Chantel Fortuin **LRC Oral History Project**

Note: Partial Embargo until death

This interview transcript is substantially edited by the interviewee and certain excepts and pages were removed and placed under embargo.

The audio version of this interview will not be made available under the embargo.

Interview 1: 20th December 2007

Int This is an interview with Chantel Fortuin. Chantel, thank you very much for agreeing to be part of the LRC Oral History Project, we really appreciate it. I wonder whether we could start the interview by talking about your formative life experiences, growing up in South Africa under apartheid…your memories and reflections and what was the trajectory that led you into the legal profession?

CF I was born in a town called Paarl, just outside of Cape Town, about 70 kilometres outside of Cape Town, in 1964, and grew up there, went to school there and went to high school there.…I'd just started high school…I'd just finished primary school in 1976, so '76 was like, you know, my first real awareness of things that were not right in South Africa and things happening at schools. In 1980 I was in grade…grade 11, the old standard 9, so I was really being pushed into…into a very volatile student activist time. I grew up in a coloured family where awareness of things being wrong was very strong but actually doing something about it was not really happening because of the typical way people in our communities reacted, you know, the fear of doing something that would anger the authorities. But I think I grew…fortunately I grew up in…I was at school at the time when most of the political activity happened at schools, so I was part of that…of that group of people. During that time the UDF structures were very strong; the UDF structures started in the early eighties when I left school but…so…but what we did in Paarl was that there was a big activist community in Paarl, so I was part of a group of organisations who started youth organisations which were affiliated to the …not affiliated, which worked with the ANC Youth League which was still in exile at that stage, so we had youth organisations, civic organisations, really a time when things were really starting to heat up in the country. In 1985 I got married and I had my first baby in 1985. In 1986…and by that time I belonged to the Women's Organisation so my focus has al…in the struggle…has always been on women, so part of the United Women's Organisation and the United Women's Congress, then it turned into the ANC Women's League and…so, that was the history and also in the Youth Organisations, as I said. What happened with the UDF in 1984, we represented most of those organisations and I started…I represented the Paarl town in one of the…in the founding meeting of the UDF, there was discussions with various towns in that time just to get the UDF going, and I remember attending one of those meetings where the plan for the big launch happened, so, that was, like, years ago. In 1986 most of our private…our personal or local organisations in Paarl, we had the Paarl Youth Movement, the Paarl Women's, all of those, were specifically banned by the government, published in Gazettes, so all of our political activity were basically stopped, and at that stage we started an advice office in Paarl. So I practised as a paralegal, very much to give legal advice to communities, but in a way to organise for the ANC, I mean…there was no…I mean…that was actually what

we were doing, women who came to us were organised into women's organisations, youth who came were organised into youth organisations, it was very much a front for ANC activities. So, I ran the…ran the advice office since 1986 and it catered for the Boland areas, the areas of Paarl, Wellington, Franschoek, Mbekweni, those areas. And, I started, after Matric, I started…I studied law; in 1982 I started. My first…my first exposure to law being a tool to be used in the struggle and some kind of tool to get some kind of liberation, was in 1981.I think it was '81 when there was a big national strike against the increase of the bread price and I was arrested amongst a whole group of people and Shehnaz Meer, who also later practised at the LRC, but at the time was practising at Dullah Omar's firm represented us. I realized, you know, that law can actually be used to make some kind of point, and I went to study law after that and I think many people at that stage, realized that law could be used as some kind of tool. So, I studied law, registered for law in 1982at UWC, very volatile time in student life studying as well, you know. Our priorities were different to that of other students e.g. when there was a mass meeting happening and a test being written at the same time, you know, our priorities were straight, you would go to the mass meeting, and not go to the tests, so those years mostly focused on mobilising and organising students and studies were not our priority. There were some people who managed to study through those years, maybe they were stronger, but we had one priority and one priority only. So I stopped studying in '85 when I fell pregnant. During 1984 there were hardly any classes happening at UWC. I got married, as I said, and I had my first baby then, and then we started the Paarl Advice Office in 1986. So, I ran it and we employed people…somebody from Wellington and people from the township, so we ran that office and, as I say, it was basically a front for organising people but also getting some kind of Human Rights culture going in the town, and while I was a student still at university, most of us students did practicals at the Legal Aid Clinic, so we would run the Legal Aid Clinic in Paarl at the church hall, once a week, and during that time the Legal Resources Centre trained paralegals, those students who worked in the Legal Aid Clinic , so, on a Saturday morning I would travel through from Paarl with the train to Cape Town, and attend the classes that the Legal Resources Centre gave to those people who worked at the Legal Aid Clinic as students. That was my first interaction with the LRC in 1982. But the LRC also had an outreach programme at that stage, where they visited community advice offices once a month, so that was the real legal part of the advice office work, apart from the other mobilising and fronting for other stuff, the real legal part was the link with the LRC, where a lawyer would come out once a month to look at the cases that needed qualified lawyers and not only paralegals. Two staff members from the Cape Town office visited my office. They were Matthew Walton and Angela Andrews. They would alternate and come, like, every second month one of them every month and then during that time, I think it was Matthew (Walton) who encouraged me to resume my studies. I had two years of law behind me already. He actually motivated me to go back. But at that time, as I said, studying wasn't important. It was only in 1993 that I decided that it was time to go back. It was the time of our first democratic election in '94 so I asked the organisations to give me a bit of a break because I started studying part time. So I had two babies at that stage, it was a bit difficult but I managed. . I worked in the ANC election office at that stage, for the Boland region, so my office seconded me to the ANC Boland Region . That was all during the day and I studied at night. So I travelled from Paarl to Bellville every night, started at the advice office in the morning, carried my babies from pillar to post, finished work at 4, drove to Bellville, studied till 10 o'clock at night, got home, kissed my babies while

they were asleep, because I never saw them awake, for three years, and in the process I also changed my course. I was going to do a LLB but I needed to spend time with my children so I changed to a B.Proc because that would have allowed me to complete my articles in a shorter period of time. So I finished my studies and it was wonderful. It was a 24-hour job working and doing that, but it was wonderful and I graduated at the end of '95. The graduation was…I finished in '95 and graduated early '96. At that stage, the only thing I wanted to do was to work at the LRC, because it was the only place that I saw…that I could practise law the way I wanted to practise law. So, I never envisaged myself working anywhere else and doing anything else except Human Rights or Women's Rights. I couldn't go anywhere else to do only that. So I assumed that when I finished I was going to come here and do articles and I went for the interview and I got the articles. I started doing Women's Rights immediately when I came here, because that's all I wanted to do. I mean, I can't even imagine doing anything else. So I started that…started running the Women's Rights Project here and then…and that's how I got to the LRC, and I never…I never…I can't see law, Human Rights, rule of law stuff, being separated. I started being interested in law for that exact reason, being involved all the time for that exact reason and I can't see it change. So I can't imagine doing law…practising law anywhere else, unfortunately.

Int So, you came…to the LRC and…did you do articles?

CF I did articles, yes. So I started out as a paralegal before I worked here, then I became an article clerk, then I became a lawyer, now I'm a Director. So I think I did it all…the only thing I wasn't was the tea girl. (Laughs). I was that at some stage as well. (laughs).

Int So since '96 to now, that' over ten years?

CF It's almost twelve…no it's eleven.

Int Yes, eleven years. So you've…you've been solidly at the LRC?

CF I was away for eighteen months, when I was an Acting Judge; I acted at the Bench from 2005

Int Was that in the Land Court or…?

CF No, in the High Court.

Int I was wondering in that period what are some of the changes that you've noticed, because you came really after you've had a long history of Public Interest involvement, community involvement, but when you came to the LRC, the country was going under transition, the LRC must have been undergoing transition, what were

some of the real issues that you found yourself having to grapple with in this organisation?

CF OK. When I came…when I came to the organisation, I think it was just before there was a major strategic planning when the organisation changed course…but not really, you know, in the way it did things. So, when I came…I'm not sure whether it's changed much, but this is what I found when I came. I found an organisation who was squarely rooted in practising Public Interest Law, but was a law firm in all respects. It reflected the demographics of the legal profession, which meant that it was run by white males and the admin staff was black and coloured and women and so…and that's what I found, not with a lack of wanting to change. But that's what I found. And that was just when we started doing strategic planning, apart from the strategic planning, focusing on outside service delivery, major portion focused on the internal organisation, which was very interesting at that stage, but also very traumatic because it was a time when, I think, this organisation went through real major changes, realising that we're actually a white organisation that needs to look at how we are perceived , if we wanted to be credible. So, that's what I found. But I think this organisation has invested a lot of time and energy into dealing with those issues, …many of the results of that process, have not been the same in all the offices. You had people falling off the side, either not buying into the change that happened, falling off the wayside. Some started becoming bitter, staying bitter, so there were various reactions to that process but I do think it was a wonderful process because it made us…especially in an office like Cape Town, where we still are majority white male, it's a very interesting place to work because…and here for us, I think, we've really bought into the process and we took it seriously. It was also a traumatising process. One of our colleagues, a scarf-wearing Muslim, feminist lawyer, who were probably the most liberal, , person I've ever come across, committed suicide in the middle of that…in the midst of that strategic planning session. Soraya Bosch was my best friend, that's her. Anyway, it was very traumatising for us, it was traumatic because we dealt with issues of race and gender, face on, it was like a full-blown war, but I think it was necessary for us to go through that, and I think we've managed to go through it and…and understand each other more, you know, it's like a family-like relationship, you work at a relationship if you want to stay together forever, and in a way that's what we did. But it also left scars in other areas of the organisation and that I know, but whether it changed since then, probably, I'm a Regional Director now, I'm the first black woman regional director in this office, I think there were very few in the past…I'm still the only black woman director in the whole country. So, I think, things changed, Shehnaz Meer was…probably went up, in terms of hierarchy…the highest in the country when she took the position of Deputy National Director.

