

RDSo, I actually decided to become a lawyer in 1986 when she was detained, because, you know, at that time the only power that we had was through the law.

Int So you did think that law could be used as an instrument of social change?

RD Well, that's what I thought at the time (*laughs.*) That's why I became a lawyer.

Int And how old would you have been at that point? Were you at school?

RD 1986, I would have been about 15, 16, mm...

Int Right.

RD Ja, so I was in high school. Ja, and I used to partake in...my parents, it was very odd, because my parents...we went into exile...in Botswana, we left in about 1977...

Int Your parents were still alive then...?

RD No, no, this is my...

Int ...your adopted parents?

RD ...adopted parents.

Int I was going to ask under Group Areas how you could have...?

RD Ja, no, no, it's...we couldn't (*laughs*). So, anyway we went into exile, but the exile really, it wasn't...it was more because they were involved with MK. And, ja, but I came back to South Africa in 1983 and I went to a school called St. Barnabas College. It was quite mixed and it was one of the few...it's a private school, but it was one of the few interracial schools at the time, and it was very progressive and we used to partake in lots of marches and demonstrations and all kinds of things. And we had a very militant and progressive Student Representative Council. So, I think there I also became quite politicised personally, I always knew my family was but...ja. And then in 1986, while I was still at the school, I decided to become a lawyer, because of my sister.

Int Sure. So, I presume the way it happened, you went to Botswana and then at some point you and your siblings came back to South Africa and lived with your grandmother, is that correct?

RD Um...was very...ja, it's very confusing. My parents stayed in Botswana, but I came back to boarding school; my brother as well was at the same boarding school with me, and my two sisters at the time, I think, they started university. They were going to university and living with my grandmother in Durban.

Int Right...

RD But there was a space of three years before I was adopted. It's a very...(*laughs*).

Int I understand...

RD Ja, so basically...ok, I'll give you the quick timeline. So, I was born in 1971, both my biological parents died by the time I was five, and then I was adopted by my grandmother and we lived in Merebank under the shadow of the oil refinery, that was for a couple of years. And then I was adopted and we moved to Botswana and that

would have been 1978, '79, somewhere around there. And then in 1983, while they were still living in Botswana, I came back to Johannesburg to go to boarding school, and my two sisters went to Westville University.

Int So, you were very...you got real politicisation...you have had a history of political awareness and political conscientisation, but the real self-conscientisation probably would have started when you were at St. Barnabas...?

RD Ja.

Int Right. And it's also around the time of the States of Emergencies, etc, so I'm wondering how you understood what was going on in the country at the time?

RD Well, you know, I mean, growing up in a private school, it is very sheltered, and at the time it was considered to be one of the better schools in the country. But...oh yes, another thing, I guess, is that because my parents were raising, I mean, they adopted four children and they were in their early twenties, and I would have been seven and my sister's about seven years older than me, so, they're in their early twenties and the eldest kid was about 14, so there's about six years difference, six years or more difference between them and the eldest kid, so it was quite...quite difficult, also they were just starting out in their careers, and...*(Interruption)*.

Int Right, you were saying that from your parents' point of view it was quite difficult because there was this age gap between your siblings?

RD Ja, so it was very tough, so, I mean, they didn't have much time to develop their career, they just launched straight into politics, so, obviously it was quite difficult for them financially. And they were living a double life in Botswana, and my father was working on a diamond mine, De Beers Diamond Mine, you know? So, they were living a bit of a double life. In fact, ya, my two sisters were going to a private school in Botswana at the time, and we...my brother and myself went to boarding school in Johannesburg. So, we were four kids in private schools with parents in their early twenties, so it was a bit rough. And at the private school, it was quite difficult because the other kids were all rich and they'd, kind of, flaunt their money, and buy new clothes all the time. And I think I struggled to fit in, mentally. Ja, what else, what else?

Int In terms of...you said that you decided to do law at the point when your sister was detained, and then in terms of university, where did you go, and were you involved in student politics by that time, or...?

RD Yes, and then...well, I went from St. Barnabas...I actually left there after three years and I went to school in Cape Town. That was 1989...no...in fact...just, um...phew...it would be 19...more like 1987, or somewhere around there. And I went to another private school in Cape Town which was almost exclusively white. There again the

kids were just very...a lot of them were seriously racist and there was no level of politicisation, no such thing as an SRC...

Int So it was quite different from St. Barnabas?

RD Very, very different. In fact, St. Barnabas, kind of, expelled me. Well, they said, you know, if I came back to school after the break, mid-term break, they would expel me, so...

Int Was that because of politicisation or something else?

RD No, something else, I think I was a bit naughty.

Int Right. (*Laughter*).

RD Anyway, so...so, I went to school in Cape Town at this school, St. Joseph's College, and it was very different and...

Int Was the racism directed at you?

RD Ja, and others.

Int Gosh...

