

Mbali Cele

LRC Oral History Project

12 September 2008

Int This is an interview with Mbali Cele, and its Wednesday, the 12th of September (2008). Mbali, thank you ever so much, on behalf of SALS Foundation, we really want to thank you for agreeing to participate in the LRC Oral History Project. I wondered whether we could start the interview, whether, we could talk about early childhood memories, growing up in South Africa and where you think your sense of social justice and injustice developed?

MC Well, I wasn't born that long ago. It was 1985, I attended schooling, we were living at Umlazi, I am one of four, I am the only girl and the last born, so I'd say my home life was a bit privileged but I went to a African school from Grade Zero to about, it was standards then, to about Standard Two and I went to a multiracial school from Grade Five, when we had to move from Umlazi to Bluff because my nanny had, there was an unfortunate incident, the way she was murdered in our house, so we obviously couldn't stay there anymore, so we moved, so I was about nine years. We moved to Bluff in Durban and I have been staying there ever since that time. I went to Van Riebeeck Park Primary School, it was my first multi-racial primary school and I was there until Grade Seven when I went to Grosvenor Girls' High School, which is also at Bluff, so I wouldn't say that I experienced much, cos the time that I was growing up around '94, I was still a bit young and really to be young, I didn't notice anything different being a child, I mean, I had some white friends, that I was playing with, so it wasn't anything much for me, its now that I have grown up that I can see the differences. Ja, and I finished my Matric in 2002, I went to do my LLB at Wits University, so I was there for four years. I stayed with my aunt for the first three years and my last year, I was staying at residence and I came back to Durban. I did my Practical Legal Training at UKZN, it was a six months training programme and I was fortunate enough that, actually just two weeks before I finished the course, I was employed at the LRC, and ja, basically that's the rough history.

Int Okay, I am also wondering, when you did your actual legal studies, what prompted you to study law upon leaving school?

MC To be really honest, it wasn't anything really specific per se, but, my, my parents were friends with the now, Justice K.K. Mthiyane, and I have known him ever since I was a little girl and he used to come around to our house. At the house, he was an advocate for my father, there was a case going on. So, he, he was a very big influence and not at the time, we talked about the law or anything serious, I mean, I was a child but he, he's always been present in my life, and I have never seen myself doing anything else. I don't know why, it was sort of a like an instinct, you know, it was never for me, when I grow up I wonder what I want to be. I imagine maybe I had a conversation with him once and it, it, probably stayed in my head. So, I wouldn't say anything really specific but I have never thought of myself doing anything else, if that's understandable, I am not sure, ja.

Int So you studied law at the University of...

- MC Wits.
- Int So, you went to Wits and in terms of Practical Legal Studies, were you involved in that course at all, did you work in the Legal Aid Clinic?
- MC Yes, we did, and it was...ja, we did do in our final year. I have to say, really to be honest, I didn't...I gained something from it but as far as, practice, we consulted with a lot of clients, but I mean, eventually in the end, that's where it stopped cos of reasons, we couldn't help a client or a case was not strong enough, or some other reason but I had one case, we opened one file, gosh, I can't even remember the actual details of it, but I really didn't feel that it was something we should have been doing rather.
- Int What do you mean by that?
- MC What was it about? It involved...it was a money issue. You know, I wouldn't classify it as a public interest issue.
- Int Alright. In terms of actually, why did you decide to do Articles at the Legal Resources Centre? You could have gone to a commercial law firm or you could have gone to another law firm, why particularly, the Legal Resources Centre?
- MC When I was near completing my Articles (means degree), I told myself that...
- Int You mean your degree?
- MC Oh, sorry yes, my degree, more specifically my training at KZN, because immediately after my degree, I started in January, my training.
- Int And the training what did that involve?
- MC It involved, it was more practical than the LLB, you know, LLB its theory, cases, but with the programme they teach you more practical stuff. They teach you how to...present yourself in court, how to introduce yourself to a Magistrate, those types of things. So, it was more in the practical, and practical advice as well. And so I told myself, you know, at the end of the day, I am young, and to be honest, I am not really quite sure, if you ask me today, what do you want to do for the rest of your life, I won't give you an answer. So, I told myself, okay, LRC has a vacant position, let me apply and see what happens.
- Int Did you know about the Legal Resources Centre, before that?