Int And she is in Land…

CF No, she is…she is in the High Court now, also in the High Court. She used to be in the Land Court. Anyway, so whether some things changed, I do think so, I think…I think things changed but whether the power relations really changed is a different issue and that's something different and it's not unique to the Legal Resources Centre. It happens to organisations all over the world. And, the problem is just that we don't have a critical mass and that's the problem, I mean, appointing one black woman in

Cape Town is not going to change the world. So, that's the problem. But I do think that we're bold enough to make those decisions that…and whether…whether the old guard thinks that a young black woman is able to deal with the issues at hand , is…is another debate. I'm not sure whether they do think that we are capable but the fact that they are bold enough to take the step to appoint somebody that they may not be confident about, frankly I don't care, but the point is…that's another debate…and we can have that debate at another time. But, I think what is worth mentioning is that they're willing to make that brave step because it's necessary at this point (inaudible) to have people, to have black women leading the organisation, and I do think in that respect we're lagging far behind, I think…having one here in Cape Town is a good step and I'm willing to take the plunge, being that one, but…but I think the question is whether it really changed the organization and I'm not sure whether I can answer the question yet. It's going to take a long time.

Int So when did you start as Director?

CF In 2003, I acted for the year before then, and then I was appointed in October 2003.

Int So, since 2003 to now, what have been some of the core issues that the LRC has had to grapple with?

CF Same issues. In my mind the issues that I thought needed attention nationally and of course regionally as well, is the briefing patterns of the LRC, which is exactly the same as the briefing patterns of the legal profession nationally, which I find embarrassing, and I thought that being on EXCO would make…would help me to change that. Now I fought many fights to get people at a national level to understand that briefing patterns reflect your thinking, that if you talk about transformation, it's important to brief black women. It's important, that's where you make changes, it's not helpful for us to keep on briefing only people like e.g. Geoff Budlender. It's not helpful. It means that we're preaching the one thing and practising the other. So, for me, that's a fundamental issue in the organisation, which I don't think…and for me, it's very sad because it shows a misunderstanding of the issue of transformation. There's still the debate about comparing merit, bringing merit into the transformation debate, which for me is insulting, because when you talk about transformation in the true sense, merit should always be assumed, while when you look at it from a different perspective, a lack of merit is always assumed. This is completely different to the real meaning of transformation. Surely, true transformation means that you take the best qualified person of colour, the person with merit, that's the issue, nobody is saying, and I find that even in an organisation like the LRC with all its history of equality that even here, we still make…that even in our organisation that confusion still exists.… I find it very shocking, and I do think it's still a challenge today, because you'll always have to motivate hundred times more…it's the old gender debate…you have to work seventy times harder if you're a woman to show that you are capable…it's the same thing…it's exactly the same thing, so…so I think we missed an opportunity to rectify this.…That's one of the biggest challenges and I think that we can't go out there preaching transformation in briefing patterns in the legal profession if we don't do it ourselves. IN the LRC we specialise. Nobody else is able to train black women lawyers, I'm going to call it black women lawyers because

I think it's like that, you know, in Public Interest Law. If we don't do it, what does that mean? It means that we are an endangered species, there's going to be…I mean, as a group of lawyers we are an endangered species, there's no Public Interest lawyers around any more, people get grabbed by corporates and we don't have the necessary people. How are we going to ensure that we have the majority of qualified lawyers being interested in the work we do if we don't brief them?

Int Has it helped to have Janet (Love) as a woman National Director…?

CF I do think so, I think so, I think so because, yes, I do think…I do think she looks at things differently, it's much easier to convince her about things that we find important, than it was with some other male directors. . Even liberated men, it's…you know, it's having to go that extra mile to convince them, and I do think it's easier for me, as a woman, it's easier, a bit easier.

Int I'm wondering, Chantel, in terms of, when you arrived, I think that's when the funding issue really became a problem and I'm wondering whether you could talk about that, because it seems that the LRC's work is actually hampered by funding.

CF By funding, I must say it's one of the big mysteries…I'm not sure how that is because, when we talk about the LRC's work, comparing it to any other work by any other organisation…I don't think any other organisation compares with our history, with our consistency, with our reliability. So, I'm not sure what it is. And at some point…at some point…selfishly maybe, I was one of the people who advocated that because the organisation is not changing its face that is why there is a funding problem. I must say when I said that it wasn't based on any fact, it was necessary to bring that message across at that time and that's why I did it, but the point is…at this point I also don't know whether it may be a factor…I would still tell people when I talk about transformation that it may be a factor, but whether it is in actual fact, scientifically is that way, I'm not sure. But…but if not that, what else can it be? Because I do think that the cutting edge work, in terms of law, in many of the things that we do, maybe not all of it, but in many of the things that we do, we are at the forefront. And even in those areas we are struggling to find money, so I'm not sure what it is. I think it's maybe just the lack of skills to get somebody to actually get the money for us. I think so and maybe we are too big. I think we are a bit too big, slightly too big.

Int One of the things that's been said about the LRC is that it's not always clear in a post apartheid transitional dispensation what the LRC's mandate is, what its focus areas are and that people, even people who've been in the LRC, when they leave, they are not sure whom to refer because they are not sure whether the LRC's prepared to take that case on. Do you think that's fair?

CF It's maybe fair from outside…that's maybe the message that we're sending out but that's not actually what it is, because I think we are more focused now.. I think in the past our focus was general anti apartheid and Human Rights, with no specific focus. The point is it's exactly…and maybe I know what the reasons are, what I think the

reasons are…for the funding thing, it's the funders themselves, it's a global thing. It's the funders who wanted 'projectisation' who initiated 'projectisation' and…and it was good for us as well but, I mean, if they didn't, we would have carried on happily the way we did, that's the first thing. Secondly, we know that the funding cake have to be divided much more now. It is much sexier to fund a project in Iraq and Afghanistan than it is to fund a project here. It's also a lack of understanding of the phase in which we are currently…the transformation phase, which for me the most important part is exactly now, because we need to consolidate the victories that we made, and we need to get the Constitutional Court to enforce the rights in the constitution and to get the cases heard and make law now, and this is where the money is needed, but I do think it's a lack of understanding by donors in a big way…in a big way.

Int I'm also wondering you have a strong activist tradition, your background, and then the LRC. it may not have been a revolutionary organisation but it certainly…people such as Arthur (Chaskalson) and George (Bizos) took on cases for ANC activists, you know, and they certainly defended people who were ANC-aligned, I'm wondering, 1994 onwards, the LRC has now had to actually undergo a metamorphosis where it's now taking on cases against an ANC-led government. When you came in 1996, and…since then, what have been some of the debates, discourses around that?

CF I think…I think…I mean, obviously being an activist and coming from a small rural town, I would have wanted to take on any matter that was brought by the ANC because it mostly were issues for the poor, but I think in my office…clearly what helped me a lot was the policy that we don't act for political parties, and that we do…that we do target…target government, whether it is an ANC government or not and I think we've managed to do that all along. The debates…I think…I think that's what makes us feel so unclear of what we are, and I think that's also what makes it difficult to convince funders of what our role is because, I think the organisation has chosen to interact on various levels, you know i.e. law reform and advocacy and litigation being one of the strategies only. I think that makes us a complicated organisation because our opponent is now more complicated and that's the problem, I think in many instances that's the problem. Because you're going to be involved from the initial phase…phases of writing the legislation, assisting there, making submissions, trying to change legislation and in the end you're going to have to litigate, so I think, and I think that's what also comes through in selling ourselves and I don't think it's unique to us. Other NGOs…are not necessarily client instruction driven, like we are which makes it different, but I do think…I do think we've managed to define, in a way, what we are doing, and I think we're very clear about litigating an ANC government in cases where it doesn't follow, you know, where ignore constitutional imperatives, so I think…I think we're ok with that, but I'm not sure whether we are selling our role properly.

Int But is there a perception by the government, that…that the LRC's going after it and is there any pressure from trustees for example that…not to be seen as going solely after government?