RD There was a guy there who they used to call 'Oil Slick' because he was dark, I mean, he was probably a little bit darker than me. It was, kind of, sick, and I recall on...the day before June 16th, I started speaking to people and say: look, you know, we're doing the stay-away. And people said: no, what are you talking about, there's no stay-away, what...why, what's special about June 16th? I was a bit...you know, horrified, so I went to the principal and I said: look, you know, I'm going to be staying away on June 16th and this is why. He was, like, did that really happen...wow, that's amazing.

Int Goodness...

RD And this is a school principal who was, like, quite accomplished and very intelligent. I was quite shocked that he had no idea about what was going on. And I said...told him and he said: ok, well, instead of staying away, why don't we just have an educational day purely to discuss June 16th. And in the school hall every morning, we used to sing the anthem, but it was the old South African, the 'Uit die Blou'...'ons stem'...what was it called...'ons stem' or something...'Die Stem'. And...ja, so I said: no, no, we must sing the proper anthem which is 'Nkosi Sikelele'. So I had to teach the school the anthem and so the day changed, it became a bit of an educational day about June 16th.

Int ...That sounds rather empowering.

RD Ja, that was quite...that was quite good. Ja, and...anyway, so then...and then I went to...while I was at school I was a member of what was called the Pupil Awareness and Action Group, but it was really quite composed of rich, white school kids who had a conscience but they weren't really doing much, it mostly revolved around political education and the odd toyi-toyi here and there, but it was, you know, nothing dramatic. And we were living in a white area at the time in Rondebosch, I mean, there would also be times when I'd be walking home through the area, and the cops pull me over and they say: look, you know, where are you going? And I didn't know whether to say: well, I'm going home. Because they'd be, like, you know, you're not allowed to stay in this area, how can you be going home? So, you know, I'd just say: oh, no, I'm going to visit a friend. But, it would be quite scary. And there was another time, when my father's bicycle was stolen under my care. So I went to the cop station in Rondebosch to report it, but I was wearing a SWAPO T-shirt at the time...I mean, this was '87, it was not a good time to do something like that. And as I went into the police station, and I'm about to report this thing, I realise what I've got on, and I'm like, you know, shit, and I back out, and (*laughs*) so, I didn't actually report it, because, you know, I would have been in serious shit.

Int Sure...

RD Ja, so...and then I went to university at UCT...

Int Did you do a BA LLB?

RD I did...that was the plan but I just did the BA Law there. And I didn't actually do too many legal subjects, just a few really, as part of the BA. And I was fairly active in the Black Students Society...

Int SASO?

RD Yeah. No, no. SASO was...

Int Before that....

RD Ja, SASO basically had kind of died in the, like, late '70s, '80s...

Int So, it was the South African Congress of...?

RD No, no, no. It was called South African Students Congress, SASCO.

Int Right.

RD And then the forerunner was BSS, Black Students Society, but it changed; at about the time I arrived at university, it was then called SASCO.

Int And you weren't involved with NUSAS?

RD No, it was the white, kind of, branch.

Int Right, ok.

RD And SASCO and NUSAS were in alliance.

Int So the relationship between SASCO and NUSAS had gotten onto an even keel would you say, because there had been a split during the late '70s?

RD Ja, I think it was...I think it was pretty...pretty co-operative, I mean, there were some people who felt that they were, too liberal and couldn't be trusted, and all that kind of stuff. I think mostly it was just racial...racial distrust and SASCO tended to be more militant. But at that time it seemed fine. And I wasn't...I wasn't...I wouldn't say I was actively involved with the student organisation, really, I mean, I was more, you know, I used to partake in almost every march, and that kind of stuff. I was supposed to be in the Media Committee, but I never really did much. And I think...I just found that there was way too much talk-shop going on, I mean, I kind of, always disliked people just sitting around the table and talking, talking, talking, it doesn't achieve anything, and then not taking action. So, I was always ready for the action, but, I just wasn't really interested in organisational politics. And then in, kind of, 1989, there was a protest...it was actually a strike by NEHAWU and, you know, they were striking for wage increases, and the student body...but the black students particularly, felt that we should boycott classes, but it was towards the end of the year, and the white students thought: no, you know, why should we boycott classes for these workers who are supposed to be cleaning up, not striking, and all that kind of stuff. And...so, we decided to, kind of, enforce the boycott for everybody, because it didn't...it wouldn't have helped, you know, if we boycotted and failed, while the white students were going to classes. So, we, kind of, blockaded the university, and that kind of thing (*laughs*), put up burning tyres and, you know, made sure people weren't going to lectures, and if the lectures happened, then we would disrupt it. So, it was quite a crazy time, and the strike, I think, lasted for, like, two or three weeks and at the end it just became really crazy. Ja, I think, Tutu, at one point came to the university, because, you know, they were worried about the levels of violence that was happening, and that kind of stuff. And ja, I was involved with, you know, disrupting. I remember one time, we were toyi-toying through the university and a professor tried to...he was standing outside with his students, the white students, and they were ready to go in and start their class, and...but I had toyi-toyied, and I was ahead of the group and I stopped for a breather, and I saw this professor talking to his students about the strike, and he said: well, you know, we're going to carry on with our lecture,