- MC No, I didn't, no, I didn't. I found out about the position, then I went to the Internet, to the website, that is when I first heard or rather researched about it before I came to the interview?
- Int And then, you started here. So, you had already done this one year practical training, so you did one year Articles as such.
- MC Yes.
- Int So, could you tell me about your Articles, who were your principals, what were your rotations, what areas of public interest law that really interested you?
- MC Okay, well, thing is with us, when I came in, JP (Purshotam) left immediately after and Nomfundo (Gobodo) as well, so basically I have had mostly Sharita (Samuel) and Mahendra (Chetty), but I'd say most of the work that I do is with Mahendra. What interests me? You know, generally, I think this type of work, not everyone can do it. You need a certain...I can call it, patience and, understanding and compassion, because you know, sometimes, you know, you find that you are not able to help a client but you know, you must take the time, to explain why, and you know, sometimes, clients will come here just for someone to talk to. And you know, so, the work that I have been involved in, some housing matters, there is a maintenance matter that I am dealing with at the moment, there is a Clairwood matter that I am dealing with, so I would say that, because of the shortage of the attorneys that we have, we didn't, we haven't had the opportunity to rotate per se. We just have to do whatever is there, so I can't say, I am going to go to this person, to get an experience for land, or this person to get experience for housing, we have just had to do everything, ja.
- Int In terms of...what are the cases that you have done that you have found very interesting, if you can talk about that?
- MC If I can talk about that? Okay, I have had one case, which I got immediately after, I started working here, so I was a bit nervous about it. It involves an eviction in a farm in Mooiriver. It was Khomo family, it was how many members were there, it was the parents, who had been living there for more than thirty years and, a new owner had purchased the farm, so he had instituted eviction proceedings against them. So, when clients came to the office, there came with, with their founding affidavit that they were being evicted from the property. They had to take it from there, and I was working with Mahen on it. So, I had to now draft a pleadings, which I never really had to do before, so that was a bit 'nerving' on my part. Well, there's a first time for everything and I draft better pleadings today. So, what eventually happened with that case. We filed answering pleadings, answering papers, and, well, we, we sort of caught them off guard on a number of issues. We got a phone call that they wanted to settle, to discuss settling the matter. I had to go up and down to Mooiriver to explain to clients, it is not easy to talk to someone who doesn't understand on the phone. You have to speak to them face-to-face and explain to them, this is what's going on and explain it ten times, so that they understand. Sometimes, a simple procedure of you

have to sign the agreement first, before you receive a cheque was an issue, I...there was a point where I was a bit fed up but I mean, obviously, you can't lose your cool, so, but anyway, we ended up getting a settlement, where clients were offered 65 000 rand to go and relocate another place. Ja, that's how that case ended. Another case that I have at the moment, which is also a bit of an uphill. A client approached us, she had a, she has a son, with the father, they had a relationship, in '95 but broke up and she applied for maintenance in Umlazi magistrate's court and an order was granted in her favour, that in '99. And in 2000, when she is making, when she was making an application for increase, the father out of the blue, says that he wants a DNA paternity test. He says that she doesn't believe that this is his child. The client was happy to oblige, a date was set where the samples would be drawn and this is the funny part. The samples are drawn at the premises of the court, which is a bit strange, it is not a lab, it doesn't, I don't think it is proper procedure, but anyway, there is a setup, sort of like a room like this, where they sit down, they have their blood drawn and then everyone leaves, and then the employees from the lab take the samples with them. So, that happened, as client was walking out with her child, she noticed that, the respondent, the alleged father, was not following them, I mean, they all came in together, and they must all leave together, and when she turned around to see what was going on, he was talking to one of the lab assistants, there was a nurse and male assistant. So, he was talking to this male assistant, and it appeared as if there were exchanging cell phone numbers. Anyway, she approached and asked I mean, what do you have to discuss, what's going on and the father, was like I am just asking to ask directions to the lab, because I want to take my other children, he has other children with other women (laughter), so client was okay then and then she went away. On the date, she returned to hear their test results, they say that he is not the father, he is excluded from being the father, so client was shocked and when she came here, she was just a mess. So, and apparently, she is not woman to have this happen to her, at that particular court, there have been a number of women that have had the same complaint.