CF No, not from the trustees. I do think that government have…some people in government…have a misconception about what we are doing. I mean, because actually what we are doing is (inaudible) rendering democracy and they should be seeing it as that. The LRC litigating an issue against government on housing e.g. I mean it should be clear I think we litigate responsibly, I do think the LRC is one of the Human Rights Public Interest Law organisations who litigate more responsibly than others, because I do think we take into account various factors when we do decide to litigate. I think we are going to win the battle once we convince government of that. I think that is the biggest battle. And I think once we…once we are considered to be one leg of the democratic process, which is currently not the perception , they see it as the enemy, we're going to be ok, but currently, that is our struggle. We need to convince others stakeholders, and whether it is necessary for us to convince them we do not necessarily want to fight against them, I'm not sure, but it would be easy because we would want them to know that we're doing it for the sake of the true democratic state that we have. But I think there is a misconception about what it … is that we do..

Int In terms of rule of law in a post-apartheid…and especially in…also in a constitutionally based society, what do you think…the LRC is and ought to be, dealing with, in terms of core areas of Public Interest Law?

CF I think socio-economic rights should be our focus. I think the point has been made with first generation rights if I have to, I mean, and clearly it's interrelated, you don't…the whole debate about whether you have first, second and third generations rights, I do believe they're all interrelated, but I do think our focus should be socio-economics rights, even if we do target "first generation rights", the aim should be on the poorest of the poor and on socio-economic rights and I do think we have to do that, even though it's much more difficult to litigate, it's much more difficult to deal with and I do think it will make us…it will separate us from other organisations and there's a need for an organisation to be doing that, to help our democracy. So yes, the equality, voting rights, sexy issues are fine, but if it doesn't change the income of poor people, then it means nothing. So I think we need to be focusing on it.

Int One of the…in terms of restructuring the LRC, one of the things that comes up is that the Cape Town office is quite unique…

CF Too big…

Int Is it too big?

CF No, I thought you were going to say that because that normally comes up. (Laughs).

Int It's quite unique because in Johannesburg for example, there's been a high turnover and in Cape Town people have been here for a long time.

CF I mean, it depends on who you talk to, you'll get a different perspective as to why that is. And there is a bit of truth in both. My view is that I really believe that the staff in this office has true commitment to Human Rights and Public Interest Law. Probably the most difficult characters anybody can work with and I do think for that I deserve double pay, (laughs) but I don't get it, but the point is…despite all of that, I do think there is a commitment to this work and that's why they stay. But it's also true that because they've been here long, they get the bigger salaries, that's also important and because…and unfortunately, they are all white and they are all male, most of them, so, you know, all of those dynamics but, I mean, I started out as a very activist-like candidate attorney. , You know, I was, like, a difficult candidate attorney, I was older than the rest, I was much more experienced in terms of activism, so every issue in this organisation turned into a campaign. William (Kerfoot) and the others remember, you know, that simply the allocating of offices was s…eg. the white male a candidate attorney gets the best office, I would make an issue out of it because it smacked of racism . So I'm used to making big issues out seemingly small ones. I was one of those who raised the issue of this office being top heavy, you know, as one of them…but objectively when I sit back as a Director of this office I look and I can really see…and I'll defend my staff members wherever I go because they are committed to this work and I see that, and that's why people stay. It can also be because there's not many jobs for white men out there, it could also be that, but I'm talking about the commitment and I do think it's a factor…I do think it's a factor.

Int It's also…interesting that the LRC has a tradition of having had Fellows, encouraged training, education and training of black lawyers and generally young lawyers, and it seems to me that in a post apartheid dispensation it's become increasingly difficult to attract and then retain young lawyers, let alone black lawyers.

CF Yes, no…I mean, there's…there are…those are one of the serious debates in the organisation, as to why, and whether we should be doing something about it and if, what do we do about it. Now, money is an issue, I mean, you have a young person which has graduated with a young family or not so young family to take care of, and you…you offer her or him the salary that we offer to junior lawyers, compared to the market out there. I mean, you really need to be committed and I'm not saying people are not committed, and especially government, government is grabbing…they're grabbing those people and selling it as: we're a democratic government, come and work for us And we can't compete, on that level we can't compete. Unless you are part of the stupid socialist ones like us who really wouldn't mind driving in an old dilapidated car. That's the problem, that's the…that's the real issue that we have to grapple with, and if our funders can't see that, we're going to be losing out big time, we're going to lose people. But…I'm not sure whether that's the only issue, I'm not sure…it's a big issue because, I mean, I can…many of the CAs that we do choose, are people with some potential to be long time Human Rights lawyers and we actually…I think we're fairly successful because many of them, even after they leave here, they manage to have some kind of Public Interest aspect in their practices. There was one of our ex CAs who said: the training she received here was absolutely amazing because she went to work for White and Case - one of the biggest law firms in the world, and where she drafted big commercial contracts and she managed to slip in a Human Rights clause in a multi national contract, which is important because, you know, that's what…you can't have all of them work here. So…so I think it's the

training that we do actually reach out and achieve something, but…so that's the one thing, but the other thing is, many of them think this is the only place to practise Public Interest Law, and not many of them, many of us think you can only practise Public Interest Law at the LRC and we're actually wrong. You can do it while you're a judge, you can sit there and act in the interest of a poor person while you are there, you can do it wherever you are, and I think what the role of this organisation is, is that you have to have a base line group of people who stay here, and they should change as well, but that people who come in and train and leave, take something with them. But I think we need to get the core base line thing right and I do think we can cut down a bit as an organisation, but I'm scared to say to somebody else because they can say: yes, we will start started in the Cape Town office because you are too big. I am not talking about that necessarily; So, I'm not giving you any answers, I'm giving you more problems. (Laughs).

Int I'm also wondering, you mentioned that Public Interest Law can be done in lots of places and for example in Johannesburg, I've heard that there are lots of smaller Public Interest Law Organisations that have cropped up, like the Aids Law Project and then also corporate firms, commercial firms have now…are doing corporate responsibility, so I'm just wondering where is the LRC's position within that?

CF I think there are two schools of thought. I think there are those…those people who think…who still think that we can only do that type of work here, and then I think there's a more enlightened way of working in conjunction with all of those organisations. But I don't think that the LRC got a fixed position on it, but I do think more and more so, and especially with new management style, I think a person like Janet would want to…would want to engage those organisations and I think it's the right way to do it. Because we can't be monopolising Public Interest Law, , we can't do it. So I do think working with other organisations is the best.

Int There's also the… sense that the LRC had a very clear kind of role during apartheid, sort of fighting, well…

CF …like anti-apartheid…

Int …but it seems that perhaps now, the way has been a bit lost in a post-apartheid context. Do you get that sense or do you think…what's your sense of that?

CF My sense is that there is a bit of confusion, I can sense a bit of confusion, but I do think it shouldn't be, and as I said earlier, I do think that the role for an organisation like the LRC, is more important now than it was pre 1994, because post 1994 is the first time that law can be changed by lawyers and not by the legislature, I mean, we now have a constitutional state, so if we really…if we really understand it we're now in a state where practising law can change the law, then this is the time for us to be operating in, and so, I think, the first twenty, thirty years after democracy, is the most important time because we're eg. going to litigate the death penalty in that time it's going to be cast in stone, we're going to be litigating Women's Rights and it's going to be cast in stone. I wouldn't want any other person to litigate Women's Rights

issues except us, because we're going to litigate responsibly, we're going to take into account custom (Winslow), we're going to take into account the general stuff that other people may not, and I'm petrified that others, people with money or other NGOs who doesn't have the same history, that they will be litigating and setting the law for us. So, this is critical, so even though I think the confusion exists that there's not a proper role, I think it is there, the confusion is there and it impacts on whether we get funding and it impacts on what we do and how we sell ourselves, but I do think it's wrong, I think it's even more necessary for us now to exist, than ever before and I think if we sell the organisation, that's what we should be selling, and maybe we're not doing that properly. .

Int As you know, that Cape Town office…the reason…it's been touted as being quite unique, is the people here are very, very committed and focused work, so there's land reform, housing development and…

CF Ya, environ…all of them, ya.

Int …and I'm just wondering what your sense is in terms of the types of work people do, the cases that have come forth, especially post '94?

CF In Cape Town…and you want me to compare it with the rest of the organisation?

Int Yes…

CF Yes , as I said earlier, I do think, and I'm not saying that there's not commitment…no commitment in the LRC, I'm not saying that, I do think, apart from commitment to Public Interest Law and Human Rights, there's a bigger commitment to the organisation. That's the one thing. And I do think it impacts on the way people see the organisation, the way people are committed to the future of the organisation and the way people are committed to…and this all links up with the type of work they do…so their land work is their life, that's it, it's nothing else, it's all they do, so it's their life and I do think because of that, that…that's the reason why we get the product that we do. The same with everything else, I mean, William (Kerfoot) will do refugee work, it's his life, it's his absolute life and you know if he can't act for poor and vulnerable people he would be nothing. He is committed, he doesn't have time to go do private work really, he will try now and then to do an arbitration here and there but the most of the time…all of us…this is where we are, twenty four hours a day. So, I think it reflects in the work that's being taken on, and it reflects in the thinking in the project work. Many of the people in this office are project co-ordinators because they're instrumental in the…in the designing of where the work should go and what we should be doing. Should we be talking to government? Should we be helping with this legislation? Should we be targeting and tackling and fighting in court? So…so it's because…I think it's because of that and I maybe, like, blowing our own horn, I don't know what, but I do believe that they have that commitment and…and I think this is the way we choose cases and this is the way they take on the cases and take it through to wherever . I haven't worked in any other office so I can't compare really, but I do think I can make that distinction.