regardless, this is ridiculous! And I said to him: look, professor, I think you should actually cancel your lecture, because it's going to be disrupted. And he said: don't threaten me, young man! You know, and I was, like: listen, I'm actually...I'm not threatening you, I'm just trying to help you, because it doesn't help for you to start a lecture and it's going to be disrupted in the next two minutes. I said: you see the comrades down there, they're on their way, and any classes that are in session they're going to disrupt. And he was, like, he started shouting at me and getting angrier, you know, as if I was threatening to disrupt the lecture. So, I thought: well, I'm going to make a point of disrupting this lecture. So I made sure the comrades went in there and I used the fire hose to disrupt the lecture and...anyway, so it was...the disruption was a success. (*Laughs*). Anyway, so...ja.

Int Did you escape detention by this stage?

RD Ja, ja.

Int Right...

RD And I think that...I mean, I think, you know, ultimately what happened is, everybody who was in their final year, they pin-pointed a number of key people who they wanted to get rid of. If they were in their final year then they weren't accepted for post-graduate studies, and I was one of those, I thought. But, my results weren't that great either, so, I couldn't be too sure, but...that it was that. But I knew of some students who hadn't...who'd done either about as well as I had or a little bit less well, and they were accepted into LLB.

Int Right.

RD Anyway, I went to UWC to do my LLB. And...

Int So this was the 1990s and transition had started sort of?

RD Ja.

Int Right.

RD So...and then I went to UWC, that was about 1992, to do my LLB. By then...you know, of course, we were fully into negotiations, and so on, and the students, I think, I didn't get involved with student politics...most...well, in part because my father was...he was Personnel Manager at the university, and Jakes Gerwel was Rector at the time. And it was a very progressive...what's the word?

Int Environment?

RD Environment. And the students weren't too sure what their role was and what the politics meant. And so, at the time, the student body would toyi-toyi and mostly about academic exclusions, or payment of fees. And I thought: well, look, you know, that's not really politics, in my view, that's self-interest.

Int Absolutely.

RD And I wasn't too interested in that. I was thinking: well, you know, the university is trying its best to get all black students in, and to provide bursaries and they can do...they can only do so much. And so I think I just sympa...I actually sympathised with the university (*laughs*), and I'm sure...

Int It was also historically a black university, wasn't it?

RD Yes, no, no, exactly, so, you know, but I just thought that they were, kind of, losing the plot, at that point. Anyway, ya, but outside of university I still used to attend the odd march, and so on.

Int How did you then come across the Legal Resources Centre, did you work in the Legal Aid Clinic?

RD Um...no...you mean how did I find out about it for the first time?

Int Yes...

RD I did work in the Legal Aid Clinic at UWC...

Int You did?

RD Ja. But I knew about LRC for a long time because, well, I mean, they're just...they're very well known, and also because Steven (Steve) Kahanovitz and my father were friends for, like, 20 years, so, you know, I always knew about the LRC. In fact...and I always planned to go to the LRC.

Int Oh, right...

RD So, because, I mean, it really was the best place to do Human Rights Law.

Int And at the time that you were working at the Law Clinics for UWC, were you then working in concert with UCT Law Clinic students?

- RD No.
- Int Right, so it was separate completely?
- RD It was separate. And of course at the Law Clinics we weren't doing Human Rights Law, we were doing things like divorces, and that kind of stuff, so...
- Int And so you started at the LRC; was it at the Cape Town office?
- RD Yes. So I applied to the LRC and got in there, I think...I think I was interviewed by Wallace Mgoqi and...can't remember the others, but, there were two others, I'm not sure who...could have been William Kerfoot.
- Int Right.
- RD Ja, so, I was interviewed and...and probably Vincent (Saldanha). Started with them...can I move to LRC now?
- Int Sure, of course.
- RD Ok. So, I was...my principal was William Kerfoot, but, I...for most of the time that I was there I was actually working with Vincent Saldanha. And then the last six months I was working with Henk Smith.
- Int Right. So it was two years?
- RD Ja. Um...then...I...?
- Int sorry....?
- RD ...did a three-month stint at the Public Defender Clinic. So, I got LRC to second me over there. Which was very interesting as well, I'll tell you about that. Anyway, ja, so, with Vincent (Saldanha)...it was great to work with Vincent (Saldanha).
- Int Sure...
- RD But...with Vincent (Saldanha) it was great...I'm not sure that many of the matters in Vincent (Saldanha)'s caseload were truly precedent setting. Vincent (Saldanha) was very involved with NADEL, which gave me a lot of time to research and work through his practice. . But it was great, I mean, great for me, great experience. I recall two key cases I was involved with though I'm not sure to what extent...how much Public Interest impact or public impact they had, but, I'll tell you about them. There