Int So that means there is some case of corruption?

MC There is, what is what I suspect, that is what I suspect, and I even had a client come in that had a housing problem some couple of months ago, say about April and she had sexual intercourse with one of the magistrates, so that she can do him... sorry that he can do her a favour, with regard to her matter and she even had a tape recording of their conversation. So, I am not the greatest fan of that court.

Int Where is the court?

MC At Umlazi Magistrate Court, it's in a township, so, I am not the greatest fan of that court and I have appeared a couple of times for this matter. And our applications keep on getting struck off the role, no they cannot order a second DNA test, this is and this and that. So, that is where we are at the moment. We had drafted high court papers and took it for an opinion to council. And she's gotten back to us that, she thinks that we should go back to the Magistrate's Court, I wasn't very happy about that but that is where we are at the moment. It seems that we might have to go back but there is where issues stand at the moment. So, with issues like this, you feel, you know,

imagine if I feel like this, then how does client feel, you know, I don't even want to see the case, you know so I had a conversation with her in the morning, so , she was like to me, you know, Mbali, if we have to go back to court, really I'd rather withdraw this case, so I am like, you know, I feel the same way, but you know, at the same time, we have to try something, especially, if we think there is some corruption or fraud, or something of the sort going on, because I mean, you have got a child, and how can a Magistrate order that that child receive 200 rands of maintenance, what are you going to do with 200 rands. And the father will earn, well, he won't be the richest man in the world, but he can surely afford more, so its, I don't know if it is discrimination against women, or if it is only in the maintenance department, really I am not sure, but my experience there, hasn't been, hasn't been well. If you request a file, they can't locate files, if you looking for notes, that were made, magistrates don't make notes, so you appear, they just stare at you, they don't make notes. When I request a transcript, there wasn't a transcript, they are not recording, so...

Int Has this been reported to the Bar or is there recourse?

MC The thing is I am not sure myself?

Int Have you asked Mahendra?

MC We have talked about it a couple of times, but not on a serious note, where we say we have to now report it or do something about it. But I even explained to him this morning that I feel, like we really would be wasting our time if we go back to that court, so that's that. So, another case that is personally close to me, a case that I inherited, there's a Clairwood case. Clairwood Boy's primary school, where we seek to force the municipality to build a bridge over a particularly busy intersection in the Clairwood, which is mainly Indian area...that one I have been working on quite a bit, and I am just scared it is going to go to court and I won't be here, cos, my contract ends in December and the case will be in February sometimes, so if I am in Durban, I will definitely go and watch and see what goes on. So, that's a case I have been involved with as well. And then we get there, you know, everyday maintenance matters, death benefits matters, what we classify as jus front of house matters, where we just make a phone call or two, maybe we write one letter and then close that file.

Int I am wondering in terms of what your next steps are, are you going to stay in public interest law, what are your plans?

MC My plans are next year, I want to do a Masters in Business Law. The problem is I am not sure where I am going to be next year. If everything goes according to my wishes, I want to relocate to Jo'burg and hopefully, get a job there and start working there in January. At the moment, I am applying for jobs in Jo'burg?

Int In law firms?