Int What's your area of focus, if any?

CF Women. I started out with women, but because for a very long period I was co-ordinator of the Women's Project and I think we operated very well and at this time we still had money. I managed to get money for the Women's Project just like that, so I left for a year and a half…I believe there's no funding for the project now…and so I do think…I do think choosing the right champion for the project, obviously, is the best thing to do. it's difficult , when you come back and you do a…you run a regional office and also run a project, it's a bit difficult, I'm hoping that now, you know, there's going to be a fresh year starting and hopefully we can do both at the same time, because my project definitely needs somebody to…that can give energy to it and we'll have to see what happens then. I mean, many of the women's cases that came before the Constitutional Court recently, came through our project, many of them,

Int What's been one of your most rewarding cases?

CF Oh, I had many. There are the one where I challenged Anglo American farms, oh, I loved that case. We settled…they settled on the steps of the court before we…that morning before court, as they normally do. But it was good. I acted for a farm worker woman who they kept on as a casual for years, and then they had a housing project where they evicted people from the farmhouses and gave them permanent housing, and my client wasn't on the list because she was considered to be a temporary worker. And she had three babies while she worked for them and every time she came back, she was employed as a temporary worker, went off on maternity leave, then back again, and for years. And I litigated against Anglo American Farms. In one of our annual reports there's a story about it. Julius is the woman's name and it was absolutely amazing to be on the other side of a multi national company, and to see them crumble in the end, to see them absolutely crumble because…and that's the importance of the LRC because that woman would have been…would have been faceless, powerless if it wasn't for the LRC, she would have turned around after the first confrontational interaction with her supervisor at work. So, I think that for me, that was one of the most rewarding, and the way that woman depended on our intervention and I mean you can read the story in the annual report, I'm not sure about the year.

Int What was the outcome?

CF They gave her a house, a permanent house.

Int Right. Wonderful.

CF So, she was considered as a permanent worker to get a house, so the house is registered in her name. Her husband was fired and they didn't want to…they said…he was fired, he was the permanent worker, even though she worked for the company for longer, she was temporary, she didn't want to (inaudible). Anyway, so all the

stereotypes of a…ya, and Anglo American was willing to go to court and pay counsel thousands and thousands and to fight this poor, weak woman on an issue that they really were wrong on, but actually they were just like…they were just terrible. Anyway, it was very rewarding that…that one. Some of the others eg. one of the cases that we were not – in terms of our project focus areas – supposed to be dealing with, but it was one of the old cases when we had no projects yet, but where an old farm worker's leg was amputated after he was shot accidentally by a farmer, and then William (Kerfoot) started a damages claim…we don't do damages but I inherited the case as an article clerk and then when I became an attorney I took the case over, so it took forever to deal with the matter and we finally got to court and this farmer, not the legal issue…we won the case, we got an award of hundred and fifty something thousand rand for him but that wasn't the issue. It was a fact that this man for the first time in his life came to Cape Town, for the first time in his life sat at a table in a restaurant while we had the trial and had a can of Coke in his hand, and because it was the first time in his life he didn't know what to do when we ordered the food for him, he thought that he had to go to the kitchen and thank this woman for cooking the food. It was the absolutely…it is one of those stories…for me that was absolutely wonderful. Another story was one of a woman before we had the Domestic Violence Act which my project helped to draft. We made submissions and all of that, before that there was the Prevention of Family Violence Act, which meant that if you wanted an interdict, you had to go to the High Court, so it made access for women to justice…very expensive because litigation in the High Court is expensive. Before the new act came into operation that is what happened…so I had a woman whose boyfriend was a policeman who actually had a revolver, and he could…and he threatened her constantly…so we wanted to prohibit him from contacting her and to get the thing away…but anyway…it is not the law that is the issue, really here, because we did get the interdict, it's not a complicated legal issue. But I was sitting…the woman came with me, she was from Paarl so she drove with me all the way from my home town 70 km away, came in and as she…we were sitting in my office her cell 'phone rang and somebody said her child, her baby was on the 'phone and she said to the baby: "Mommy can't talk to you now. Mommy is busy in a consultation" So she put the 'phone down. As we were talking, my 'phone rang. It was my daughter, she was about four years old and she wanted to know whether she could wash her Barbie's hair. I said: "Sorry, Mommy can't talk to you, Mommy's busy consulting" I put the 'phone down. We went to our advocate, a young woman, and while we were sitting there, the 'phone rang, she said: "Sorry, Mommy can't talk to you, Mommy's in a consultation (laughs). We went to the judge, and the judge…in her chambers, had t the same 'phone call. She said: Sorry, Mommy can't talk to you now (laughs), Mommy's busy." All four of us with babies sitting there, doing issues on women's rights and I just thought it was so liberating, sitting there, all of us had the freedom to sit and have a discussion about the rights of women while all of us were sharing the same experiences.…ya…I just thought it was wonderful.

Int That's a lovely story. (Laughs).

CF I think (laughs) it's a beautiful story, yes.

Int Chantel, I'm sure I've asked you a range of questions, I'm just wondering whether there's things that you feel that I've neglected to ask which you feel really ought to be included in the Oral History of the LRC?

CF I think we've touched on most of it. I think some of the issues we could maybe elaborate on, but I think maybe we should first look at what's in there, I mean, I do think…I do think if we want to make…let me just, ya…maybe I should just package this better…so that if we want, apart from all the other issues, that I think it's important for us to exist at this time, I think funders are not getting the point properly. It's either not sold to them properly or they are not getting it, whatever the reason is, but all of this, there is an issue about us doing some things not right, and I think if we want to start blaming other people for us not getting funding, blah, blah, blah, then we should get our house in order and I think there are a few things that we can do better. I do think that our message about transforming the legal profession is skewed, it's completely skewed, I think the fact that we brief white men, who have wonderful reputations, they represented Madiba (Nelson Mandela) and everybody else, that's not the issue, I think we should be practising what we are preaching. I think it's important that we set the path for transformation of the legal profession and I think we're not…I think that's where we're lagging, that's why people label us wrongly, but that's something…it's in our power to change it. I think we should be doing that, as a start, very small, I think it's very small.

Int I hope I have the opportunity to interview you again because I think it's very important to elaborate on issues you've raised. I'm wondering what are some of the stories that remain to be told?

CF About cases or about…?

Int About cases, people, LRC in general.

CF You think that those ones that needs to be told? Ya, but…the stories about George for example I think needs to be told. I mean, there's just no other way. I think the story about Arthur's amazing; we need to be telling it. I do think…the one thing that I do know…I mean, this is not a story but I think it's important that…that we do trace those people who left, that has not forgotten Public Interest Law, and I think there are thousands of those. I mean, the messages you get from clients, even if a client paid me ten…a hundred thousand Rand for a case, would not make up for these little cards that you get, where people really talk to you about what you meant in their lives and those are the stories that I think…that's why I would…I would never…I can…I can earn five times what I earn here, if I leave tomorrow, but there's just something else in this organisation that is…you won't find anywhere else, and I think…I think that's why those…that's why these stories need to be told and that's why it's important…it's…it's also a matter of survival for us to be training black Human Rights lawyers, because we're going to die, there's going to be nothing left in five, ten years time, if we go on at this rate e, so it's…it's sustainability actually,

Int Thank you so much, Chantel, for your time.

CF No, that's fine.

Chantel Fortuin LRC Oral History Project
Interview 2: 4th August 2008

Int So, this is an interview with Chantel Fortuin and it's my second interview with Chantel. Thank you very much, Chantel. It is the 4th August (2008), Monday. Chantel, on behalf of SALS Foundation I want to thank you for taking the time to… participate in the LRC Oral History Project.

CF No, it's a pleasure, really.

Int I was wondering, you were talking about Tom Winslow, you wanted to continue, right?

CF Yes, I think…I think we should look at the real…at what was happening at the time when Tom (Winslow) was here. If there's some common understanding now that Tom (Winslow) should come back in the organisation, you must ask yourself whether that was the situation all along. Because I don't think…I think if people do say that then they are not honest. There was a time in the organisation when Tom (Winslow) joined us where there was division as to whether Tom (Winslow) served any purpose or not. At that point there was a great anti Cape Town sentiment in the organisation, rightly or wrongly, and one of the things where it manifested was with Tom (Winslow)'s placement in the organisation, and many…I think, in every office except the Cape Town office there was this thing that Tom (Winslow) was based there, and that the Cape Town office got the benefits of Tom (Winslow) being there, in terms of funding, which is a stupid argument because money that was raised, was raised for the whole of the organisation, for example the DANS AID money was raised…even though Angela worked in the Cape Town office but it was used in the whole organisation. The same with Women's Rights money that we raised, that time was money for the organisation, but there was this perception from many people in the organisation, that this is what Tom (Winslow) did, and they didn't give Tom (Winslow) the proper…I think…credit for what was happening at that stage. I think it also manifested in the…in the suggestion that we should obtain that Nelson…Mandela Rhodes…building, because again it was looked through that…you know Cape Town hate specs, because that's what it was, you know, it's going to be another…the assets that we bought in Cape Town, the power's going to be there, and there's always been this very sad misperception that because Cape Town is the biggest office, that it takes most of the resources, which is an obvious logical conclusion if it's bigger, but I think it's always been sad, and it's caused a lot of division in the organisation. So at that time, even though it was…it was the most of the…most of the dislike to Tom (Winslow), lots of it came from the some members on the Trust because buying and renting buildings is not what the LRC traditionally

was doing - and that's also…that's a fact, it also came from a big portion of the staff of the organisation, who now incidentally is at the forefront of wanting Tom (Winslow) back, without saying it out loud, but you know, in the background: we should get Tom (Winslow) back because, you know, he worked…when he was there he was criticised for not doing enough, which is a bit of an LRC disease. (Laughter). So, we must just watch the way people change their tune.