were others but I can't remember too many of the details. Ok, I think I was also involved vaguely with the Elandskloof matter, and a few eviction cases, and so on. But the key case for me was the Xhapa Case. He was about ten years old and he was shot by the cops with...what was it...buckshot, I think. And...was it buckshot...ja, I think so, it was buckshot and, basically, he was shot in the face, and so...and these things penetrated his eyes, and he had lots of little pellets...I can't remember if it's buckshot...but anyway the bullets kind of, break up and he had all these pellets in his head, and his vision was very bad. And we were suing the Minister of Police, he was shot during a protest march following the Chris Hani assassination. And I think it was an important case for me, because firstly, Chris Hani was one of my heroes, and secondly, you know, when he was shot, I was participating in those same protest marches, and I remember the cops shooting, so, it felt very personal. And he was injured in this thing, but, that case languishing at the LRC, for years, it just wasn't going anywhere, basically because nobody was doing the work. But I picked up on it and became very involved with it, and I really pushed it along, and it was interesting for me, legally, because I realised how much needs to go into a matter for it to be a success. And so, I was working with Lee Bozalek on it, and Lee (Bozalek) was at the Bar, at the time. So, ja, I got ballistics reports, and photographs of the area where the shooting happened, and medical reports, architectural plans of the Grand Parade, all kinds of stuff. But the funniest thing was, I got a video from the SABC, it was a video of the shooting, and it actually showed that...can't remember his first name...it showed Mr. Xhapa running out of the bottle store with some liquor, and they'd just broken into the bottle store and they were running out with bottles of liquor...

Int ...as a ten-year old?

RD ...as a ten-year old, and that's when he...that's when he got shot. So he was actually shot while committing a crime. So...and I just thought to myself: oh, God, you know? And we had to discover this video, you know, we couldn't hide it. So, we discover this thing, and it's quite apparent that the State Attorney didn't really watch it, or if they did they couldn't distinguish from one black guy to another, and...because, you know, this is shortly before trial, and we put in all this discovery, and we basically, kind of, swamped them. So, they didn't actually pick up that he was committing a crime, because they offered to settle and they ultimately settled, but...I can't...I think it was a lot of money, but I can't remember the exact figure.

Int That must have been rewarding?

RD **Nine lines edited at the behest of the interviewee.**

Int I'm just also curious how a case of that absolute Public Interest importance can be left to languish?

RD Ja, I think there are a lot of those kind of cases, actually.

Int Really?

RD Ja. No, I think, you know...and on the one hand this is going to sound harsh, I don't know what public impact the case had. I understand why we took it on, but, you know, it's hard to say it's going to have any great impact just because, you know, we sued the cops, they don't bat an eyelid, they just hand it over to the State Attorney, and it's not like the Minister of Police bats an eyelid because they have to hand...dish out two hundred thousand rand, it's not their money, It's not like it...it's not like it causes the cops to think twice before opening fire...

Int But legally, does it set a precedent?

RD No, I don't think so. Because it doesn't have the impact that you want it to have. The impact, I mean, it was great to help him, you know, and that's what motivated me, it was great to help the guy, because, I mean, you know, his whole life had been screwed up, and just because he was stealing two bottles of liquor didn't mean he needed to sacrifice his entire life. You know, the cops were very heavy-handed in those days, especially with blacks who were partaking in political demonstrations. But it doesn't have the impact that you want it to have because you want cops to follow the letter of the law, and only to use reasonable force; it doesn't have that impact. Even now.

Int Right. So you...so you worked with Vincent (Saldanha) and that seemed to have gone quite well?

RD We got on very well, I mean, I really liked Vincent (Saldanha).

Int What about others, I mean, in terms of working with other people and the range of experience you may have gathered?

RD Well, the other...let me tell you about the other key case for me...

Int Sure.

RD ...that I was involved with. There was a case where two farm workers had been evicted from the farm, by the owner of the farm. It was the Jansen case, and...or Jensen...and, He had been there for 50 years, he'd worked on this farm for 50 years, from the time he was a small, small boy. He had basically started the farm with his white 'baas', you know? And he met his wife on the farm as well when she was a small girl, so they both grew up on the farm. And one of...they were paid by the "tot system", they were paid in cash, but also, you know, in wine, but then old 'baas'...'ou baas', became old and ill and 'klein baas' took over. And 'klein baas' was quite racist pig and 'ou baas' was on his deathbed. And one day the farm worker...Mr. Jansen, got drunk, and he swore and threatened to kill 'klein baas', because at that time, he had a drinking problem, and you can't blame the guy because he'd been on the "tot system" for 50 years. Anyway, so they decided...'klein baas' decided: look, ok, well, pack