- MC In law firms, yes. And some government.
- Int You are not interested in working in public interest law?
- MC I am but there, there are not that many NGO legal law firms, something that I can say, that I can substitute for the LRC, there is not a lot of them. Personally, I would love to stay here, maybe another three to four years and then thereafter move on because we, you know, there is only limited experience that I can gain and I would like to gain experience in some thing else, as well, ja.
- Int I am wondering since you have been here, in terms of the level of support you feel that CA's get compared to say your peers who are in other law firms...what's your experience of the Legal Resources Centre?
- MC Oooh, for me personally, it's been very, very good. We, you know, there is no thing that if you are a CA, then you are here to serve, or you are here to do photocopying, or whatever. I mean, I guess that is going to depend from office to office, which maybe Director you have, but, personally in this office, I don't think any of the CAs have had a problem with regard to that. I think we are just expected to work as a normal attorney. We draft pleadings, we consult with client, we draft letters, so there is no off zone where you stay away, and you just stay and do that and attorneys do that, no. I don't think so and as far, I think ,well, with Mahen (Chetty), I work with him most of the time, he is patient with us, so really, I don't have a problem with any of that.
- Int In terms of what has been going on at the judiciary and much wider, what are your concerns, you have mentioned the Magistrate's Court, I am wondering whether you have concerns, similarly about rule of law in South Africa. At the moment, as we talk, there is a march about Zuma that he shouldn't be prosecuted. I am wondering what your sense is about rule of law issues, concerns over that, where you think? How you think the LRC can function because it seems to me in the Magistrate's case that you mentioned, it seems even though the LRC is trying to do good work, its hands are tied?
- MC That's the thing. Its like an invisible barrier, you know, its is sort of you say something, but you don't have proof and its only something that you can experience when you have had the unfortunate luck of having to experience what that court is like. You know, because even explaining to someone who is never been there, ooh, what are you all about that, but if you speak to people that have actually experienced, the, the, you know, you go there, it seems like no one there knows how to do their work, you bring a letter saying that you want to, you request to make copies of the file, we have never heard of this, what copies are you making. Or let me see, let me choose selected copies, you can only make these copies and not these copies, so, you know, immediately, you faced with this barrier that people don't know their work. So, as far as, the judiciary is concerned, you know, things it's very difficult to say, that we must separate politics from others things, especially at this moment, when the President of the ANC (reference to Zuma) is in the mix of all of this. I think there is a threat to the independence. I don't know what the ANC and the alliance partners hope

to achieve by the strikes and the demonstrations. I am not saying don't support, but you know, you can't push it so far. You can't say that, Mr. Zuma will be President even in those orange jumpsuits (laughs) that they wear in prison, he can still carry on ruling the country while in prison. You know, I think it undermines the jury to the fact that they almost given an ultimate, you must release this man, this man must not be prosecuted. I don't think it's fair but at the same time we have to ask how are our judges sort of affected by this. Do they take it into account, they are human being at the end of the day. You know, you are going to reach to something. You can stay impartial, as a judge you are required to be impartial, but at deep down you are a human being and somewhere or the other, it affects you. So, well, I don't have much hope (laughs) but well, hopefully, they will make a right decision.

Int I have asked you many questions, I am wondering whether there is something that you would like to add to your interview?

MC Someone like?

Int No, something that you would like to add...

MC Something. No, not really.

Int I wondered whether we could end the interview by...if you could share a memory whether it is of a client or a lawyer that you feel in some ways, makes it worthwhile to have done your Articles and have had the experience of public interest law organization?

MC Public interest law. No, I had one client, who, unfortunately, we couldn't assist due to the nature of the case. And when he left, he was telling me but you know, I appreciate, although I can understand that I can't be assisted, I can appreciate that the fact that someone actually listened ,that someone actually took the time to explain to me, because we take for granted a lot of things, that we understand just be single clients and then expect someone else to also understand it. I mean, we assume that we have gone to university, we know the law, but you know, something so simple, someone else doesn't understand, so that, was a nice memory, as well.

Int Okay. Mbali I want to thank you very much for agreeing to participate in the LRC Oral History project and for giving your time so generously, and I wish you everything of the best.

MC Thank you very much. Thanks.

Mbali Cele–Name Index

Chetty, Mahendra, 3, 6
Gobodo, Nomfundo, 3
Mthiyane, KK (Justice), 1
Purshotam, JP, 3
Samuel, Sharita, 3
Zuma, Jacob, 6, 7

Cases:

Clairwood Matter, 3, 5
Khomu eviction (Moorriver), 3
Paternity and Umlazi courts, 4

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:- **AG3298-1-024**

Document Title:- **Mbali Cele Interview**

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

Document Date:- **2008**