Int But from what I can understand Tom (Winslow) brought in lots of money…?

CF Yes, he did…he did. There was a bit of a problem…there was…let me tell you why and maybe the people you've…you must talk to people who didn't like what he was doing at the time. What he did…but he was moving with the times, he was wanting the LRC to move in the direction where donor organisations were moving into, which is right, you know, for example with the Danish money, it was bad for us, and management at that stage told him, you know, we're not going to employ seven more secretaries because Dans AID says so, we'll decide what our needs are, we're not going to push up the overheads of the organisation while, when you pull out, we're going to be sitting with all those expenses, so those type of debates which are …which are real debates but he tried…he brought the money in, and I think he moved with the times and we stayed…because we didn't move with him, we stayed behind. We didn't manage to get up to speed with what donors wanted, how we needed to think, so, I think we needed him to do that and I think at this stage, he is even more equipped to know what donors out there want and I think, um,

Int Given his experience…?

CF Exactly…international…yes, I think he should, I think he should,

Int I'm wondering Chantel, I've looked through…I perused your (first) interview and what struck me was that you talked a lot about the Cape Town office in terms of the predominance of men in the organisation as well as white men, you know, and I wondered whether you could talk about that in your role as a black female, and who is also the director (mistake)…

CF The Regional Director?

Int Yes, the Regional Director of this office.

CF Where do I start? First of all, I walked into the LRC, Cape Town when the organisation was very much white and male…as a whole.

Int So it was the eighties, right?

CF Nineties, mid nineties, ok? But not…the LRC was not really to blame for that necessarily, ok, because at that time, the LRC was a microcosm of the legal profession as a whole so that was what was here, um, but…but also at the time when I was appointed, there was a concerted effort to change that picture within the LRC, so, article clerks were…and…and…always when I talk about Cape Town office being predominantly white and male, I think that's…that it needs to be said at the outset, but on the other side, I don't think there is any stronger commitment in any other office to change those dynamics, so…so the environment is very conducive, but what you are faced with is that you are faced with an entrenched…ya, *de facto* situation, this is it, you see, so…so, I keep on saying whenever I have to talk about this, is that when I walked in there, and for me luckily, luckily or not, it was a time when the organisation as a whole tried to look at how this organisation should change, you know, shall we look at the…at the racial and gender make-up of the organisation, so there was an awareness of that. So I think it was very conducive for change at the time and I do think…I do think that the people in the Cape Town office wanted to make that change, or they saw the need to make the change and that's why the change was…the transition was easy, even though, of course it's difficult to change people's perceptions and…and my colleagues in the Cape Town office knows that, you know, it's been a hard, long road to try and convince people that, um…but…when we…had to change directorship at the beginning of this year,, because I left the organisation for three months and when I stepped down, I told them I will just step down and give somebody else the opportunity to direct the office. I was going away for three months. We had no qualms to appoint another white male, you know, because I think we've gone through the debates, we've gone through the exercises of having to show all of that, and at this point we've moved beyond that, that's not an issue any more, we need to look at…which is…which is…I think it's amazing, that everybody around, didn't raise the issue of white male once, which I think…and whether it's superficial or not we'll only discover later, but at this point…I think what we could do after ten years, maybe, was to sit back and say: what's the best for the organisation now? What's the best for everybody else in this office, let's look at who can take it, who will be able to manage it, what'll be good for the individuals themselves and if it doesn't work, let's go back and assess it. I think it's a very mature…I think…we still…I had a very matured office because I could have those debates, and it wasn't that the first…that the initial reaction t was to turn to race and to gender necessarily, which I think is good actually.

Int Right, absolutely, absolutely. And that's quite difficult in a sort of society like that, that's driven by race…?

CF Yes, and especially my office, which was obsessed with race a few years ago, obsessed…completely obsessed. But it was necessary at that stage, you see I think that we've gone through all this and it was like a war, hey? It's like a war, twenty-four hours, every day, every day. But, now that I think about it, I think this is actually a victory, that we could do this after so many years and that not be our first, our first consideration.

Int Just in relation to that, when I interviewed you before, you spoke a bit about the strategic transformation and how bruising that was, and I wonder whether you could talk a bit about that?

CF Yes, now that is the time when I joined and just after that it…we went into the strategic planning process, and for us, in Cape Town, and I think…I think the reason why we are able to, ten years down the line, be more mature about this, is because we took the discussions during that process seriously. We invested time in talking about…not only our projects and our programmes, but we spoke about the fact that we came from different backgrounds. We engaged with the issue, it was gruelling, it was hard, it was terrible. I told you the last time that one of our comrades died during that process, Soraya Bosch. Whether it was related to this or not…what we do know is that the debates about racism and sexism touched her very much at the time, so, whether it was related is not the issue right now but, I think everybody else needed to go through that process to enable us to be a new and a fresh organisation and whether that happened or not. I am not sure that the time is right now to be going…you know, it would be going back a bit. So, I do think that the time that we spent in that period…and you also notice…you also notice that when we talk about…when you take any staff member in this organisation, and ask them to explain where the LRC came from and where it's going to, I guarantee you, that if you take any staff member in the Cape Town office, that person would = be able to articulate it. And I'm not arrogant now. We took that organisational instruction and the exercise serious. Because when we decided on the strategic plan then, we internalised it, it was our plan. I am so aware of the fact that there were people in other offices who, when they were told to go back and have debates in their offices about, you know, different things, they just refused. They never did it, they did not engage in the discussions…individuals went to the offices…to the strategic planning, not coming with mandates. In Cape Town we engaged in a thorough, democratic process. So, I can proudly say, that people in the Cape Town office, bought into the strategic plan, which also involved talking about race and gender, you know, intense discussions. So, I do think that exercise was extremely helpful. And when…and that's why you will notice, I'm not sure whether you spoke to people about the new attempt at a strategic planning? You haven't, you're going to…

Int They've mentioned it…

CF Ok. There was a lot of unhappiness about the way that strategic plan was to be changed. Now you'll get a lot…a lot of…you did get a lot of unhappiness from the Cape Town office, because the process by which this plan was introduced, did not involve the staff as much as the first process. Now anybody, any facilitator who would speak to anybody else in the other offices of the organisation would tell you: this is a plan that was that was given to the staff in 1996 or 1998, and that is what they accepted and that's why we can change it now. But in the Cape Town office it was a plan that we…I think for six months we did nothing else apart from, you know, do our cases and the rest of the time, after hours, we were engaged in getting to grips with this new direction this organisation is going in, so when people at this stage came back and said: we're changing it now, this is the plan that we are proposing, there was uproar because we expected to be part of it. We needed to buy into this

process, we needed to be able to sell the new idea to ourselves, to our clients, to our funders, wherever we are and whatever we do. In Cape Town for example, we don't leave the fund raising to people in the national office, we engage funders, we bring money in, we keep funders engaged when we do that. So, yes, so that strategic planning session was amazing, in terms of getting people to buy into it,

Int I'm also wondering , correct me if I'm wrong, but I think you're the only black female in the office?

CF There's now a new one, an attorney, there's now a new one.

Int But for a long time you were the only one. And how do you manage the culture, in terms of…there are lots of men in that office? (Laughs).

CF It's quite hard, actually, my…it's very, very hard…my…I think to start, is, it helps to get along with everybody, that's the one thing and not to be too sensitive, because otherwise you'll just…(*Interruption –recording switched off*).

Recording continues

Int So yes, you were telling me about the predominantly male culture and how you adjusted and how everyone adapted.

CF I think…and you should talk to the staff about this more than you talk to me. I think on my side I think it helps to not take things too seriously and not to be too sensitive, I think that's the good thing, and it helps if you get along with people, which I did, but it needs a lot of patience, a lot of patience. I love all of them to bits but they are…can be, at times, the most difficult group of people in the world to work with.

Int Well, from experience it seems that Henk (Smith) and Kobus (Pienaar) do things their own way. I wondered whether you could talk a bit about that.