your stuff, get out of here. But he'd spent his entire life living on the farm, he didn't have anywhere to go, and he's now just being dismissed without a hearing, you know, so, it's quite a terrible case. But at that time, farm workers were not covered by the Labour Relations Act, because they were covered by...you could sue for unfair dismissal or breach of contract in the Mag. Court. So, that case was going to the Mag. Court. So, I decided I wanted to do this case, and it...so, ja...and Vincent (Saldanha) was fine with it, so, I said: ok, fine, I'll go and do the case. And it was being heard in Porterville, which is about 200 kms from Cape Town, maybe less. Anyway, so it was being run in Porterville and I get there, and it's a very, very small white Afrikaner community and there's always going to be a problem for me because I can't speak Afrikaans very well. Anyway, I get there and it's the first day of trial, there's an advocate for...I think his name was Mr. Bressler, the farmer...the advocate's there for him and he says, as soon as I arrive, he says: we're going to be taking a point in limine that your...you have no authority to represent these farm workers. So I thought: this is a bit bizarre, because we've been representing him for four years, and you've never taken this point before, and, you know, isn't it odd that you can just take it on the first day of trial, I mean, you know, where does this come from? So, I was a bit thrown, but...and before the trial started we met the Magistrate in chambers, and he was like an old family friend or whatever, and they were talking about rugby in Afrikaans, and I was like: oh...ok. You know, this is going to be...this is going to be rough. Then he tells me: ok, we'll be taking this point in limine. So I was like: ok, that's a bit strange. I wasn't too sure about how to deal with this thing, you know, and what the basis for it was. Anyway, so, you know, he raises it in court, takes his point in limine, and then I said to the magistrate, I said: look, you know, I argue a little bit that it's a nonsense point, and you should have taken it earlier, and so on. And then I say: look, if this can be resolved by a power of attorney, can we have an adjournment so I can go and organise a power of attorney and give it to the court? So she says: fine. But she was very hostile throughout this whole thing...

Int The magistrate?

RD Ja, very hostile to me. So I said, and I was trying to get her to accept that the trial should be run in English, she wouldn't hear about it. Anyway, so she gives me an adjournment and I say: I'm going to go and 'phone Vincent (Saldanha), get them to fax a power of attorney to me. And then, as I'm about to 'phone, this advocate comes up to me and he says...he says...in this thick Afrikaner accent: I'm going to consult with your clients now. I'm thinking: this doesn't sound right, you know, this is my first trial. So I'm thinking: this doesn't sound right, why would you be entitled to consult with my clients? So I said to him: look, I don't think you should do that, I don't think you're entitled to do that, and I'm going to find out, I'm going to check it out, but even if you are, I'm certain that I'm entitled to be present, so I'd like you not to do that while I'm making this 'phone call. And he's like...a big tall guy...and he's like: listen, here, you don't know what you're doing...what you talk about...you know, who are you, you are just a candidate attorney, you don't understand the law and you don't understand the ethical rules, so...you know, but he was shouting at me, and he turned around and marched off and I was: look, please don't do anything, we'll...you know, after this 'phone call, we'll go and talk to the magistrate and she can make a ruling on it. And he's just like...you know, marched off. And, I think he was just angry that I could question him. (*Laughs*). So anyway, I'm making this 'phone call,

and I thought at the time, you know, he's not going to go and consult with my clients, you know, they're the plaintiffs, they're not just a witness, you know? So, I 'phoned Vincent (Saldanha) and talked about the power of attorney and Vincent (Saldanha) said he'd make a plan, and then, so, I went to look for my clients, and they were in the court, the door was closed, but I could see...it was a window...there was a window in the door, and I could see they were sitting there and being interrogated by the advocate and his attorney. So, obviously I was very angry. I tried to open the door, and it seemed to be locked because it wasn't opening, I was so angry. And so, anyway, the attorney comes and opens the door, lets me in, and I say: look, what is going on here? How can you do this? And then they were like: we told you, you don't know what you're talk...So I was like: listen, we need to go and speak to the magistrate right now...So, we go to the magistrate, I complain, and I say I want to put it on the record. The magistrate was like...whatever, you know? So, we go to court and...but remember, by this time I didn't have a power of attorney yet, because this entire thing had disrupted everything. So I put it on record and I said: look, this is unethical behaviour, blah, blah, blah, and, you know, Your Worship I still don't have a power of attorney because of this entire issue, so, you know, we need to make a plan. And she was like: ag, you don't have a power of attorney, I'm going to dismiss this case. And the basis...the reason why he...the advocate was interrogating my clients was because he wanted to...because they were illiterate people, and he wanted to see what their understanding was about the legal proceedings. And he basically got them to tell him that they didn't understand the nature of the legal proceedings, and so, what he said when he argued the matter before the magistrate...and I said: look, I still don't have a power of attorney, and he said: well, I've spoken to them and they say that they don't know what these proceedings are about, you know? How does he expect...you know, illiterate people to explain to him the legal...Anyway, ja, I mean, it was just appalling. Anyway so she dismissed the matter. And I went back and then we launched review proceedings, we went to the High Court, launched a review and the court was very scathing about their conduct, and overturned the decision of the magistrate, and sent it back to trial. And then I also instituted proceedings in the Bar Council against the advocate, and I had to testify at a disciplinary hearing for him, and it was great because they said that he was...his evidence was not credible so...so they made a credibility finding against this guy, and they sanctioned him.