CF You want me to talk about that? Some people joke and they say that I became Kobus (Pienaar)' therapist. I mean, you know that I've handed over the directorship to him, which everybody thought was the craziest thing in the world but I thought let's do it, let's see, and he's actually…I mean, he hasn't called me twice, three times a week in the past three weeks, so I think he's getting there. The change is a bit hectic for the other staff members for now but they are getting there. You must talk to them about that Because I think it's not fair for me to talk about it here. And my problem is, is that…I just think that if you want…if you work in a place where you have people with different personalities, you as the manager, must try and see how you work, because your role as a director or as a manager, is to make conditions in the workplace conducive for your staff to work, so some of them will be out of line and at times you have to tell them they are out of line, you will have to show them out of your office when they complain unnecessarily or do whatever you have to do, but in

the end you must create an environment for them to work. Difficult, difficult, but I think if you stick to that as your objective, it helps, but it can drive you mad.

Int When I was there last year, the Joe Slovo case was going on, and I was taken to court by Henk (Smith) and Steve (Kahanovitz) and Kobus (Pienaar) to watch the proceedings, and I was struck very much by their level of dedication and commitment. And I wonder whether you could talk about that, because when people talk about the LRC, I have a feeling that that's what they're talking about and it seems to me that the Cape Town office still seems to have that.

CF …and we have that, that's what we have and that's why I'm saying…and, you know, even at Exco, now at Exco people will talk badly about the Cape Town office. For a very long time there was a Cape Town person at the head of the organisation as well as a Regional Director. Either Vincent (Saldanha) and me, or Steve (Kahanovitz) and me, or Steve (Kahanovitz) and William (Kerfoot) or somebody, you know, two people, at least. When I came back now…and when Janet (Love) started being Director, it was the first time it was only one person, and of course, there was always some form of unhappiness towards Cape Town, for whatever reason, ok? So, for the first time there wasn't two people in the Cape Town office on Exco at the same time who could defend the Cape Town position. Anyway, so, there's always been that criticism, you know, my staff is notorious for being late with their time sheets and late with their reports and I would, I mean, I would not discipline somebody who's got the most amazing sense of commitment to this organisation, for being late with their time sheets So, I would always take the flack in Exco and be shat on, excuse the word, all over, and then I would talk to the staff afterwards, but I would always say when it comes, ok, my staff is late again, but I'm not doing it, I know who's been working till four o'clock in the mornings. I know eg. That Henk (Smith) has been away from his kids for two weeks. So, things like that, so, people on Exco can shout at me if they want to, but I'll take it. I'll deal with it in a different way. But, it's that commitment that I'm talking about, so, whenever I talk…you talk about…you ask me about racism and sexism in the organisation, you ask me about transformation generally, you ask me about the organisation being a white liberal organisation whatever you say, I will start off by saying that I haven't seen commitment for an organisation with anybody…if I look at those Cape Town people, nobody can compete. So, it's just absolutely amazing, there's just no doubt about that. I think their commitment is sometimes to their own detriment, because, I think some of them should have moved on, some time ago, they should have, but…

Int You mean left the LRC?

CF Personally, but I don't think they can see themselves doing anything else and that's a different thing, but I do think it's their commitment that's so strong. So I don't allow anybody to question the commitment of the Cape Town people, no matter who they are,

Int Chantel, the other thing that I'd like to…maybe you could talk about…going through the annual reports, I'm struck by the level of work, particularly that you did, with

regard to socio-economic rights in the Western Cape. I wondered whether you could talk a bit about that?

CF You're talking about the housing stuff and that women's stuff?

Int Yes, the cases that you've done.

CF Yes, yes. That's why I joined the LRC, I mean, that's why I came…I wouldn't have…I missed that in fact when I became Regional Director, there was not enough time to do that. And that's actually what I wanted to do, remember, I went to act…I was Director at the Cape Town office for two years, almost three years and then I went away for eighteen months.

Int That was you were on the Bench?

CF On the Bench

Int Was this the Cape Town High Court?

CF Cape High Court. And then I came back and then, I mean, my appetite was just…when I was at the Bench I thought: oh, my God, this is what I need to do, I need to go back and do more of what I did when I started. But then I got back into the Directorship things, which take you away from…which is also a bit confusing, we can talk about that later, is that there is…Janet, for example would rightly say that the Director should be litigating as well, because that's the only way of keeping in touch. But the level of management that is required in the LRC (inaudible) doesn't allow you to do that, you know, you're going to not do one of the two properly, so, it's difficult to do that. But, that's actually what I want to do, I mean, I came from…I do come from a rural town where the majority of people are farm workers, where housing is an issue where alcohol on farms is an issue, that's the stuff that I want to do, that's why I joined the LRC, otherwise I could have done anything else. So, one of the reasons I stopped being the Director in March this year was because, if I'm going to stay at the LRC, I want to stay because I want to litigate again, even though I love managing, I thought it was amazing and I thought I did it better than many others, so, I think it was good for the organisation and I would love to be part of a strong…and I'm going to be sexist now…a strong women team that would take this organisation further. I want to be part of that. So, I just heard we appointed another woman as Director, in Jo'burg office. Anyway, but, I mean, if that is so, then that's where I want to be, I would want to be part of a team of women who will take this organisation further, so, it's that dilemma you see? I would love to do this fifty-fifty, because, I mean, litigating against an institution like Anglo American farms is what I want to do, with the farm worker women on the one side and, you know…there's, I mean, there's lots of potential for the Women's Rights Project and the Environmental Justice Project working together on pesticides, for example, the way it affects women and that's why, the farmers around the corner, I mean, I would be able to get those farmers to help us in our projects, you know, because it touches on fertility and stuff

like that. So, there are lovely things that can be done and I would love to do it, but, I need to make a choice, so whether I should leave the management to some of the older, white men, (laughs) who think they can do it better?

Int I'm wondering, Chantel, can we talk about some of your cases that have had a major impact, on you as well as on Public Interest Law litigation?

CF The problem with Public Interest litigation is that it only has its impact when you have the follow up stuff, so, even though…on me and on the clients specifically and on that community, its very impact would be, unless we take it further from there, which is what you need to do, this is what Henk (Smith), for example, did in the (inaudible) Richtersveld, then you have to stay in the case for twenty years if you want to see that type of result. But the Anglo American farm case is probably a good case. It's a woman, Ms Clarina Julius, who lived with her parents in an area…Anglo American's got a subsidiary called Anglo American Farms, and they farm in the Franschoek Simondium area in the winelands. So, they supply food to Woolworths, you know these little things, so the women who work…the men work on the farms, the women work in the factories owned by Anglo American and they make these little pre-packed foods that we love to eat, and then…so this woman, her husband worked on the farm and she worked on the farm as well. He was a permanent worker, she always thought she was, but discovered later that she never was. Anglo started a project where they were going to move people out of their existing houses and build a new village for their workers, and then everybody who qualified for housing had to go and give their names in, to qualify for these new houses where they would get the title deeds for these (inaudible), beautiful little cottages that they built and it was the most beautiful surroundings, this area, and Mrs. Julius' husband had a disciplinary hearing against him and he was fired for drinking at work, or something like that, and he got fired, and then she went to give in her name because, you know, and they said that she did not qualify for a house because she was not a permanent worker. She worked for them for ten years. They informed her that she was not a permanent worker. She reminded them that she returned to work every time after her pregnancy. Their version was then that every time she left she came back as a temporary worker again. So, she was…I discovered she was discriminated against because she was a woman, and for that only…that is the only reason why she was never considered to be a permanent worker, which, in terms of their project criteria, didn't entitle her to have a house. So, I took the case on for that reason only, and we started to litigate against them, we started telling Anglo that we were 're defending the eviction…they wanted to evict them...on this basis and they are discriminating against her because of her gender and all of that. And Anglo American, even though we pointed out to them over and over again, that they were discriminating against her, they refused to settle, they took this matter…they defended it to the bitter end. They sent the experienced counsel to stand up against this single farm worker woman, who had no money. If it wasn't for the LRC she would have been out in the street, but we stayed in the case, we stayed in the case and they settled the morning of the trial. And, even after the Land Claims Court in a pre-trial conference (inaudible) the judge said. (you must understand they defended an application (inaudible) where this woman came to us late, so we were slightly late with our papers and we explained in our application for condonation that the reason was that she didn't have money, she didn't know where to go, she only ended up with us after Christmas of that year.. They proceeded and

they wanted to go to court despite this application to hear the matter late. And the court gave a clear indication of its attitude towards applications for condonation. The judge said: this court has a tendency of allowing poor, illiterate people to be late, this court will not chase people away in that way, we're just telling you. They still proceeded. And we fought that matter, you know, tooth and nail until the morning of the trial. The morning of the trial they finally decided to settle. So she got her house, they registered it into her name they decided to register the house in her name, the only woman whose house was registered in her name and even though she wasn't considered to be eligible, they conceded that they discriminated against her. It was an amazing victory, I mean, that woman…for me what stands out about that case was that Mrs. Julius is a typical working class woman, not typical, but, you know, scared of the powers that be, so the minute…and she had to go back to work for Anglo American farms every day. So she would come to me for a consultation and she would say: that I should stop this because they were going to chase her away, they were e not going to greet her when she goes to work. And then you have to encourage her, take her by the hand and at some point I would…and she tells the story well, people interviewed her, and maybe you should go interview her one day, if you're up there.

Int Oh, absolutely, I'm interviewing clients.