Int Gosh, that's fantastic.

RD They gave him a warning. So, that was my first...my first trial. (*Laughs*).

Int I was just wondering why you were put into the deep end without your principal or anyone else being present?

RD Um...I think...I don't know actually. (*Laughter*). I think because I wanted to be thrown into the deep end, and I mean, that's the only way that you get any experience is to...

Int Well, you handled it extremely well. I'm not sure someone else might have done the same thing. The other thing I wanted to ask you is...

RD It was quite terrifying. (*Laughs*).

Int Yes, I can imagine, absolutely...

RD No, because I had to face legal proceedings that were being conducted in Afrikaans...

Int Afrikaans...

RD ...and, you know, struggling to understand what...going on, secondly, and then, you're also a bit insecure because you don't know the law all that well and you're inexperienced, and I'd prepared for trial and this guy was taking these points in lumine, and then they were just being so racist, and I didn't...and the magistrate was sympathetic to that, and I didn't know how to deal with all of that. But in the end we got them.

Int Right.

RD (*Laughs*).

Int So you went on to work with people like Henk (Smith) and I'm wondering what your experience was there?

RD Oh...and the best part...sorry...but the best part about that trial was that...so we taxed the Bill...the Bill of Costs in the High Court and...no we didn't tax it, but I drew up a Bill of Costs, and I sent it to the attorneys for the other side, and the letter was sent, I think, on the 24th December, and I said to them, you know, that they must pay this or else we'll get it taxed and so on, and in my letter I said: herewith the Bill of Costs, please ensure payment by so and so date, failing which we will tax and execute, and Merry Christmas, so that was my... (*laughs*)

Int (*Laughter*).

So, in terms of your other experiences, because it's clear from what you tell me earlier, you did a range of public interest areas within the LRC?

RD But those, you see, those two cases, I think, were great for me in terms of learning because...just because I was very involved in it, in those cases, and in fact...and, I mean, I was the key person in both of those matters. But other cases you would do a little bit here, and a little bit there, and, you know, be treated like a candidate attorney. I mean with William (Kerfoot)...William (Kerfoot)'s practice, you know, revolves a lot around Refugee Law, which is very exciting at the time, but, I mean, we often used to brief silk and Andrew Breytenbach, and Anton Katz, and Milton Seligson, and those kind of persons, so, I mean, you know, there was very little for a candidate

attorney to do, other than serve papers, photocopy, occasionally, you know, make an input here or there, but, I mean, ja. I think with Henk (Smith)...Henk (Smith)...

Int I'm sure you went to Richtersveld?

RD I don't think I did actually.

Int Oh right...

RD I don't think I did. No, I don't think so. I can't...I don't actually...I mean, it was a very short period that I worked with Henk (Smith), and most of his work was in Afrikaans, so I really, really struggled to, you know, I mean, he'd give you these files, like 500 pages and they were all in Afrikaans, and I would have to translate for myself every second page, so, I think Henk (Smith) thought...extremely lazy. And in fact language was a huge barrier for me. And remember that I grew up in Botswana, I'd spent seven years in Botswana and when I came back to South Africa I had a huge issue with Afrikaans, ideologically. You know, I mean, I don't think I ever did better than like 40 odd percent in Afrikaans, and somehow managed to scrape through but, it was always a struggle. Ja.

Int So during this time, as part of your candidate attorneyship, you also spent time at the Public Defender's office?

RD Ja.

Int I wonder whether you could talk about that?

RD Ja, at the time I think I worked with...I thought it was Nerina Khan, but, I'm not 100 percent sure, and she ultimately went to the Legal Aid Board, I think. But, and that was based in the Cape Town Magistrate's Court. It was interesting, I mean, it was a bit of a cattle market, you know, the kind of, you would just be allocated certain files in the morning, and then you'd, you know, and kind of, just run the trials, you know? Often you'd barely have time to consult with the guy, develop a proper...you know, or you'd just get the file the day before. It was, kind of, disgusting actually, because, you know, these were the poorest of the poor, you know, and there really wasn't much time to actually get on top of things. And the people that worked there also weren't too interested in actually helping people. And there was a sense that, well, you know, if you give them the bare minimum, they're not going to complain because they're the poor, they don't understand the law, they don't have the means to complain. Nobody will know better, and they're lucky enough just to have a lawyer. That was the kind of attitude, you know? And I would say that that attitude was not just the attitude of the people working there, I mean, remember...and there was very poor supervision, you know? I think it ran all the way up because frankly, they failed to ensure that there were proper systems to give people a proper defence. So, I found that very disturbing. And I tried to...not to take on too many cases, because, you know, I just knew I

couldn't...there was no-one to bounce off ideas, there was no place to do research, you know, it was hard to consult with people, a lot of people were being held in the cells awaiting trial so...and the cops would give you a rough time, wouldn't always give you access. All that kind of stuff, so...

Int Right. I'm also wondering.. after your Articles...where do you go on from there?

RD When I completed Articles I actually...I wanted to continue working at LRC...

Int Oh right...

RD ...and so, I think there were two people in serious contention, one guy is now a very successful advocate at the Bar, and he was someone...I can't mention his name but...he's, ja, and it was myself as well, but, they didn't even bother to interview either of us.

Int Oh?

RD Ja.

Int The Director at the time...the Regional Director at the time?

RD So then I went to...I applied for a few jobs in Johannesburg, in fact I applied to a few law firms in Cape Town, but on my CV I had things like ANC Youth League, South African Students Congress, blah, blah, blah, and most of these law firms would be like...you know...what's your problem, seems like you're more interested in politics than being a lawyer and making money? So, you know, they weren't interested in employing me. So, I applied in Jo'burg and I was interviewed by Webber Wentzel, and in the interview they said to me...it was in the Labour Department, and I had a contact there, a family contact who was a very senior director in the law firm and, you know, the job was mine for the asking. But they asked me a question in the interview and they said: look, you know, we represent the corporate sector, and if we have to dismiss workers en masse, how would you feel about that? You know, it looks like you're a progressive lad and you have a conscience and judging from your CV, and so on. And I said: well, I would have a serious problem with that, because, for me, I would say that it has to be the last, absolute last option, because every time you dismiss a worker, ten other people are going to be starving, so you can't just do it willy-nilly, and in any event that's the scheme of the law. It must always be the last option. So, you know, if a client wants us to dismiss workers, I would say that...you know, I would have a problem with it unless I was 100 percent convinced that there's no other option. They were quite horrified with this, and they were like, what...you know, if that's what clients want, that's what clients want, you know? And I was like: no, no, no, no, but we have an ethical duty, and so on, and so that's when I knew I wasn't going to be offered the job. But I was fine with that too. Ja, that was

interesting. Ok, then, ja, and then they actually offered me a very senior post in the Department of Land Affairs...

Int Is this government?

RD Ja. And I wasn't interested in that really. I think it just seemed...it was so...it's going to be so tense and rough and...I hadn't had a great experience working in land at the LRC, so...Ja, because, you know, I think the one thing I...working with Henk (Smith), it was for a very short period, but I...it felt a bit...what's the word...odd, because the community didn't always respect what you were trying to do. And it was a very curious mixture of, kind of, law and politics and there are always...there seemed to be a disjuncture between, you know, between LRC's understanding of the community politics. And we tended to approach the legal issues purely legalistically and the community, you know, you set up these community property associations and they used to collapse because nobody understood what to do, and we wouldn't be there to guide them, and I mean...you know, or really assist them. We'd deal with the odd query and, you know, like...So, ja, I mean, I could sense that, you know, people didn't really understand what we were doing in most cases, and I didn't really like that tension.

Int So how did you get to Cheadles then?

RD Oh, yeah, but...well, before...the job I accepted was actually at NUMSA, so, in 1997, I came up for an interview with...after my Articles, with NUMSA. And again we had a family contact who'd been in the trade union movement for 20 years, so, pulled that string, got an interview, and got that job, and I was the...appointed the National Legal Officer. It's a very, very senior job in the union. And for somebody who'd just done Articles it was quite daunting. I was in my twenties then. And, I mean, it's a big union, three hundred thousand workers, and very senior, serious, job, you know? But it was great, it was great, it was wonderful, you know? I had a budget of four million rand a year, supervising attorneys around the country, I co-ordinated the first...probably the first major national strike, under the new Labour Relations Act. We had...the primary strike was in the motor industry, and we had secondary strikes in the engineering industry, and at the tyre industry, tyre and rubber. Ja, it was fantastic, and very tiring.

Int I can imagine. And at what point did you leave them and move on?

RD Um, I left three years to the day, I left NUMSA, and basically at that time I was, kind of, overworked, underpaid...a lot of people in the union movement are actually incredibly...as I'm sure you would have guessed. People knock off at three and whereas I used to work till, like, 11, 12 at night, because I was seriously committed. And I was once almost shot in my office because I'd triggered the silent alarm. I was working in my office, it was Friday night, and I left my office at about 11, I mean, I just walked out the door, and everybody else had long gone, and I triggered the silent alarm. And then there were two guys pointing guns at me, and they were ready to shoot me, and I said: look, you know, take the computers, help yourself, *(laughter)*

and they said: no, we're from Chubb Security. And I said: oh, ok, what do you want here? It's like: well, who are you? I said: well, I work here. It was quite funny. Anyhow, I forget the moral of that story, but... (laughs)

Int (Laughter). So, did you then clerk at the Constitutional Court, by any chance?