CF Then you must…because she tells people who interviewed her, I think Benny Gool went to take a picture of her once, and the minute we made the arrangement for the photo, she said: oh, please, not Chantel again, I don't want to hear from her, I'm so tired, I don't want to do this anymore. So, at some point I said to her: listen to me, sit there, I can't fight for your house harder than you are going to fight. You look me in the eyes now, we're going to fight. Because she wanted to give in. But it needs that, and if you don't do that and drive out to her in the night and drive out on a Sunday, talk to her, then she would have given up long ago. And she said at some stage, that she was so scared, every time that phone rings she was…she started to become more scared of me than Anglo because I was going to tell her again: get out of bed, you can't be sleeping, they're going to take your house, get up and fight. So, she tells that story, so, now, she just got title deed the other day, I think. So I think we…I kept the file so that I can show her. So she owns her own house I think it's a wonderful thing, I'm very proud of that case.

Int It's very rewarding.

CF It's a wonderful…I love doing that…I've got some others who was like, a community informal settlement in that same area, where people who grew up in that very rich area where Anglo owns a lot of farms there, a lot of rich farmers, so these people were…at some point they ended up squatting on the side of the road. And there was some mix up with the department of local government and they were evicted and then they were moved onto this plot of land slap bang in the middle of Simonium, a (inaudible) beautiful area with farms around them, and so they wanted to evict them again, and I think Steve (Kahanovitz) started the case, and I was an articled clerk then, and then because it's, like, twenty kilometres from my house, you know, I live seventy kilometres away from the office, so it's out in the rural area, so I started

taking over the matter, it was easier for me to consult at night, you know, or weekends and stuff like that. So, these people want…the community hasn't…politically they'd lobbied over years, to get a piece land in the middle of this area, surrounded by the best wine farms, for the poorest people. So they've lobbied politicians for years and they've managed to negotiate this deal where they're going to get this piece of land, and these people said they're not moving anywhere because they deserve to stay in the middle of this area. Most of the farmers, who are now in a committee who wants to evict them, are farmers who was raised by my client's mothers and , they would say relate to us that their mother raised the farmer who now wants to evict them. She fed him, she changed his nappies, now he wants to throw them out. So that was the type of political issues that were part of the cases. So we managed to get them…they're on the beneficiary list…so when the development…the development went through many obstacles, the farmers normally object in court to the development at every stage, so for years they couldn't get the…but it's going to happen at some or other time and then these people…So I started being their spokesperson because, you know, every time they would come to them and say: we're going to move you, we're going to build toilets, we're going to move you to the other side, they would refuse. They would instruct them to speak to their lawyer. The community became very empowered through this case. So it became like a big political game, and then…I understood because the conditions were very bad, is very bad where they stay, they're still staying there, and then we managed to negotiate permanent housing for them in another area, which is a bit further from where they were supposed to be. Now, our system doesn't allow you to get a subsidy, state subsidy, twice, so if they access that housing there, they would lose their place on the beneficiary list where they actually want to be. And I took instructions from my clients who convinced me that they're not moving, even if they're going to move to a big house, with electricity, with water, and I managed to negotiate for them that even if they get a subsidy there, they will be able to access another subsidy on the new, preferred site, so they can sell those houses that they got for free. I have this offer in writing, which allowed them to sell those houses, for example R150,000 or more, put it in their pocket and move to the house where they prefer to stay.. Steve (Kahanovitz) always says that he's never in his life come across a deal, a negotiated deal like this, it was the best ever. My clients decided to turn it down because according to them, this is what the white farmers wanted. they want them to leave their place of birth, get rid of them, even though I told them, and I allowed them to do that, and I managed to convince the court that they should be allowed to stay there, so they are still there.

Int They had the homes?

CF No, no, no. Some of them took the homes, the others refused.

Int They refused…?

CF No, they refused. They thought that accepting it was going to be a sign of weakness. So, they didn't take the brick houses, they didn't take the best houses, it was there…if I show you…we must go there one day. We must go I must show…you must come again here, I'll show you, on a drive…show you where they could have gone, like six out of the fifty families went, and they still have the option to go to the other preferred

place, the others stayed and the conditions are bad, but they still stay there. But it was them articulating, saying that they're willing to live under these conditions but not leaving the place where they were born, because these farmers, that's what they want and they're going to achieve that because their kids are going to get used to the place where they live and they are never going to want to move to another place, so…it's economically stupid, but but they stayed there out of principle.

Int Chantel, I'm always struck by the fact that the LRC has always had a reputation for, going against the pass laws, forced removals, etc., when I was in Cape Town last year there was the Joe Slovo case, and I realise that's not your case, but in some ways it's like déjà vu, isn't it? And I wonder whether you could talk about that more generally, in terms of what's happening in the new dispensation.

CF Ya, that's what I talked about earlier, I'm not sure whether you recorded, that'll be about the image of the organisation and how the message about the image of the organisation got skewed along the way. Because it was exactly this, when you compare what we did in the old regime…against…ya, in the old dispensation and now, it is exactly the same thing, you see? And what we've tried…sometimes unsuccessfully to communicate to people in government, is that we're doing the same thing now, and if we're not going to do it, somebody else is going to do it and we are the ones who are doing it responsibly. We litigate responsibly. Where it's not…and I think I can illustrate that point more when it comes to women's matters, that there's a big difference in the way you litigate women's matters, you know, we don't litigate customary law issues because you must say how bad customary law is, but you do it out of respect, with a sense of respect and a sense of, you know, that is the premise from which you move, that's important. So, in the Joe Slovo matter for example, even though it would have been very difficult to divorce it from any political issues, you'll never be able to do that, but, I thought that it was important for us to be doing the Joe Slovo matter, and not another organisation with no political history. I think it's important, because it's going to be cast in stone, whatever is going to be decided there is going to…if it goes to the Constitutional Court, is going to be cast in stone. So, your argument should be responsible, so whatever outcome is achieved, and I do think that those of us who understand the importance of democracy, understand it that way and those people in government who understand the importance of democracy, what it means, see it in that way, but the messages get skewed along the way, so the potential of the Joe Slovo matter being mis-communicated and the reason for taking it, is very great. But we need to be carrying out the proper messages.

Int Absolutely. Also in your other interview when you spoke about the lack of transformation and the Bar, and the High Court, etc, in terms of briefs being given to experienced and invariably white males. I wonder whether you could talk about that in light of what's been happening now in terms of allegations of racism in the judiciary, etc.?

CF The, you know, the allegations, I mean, we…the allegations of race in the judiciary started when…2005…there was a big racism expose and…

Int And this was related to John Hlophe?

CF (John) Hlophe, in Hlophe's report, remember?

Int Yes.

CF Now, there's a lot of things that can be said but I think the report…a report about racism was necessary, at that time. I'm not sure whether that report was necessary, whether it was correct, but it was necessary to speak out, because there is a problem, there's a great problem. And whether the message was carried across properly, I'm not sure, but it was very necessary. I think, when I went up to the JSC, the Judicial Service Commission for my interview, it was evident that change was necessary, very evident. The action from the Bar, when I went up for appointment, was typical of how they always operated, it was exactly the same and I think at some point we must talk about that experience, because that's a little snippet of exactly how the legal profession still operates. It's absolutely amazing that nothing has changed, nothing has changed, they're still conservative, they still think that only advocates should be appointed to the bench, they still think people with twenty years and thirty years experience should only be appointed, which goes against the grain of transformation, so all of those things are still very much alive. .

Int You are currently on a course for training to be a judge, can you talk a bit about that, because I'd like to ask questions about it?

CF About the current course? Let me talk about pre the course. The course was introduced last year, 2006, for the first time, where they asked the people to…by that stage I was on the Bench. And I was away from the LRC for a while and I didn't think (*closing window*) it was an appropriate time for me to go now, while I was away from the LRC, initially for three months and it ended up being eighteen months so I felt very guilty for staying away for that long, so…and in that time to also apply for another period of…long period to be away…so I did not apply to attend the first course.. At first I questioned the need for the course, I mean, let's not…there's no dispute about that, but because I didn't apply, I left it as it is. Then, I went to the JSC, and then I wasn't appointed, I went back to the LRC and then this thing came up again and I was called from all and sundry to say that I should apply because they're going to, from now on, not consider women seriously, if they didn't attend this course. Now that was as if they were saying: don't ever apply for the course, because you hear what they are saying. So, I thought: I'm not applying. Because if after eighteen months of acting they didn't consider that enough experience, they appointed men who…

Int …didn't do the training…

CF Never mind the training, people who did not necessarily have the same work ethic as me There was much more, other politics involved, but that's not the point. But, then, at the time when the applications had to go in, it was also the time of Oliver

(Fortuin)'s accident so, I didn't…I wasn't interested at all, so other people applied on my behalf and I got short-listed and then we did the interview and when I got there, one of the women panellists asked me why I thought that I needed to attend the course if I acted already and that I should be able to apply for an appointment without attending the course. My reply was that I am not attending the course because I think that men do not need training, because I think that they do, but I was there because I think it was a wonderful opportunity. I did not think that our Department of Justice was going to give this opportunity to women for much longer and I thought that it was a good opportunity to sit, away from your everyday job for three months and be taught by experts. You just have to sit back and learn. So I am here, attending the course because I think I'll just learn more. It is not a concession that I think I need training more than men need training -because I mean, that is the objection. I didn't want to come initially , because of that exact reason.

Int I'm just curious why…the understanding is that women in particular…is it to train more women for the judiciary or is it to necessary to think that women need more training.

CF No, I hope it's not. This is the way I look at it and I hope it's that way, that's the only way that makes…I can rationalise it for myself, is that they're creating a bigger pool, because what they have, in every slot of applications for appointment, there's too few women, because most of the women either have not enough years of experience because women have not practised for that long…

Int Sure.

CF So you don't have sufficient numbers of women who are eligible to go up for appointment You don't want to appoint women who are not experienced enough. I mean, I did not have ten years practice experience when I went up before the JSC.I know, the timing was not right, you should at least have…I think at the back of their minds they have ten years and more as an unwritten rule. so, the point is, I think they want to create a sufficient pool to draw from. So, I didn't have a problem with that, that's ok, but if they're going to target previously disadvantaged groups, then they should have it for everybody, where most women I say: no, why are we giving more men the opportunities. The problem with this course is that it is not creating appointments, because there is no guarantee that when you leave here that there is a better chance of you getting appointed than before. So, I think they should put more thought into the course, but at this stage…I mean, Judge (Ivor) Schwartzman is a walking encyclopaedia, he is so…so it is actually amazing just sitting there and listening to the man, because that's what we're doing. And lovely tips on how to write judgements and, you know, he's meticulous, he's a perfectionist, so, you won't get that anywhere, so, in that respect it's good and, you know, it's. So, I had a bit of mixed feelings about the course, but I came in any event.

Int The reason I asked the question, really, is because, I came back to South Africa and I was treated by an avalanche of information in the media about the Constitutional Court, the Constitutional Court Judges being called counter revolutionaries, and also a

curious kind of lack of respect for the rule of law. And I wondered as someone who obviously is going to be on the Bench at some point, if you could talk about your concerns as a member of the legal profession?

CF I do think it's a bit chaotic, a bit disappointing at this stage, I do think it is and I do think, I do think that it's caused a lot of harm for the legal profession at this stage. I fortunately, have a whole lot of trust in our country's democracy and our country's ability to deal with the issues, so I do have a trust. I think from the outside it may look as if things are busy crumbling and I do know that this is like the closest we've ever come to a constitutional crisis, I understand that, but I do think they're able to get out of it. I do think we have to get some kind of decision as soon as possible so that we can move on. We need to make a decision, but the decision is difficult and from a political point of view I'm aware of that, because, whatever the JP in the Cape High Court has done, he was the first black Judge President in Cape Town, in the most conservative division in the country, so what do you do? And you don't say that when he…I'm not saying that when he's doing bad things that we should excuse him, but the way you deal with it is important, but I do think at this point, we have to make a decision. If you think he's behaving badly and that he should be impeached then he should be impeached, and I think it should get to a point now as soon as possible.

Int Sure.

CF (Edited out by the interviewee…)

Int When you say that, do you mean it affects how the LRC runs, as a Public Interest Law organisation?

CF There maybe, but also what happens on the Bench, what happened in the courts and what's happening, you know, the whole legal profession, and that's sad, that's sad is that the way the country is geared politically, very much influences what happens to the legal profession, on a daily basis, and it's difficult for me to give you examples because they're all going to be like real (inaudible examples but the point is, it depends on who sits on the JSC at a particular point, who determines who is going to be appointed, and in that respect (inaudible) people look at being appointed as just another job, which is sad, because they fail to see that it's not that, that it's building another important arm of our democracy, that's actually what it is, but it's not a promotion, it's not a promotion to get a better…you know, that's not the issue, and people seem to lose that at times, I think.

Int Chantel, just going on to that, you've spoken a lot about the strength of the South African democracy, do you have any concerns about the kind of, perhaps, lack of translation about rule of law and the link to Human Rights, because you have someone like Julius Malema, a young man in the ANC Youth League, who says: 'we must kill for Zuma', and the lack of response both by the legal profession as well as by civil society in terms of the Human Rights argument?

CF Yes, of course, and I think you're touching on something that I think, I think the LRC is probably the best placed organisation to be addressing that and the fact that you talk about the link between, Human Rights organisation, the civil side generally, because that's the link that the LRC brings and I think if I was going to go into a new strategic planning exercise, I would make a big portion of the LRC's output, in terms of legal education, rule of law stuff, I think that's where we…our strength is going to lie, using paralegals, using…and I think it's going to crosscut to everything we do, litigation on the one side and networking and lobbying I think we should scale down a bit, maybe, and go into legal education, because that's what we need to do. Yes, and I do think there's a lack, there's a great lack, and I think there's a need for the organisation to be putting effort in and I think the LRC should be one of them.

Int You know, in the previous interview, you said to me you couldn't imagine yourself working anywhere else but every time I come to speak to you, you have a stint on the Bench, (laughs) so I have a fear that you might actually become a judge very soon. I'm just wondering, would you take something or do you think that your future really lies in the Legal Resources Centre, I mean, it doesn't have to be either or, it's something you're just thinking about?

CF I think…the first time I left the LRC was to go to the Bench, the only time, this is the second time I'm leaving, it's, like, very closely related. I would leave the LRC to go to the Bench, because I think it's a natural progression. I think that's the only place I can do more than I can do in the LRC. I can achieve more impact there than I can here, I can see it quicker, I can transform the legal profession. So, that's…I don't think anywhere else, if anything else comes I'll probably say no. I don't know maybe it will change, but at this point and you just (inaudible) it's actually true, I don't think I…I've tried to resign from the LRC once, you know…

Int When did that…?

CF …they keep on joking, I resigned actually, it took me months to finally say yes and to go to a local government thing and then…

Int This was post '94?

CF It was 2005, ya, post '94, yes. They begged me to come and do this local government thing and then, I mean, I had many offers which I didn't take, but this one because it was close to Paarl, it was…I didn't feel like travelling so far anymore and that was the consideration and then, that same night when I resigned, that night, I bumped into the people of the Cape High Court and they asked me to come to the Court, so I never went, I never went anywhere else. So, I don't think of practising law anywhere else, no.

Int Chantel, I'm wondering, in the last part of your interview last time, you said the stories about people like George (Bizos) have to be written, the stories about Arthur (Chaskalson) have to be written and I was listening to the interview yesterday and I

thought to myself: but I also think the stories of you and Steve (Kahanovitz) and Henk (Smith) and Kobus (Pienaar) and William (Kerfoot) and Vincent (Saldanha) all have to be written…

CF Oh, really, ok.

Int …And I'm wondering really if you think…if I had to ask you about one memory that you'd like to share of anybody in the organisation, I wonder whether you could share just one memory?

CF Of somebody in the LRC?

Int Ya, something that might have struck you as funny, interesting, something that you treasure. I'm sure you have many memories.

CF I've got many. I've been telling…I wrote something to Vincent (Saldanha) the other day because I missed him, I wasn't there to say bye to him, and I wrote to him I think what I felt about the organisation and the people in the organisation. And I thought, you know, I must actually keep this, I mustn't throw it away because I said…I remember…and you never met Soraya (Bosch), when I joined the organisation, she was a firebrand, absolutely what I wanted to be…this is what a lawyer should be like, she was, like, covered in burqa, you know, but when she opened her mouth it was like a ball of fire coming out and no matter who was in front of her. And at that stage, I told Vincent (Saldanha) I didn't think he featured much at that stage because she was like just all (*clicking of fingers*) and then she died. And my husband said once…and I said to him, you know…especially Vincent (Saldanha) and I, we're going to miss her so much because, you know, she always reminded us of what to do. She always kept us on the ball. He said that actually we were going to miss her because she was our morality, she reminded us. It was so true because whenever you were going to do something you thought: what would Soraya (Bosch)say about this? And then when Soraya (Bosch) passed away, Vincent (Saldanha) became that for me, because, every time and whether it is taking money from a donor, whether it is sitting and talking to another feminist lawyer, you'd always have someone in the back of your mind, you know, if I go back, was it the right thing to do? Was it the moral thing to do, you know? And there's always somebody in the LRC that makes you feel that way, makes you ask those questions, and for me that…and it's not something specific or somebody specific, it's the organisation, because I could never go anywhere without remembering that I'm from there and I have to go back there and that's where my mirror is, you know. Did you do the right thing…is it…always? So I think for me it's an experience that the organisation is an experience like that, and I don't actually think I would be able to live without it, even if I was on the Bench, I mean, I'd refer every second unrepresented person to the LRC (laughs) and then they would come back walking with the LRC lawyers, I have to recues myself. But it was, ya, it's what…you become the LRC, I think.

Int Well, in terms of a logical progression someone pointed out to me that almost 19 people on the Bench are from the LRC. So, I think there's going to be a twentieth.

CF (Laughs). Oh, I don't know, I need to smile at all the powers that be first, they don't like the big-mouthed women, you know. You need to keep quiet a bit, it's a bit difficult (laughter).

Int Chantel, thank you so much for your time, I enjoyed it.

CF It was nice, ya, I miss them all at the LRC right now.

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