RD No, no, I didn't. And then after NUMSA, I went to Cheadles.

Int Right. So, you've been at Cheadles since...?

RD And I've been at Cheadles since 2000.

Int Right.

RD And I've always done exclusively Labour work, although Cheadles does a bit of Employer work where there's no conflict with our trade union base. I just flat out refuse to do any Employer work.

Int You'd had this Articleship and then you wanted to continue at the LRC and I'm wondering what the reason for that was really?

RD Sorry, what?

Int reason?

RD For wanting to continue?

Int Yes.

RD Well, you know, I mean, I knew that, I mean, LRC was involved with major precedent-setting work; I think the Death Penalty case was being run at that time. Of course I didn't really get a look in because a lot of the stuff was being done from Jo'burg.

Int Sure, it's the CLU...

RD Ja. And as an Article Clerk, you know, you do a little bit here, you work with Angela on this thing, you draft a memo, then you drive to, you know, Elandskloof with Henk (Smith) and you...then you come back and get involved with a refugee case, so, you know, there was never any continuity with cases, apart from those two cases, I think. But I, I mean, they were doing incredibly important work and very good work, you know, and you understand that they can't really entrust those kind of cases to

candidate attorneys, but I knew that if I stayed I would have become involved with some of the other cases. Um...ja.

Int I'm curious how you view the current situation in terms of attacks on Constitutional Court judges, and the crisis in the judiciary with respect to how firms, legal entities for example, the Legal Resources Centre, can effectively play an effective role in that situation?

RD Um, well, firstly, I would say, I mean, I've actually heard people argue, friends of mine argue that there is no attack on the judiciary, but these are people who also take issue with global warming and whether HIV causes AIDS. But, I would say there most definitely is an attack on the judiciary. I would say it's very short-sighted of the ANC, and I think ultimately they'll regret it. But I think it is true that the ANC, or a lot of people in the ANC, have not fully adjusted to Constitutional Democracy. I think that's a huge problem. I think in a large measure, Constitutional Democracy is, kind of, almost foisted on the ANC because during the transition the Nationalist Party really wanted to entrench certain minority rights, and property rights, and even the ANC's constitutional proposals in 1989, kind of, grew out of the fact that the NP was saying: we want a Constitutional Democracy. So, I don't...I don't...I think that the ANC find it very foreign to be governed by a Constitution. A lot of people think it's quite a...it's anti-democratic. So, ja, I mean, they think: well, we're the peoples' voice and what we say must go, regardless of this little piece of paper that grew out of a political compromise that they had to cut. So, I think a lot of people feel that way. Jeez...where was I...?

Int Well,...

RD ...you asked about what the LRC's...?

Int Sure.

RD I think I'm a bit disappointed with the LRC.

Int Right. Why is that?

RD Because they haven't...I think they haven't always spoken out enough, I mean, I know that Geoff (Budlender) and Arthur (Chaskalson) have said: look, be very cautious in criticising the judiciary, they are under attack, and so on. But the LRC haven't legally done much to protect the judiciary. They...I don't know whether they've made Amicus submissions, I don't think they have, in the Hlophe matter, they haven't joined with the Scorpions matter, which I think is a huge Public Interest case. I've always thought, and, I mean, I haven't...I haven't followed LRC politics for the past couple of years, but certainly when I was doing Articles I thought that the LRC was too close to the ANC, ideologically. And I sensed a big, you know, a lot of reluctance to take on the ANC.

Int But they did take on the TAC case and Grootboom?

RD Ja, ja, no, sure, sure. In a sense they had to. But, you know, I don't think that enough is being done to protect civil and political rights. You know, I don't think the LRC's as vocal as it should be.

Int What do you think are the reasons for that?

RD Um...I'm not sure, I don't know...I don't have the inside word, but I am, you know, and obviously I'm an outsider looking in it, I don't know the internal politics of the LRC.

Int Fair enough.

RD But I do think they're not doing enough and I do think they can do more.

Int I've asked you a range of questions and I'm wondering whether there's something I've neglected to ask you which you feel ought to be included as part of your LRC Oral History Interview?

RD No, well, I mean, I think that LRC is a great organisation, I think that its work in the new South Africa is very important, I think I find it sad that they have issues about funding, and ja, I think, I mean, it's places like LRC that can really, you know, make the Constitution real, I think, for a lot of people. I think we still have a long way to go, but, I do think that the LRC's got a great role to play. So...

Int Reynaud, I enjoyed meeting you and want to thank you very much for a most interesting interview.

RD Pleasure.

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