

This transcript was both substantially and substantively edited by the interviewee.

Int This is an interview with Paula Howell and it's the 16th of July (2008). Paula, on behalf of SALS Foundation, in Washington DC, thank you ever so much for agreeing to be part of the LRC Oral History Project.

PH It's a pleasure.

Int I wonder whether we could start the interview by you talking about your early childhood memories...you grew up in Britain, or elsewhere?

PH Ok...

Int ...and where your sense of social justice and injustice developed?

PH I was born in Jamaica, and I stayed there until I was ten, and then I moved to Ireland where I finished school, then moved to London.

Int ok...

PH I lived in Dublin with my mother and her new husband, my stepfather, who was part Irish and part English.. .

Int Right. And so this is Northern Ireland or...?

PH This is southern Ireland which was probably more difficult. We moved to London and since then I've been living in London, and I studied in London - I did a first degree and then I did another, - my second degree was in law...

Int Right.

PH I'd been volunteering at a couple of advice centres in London and I found that very interesting and it was quite a kick being able to help somebody with a particular problem. It was not necessarily legal - often people just needed somebody to look at the problem in a different way. Obviously you got involved in a little bit of law as well, which very interesting, and led me to study for a law degree.

Int Right.

PH When I finished my degree I worked for an organisation called The Free Representation Unit, which was an organization that assisted people free of charge with employment law and social security law matters. And we discovered that,, especially with the employment cases, there was something like eighty percent increase in success when workers were assisted, as opposed to those who represented themselves- so there was really a need for this kind of organization. My husband and I came to South Africa in 1997, because of his work. He was working for an organisation called The Overseas Development Institute and he had been the Director there for 10 years. When the directorship came to an end, and he was asked by DFID, which is the development division of the British Government, to assist with a project in South Africa assisting the Department of Agriculture and Land Affairs. He is an agricultural economist. We were initially here for two years, and the posting went on for a further two, and of course, during that time, I decided I needed to do something more than just sit around and babysit, so I started looking around to see what organisations I could approach. I started looking at the Domestic Workers Union...I thought: this is great idea because I'd heard awful stories about the treatment of domestic workers in South Africa I could never find their address - the telephone directory here, is quite different – I found it very difficult to find anyone able to point me in the right direction..

Int Hmm....

PH And then I came across the LRC and I just decided, well, I'd go down to the Pretoria office because I was living in Pretoria; at the time Nic de Villiers was the director.

Int What period was this, Paula?

PH Um, this was 1998.

Int Ok.

PH Nic (de Villiers) was very positive and he immediately started me on Worker's Compensation cases.

Int And was this as a volunteer when you started?

PH Yes. There were a lot of problems, and I had to become familiar with the law and how the system worked. This took some time because, although the legislation was clear the administrators of the scheme didn't operate in accordance with the law. I met Beulah (Rollnick), who was then also working with workers compensation cases. I started to work with her, and she became a very good friend, a very, very nice lady. I worked as a volunteer two days a week. I took work home and did a lot of research into the SA scheme and similar schemes in other countries, to see where the differences were and how it should work. I eventually became an employee, in late 2002, something like that.

Int Indeed. So, when you got, you know, the actual position, what was your role then?

PH I was seen as a kind of, legal assistant because in order to qualify as an attorney in South Africa, you have to be South African or a foreigner with permanent residence.

Int Oh, really?

PH Ya.

Int As an attorney?

PH Yes. In Britain, you don't need to be a citizen to become an attorney – you can either do the Legal Practice Course as a student with a degree from South Africa or if you are already an attorney you can simply take the relevant courses and transfer to the English system.

Int Really?

PH So it's actually very, very difficult to qualify as a foreigner in South Africa..

Int Interesting...Because you're a qualified lawyer, really, effectively and you've been...?

PH Ya, ya, absolutely, and you can do everything, but you can't go to court. It is interesting to learn about a new area of law, and it is so different to Britain. In the UK unlawful action by the government is usually dealt with quickly – sort of damage control – so cases would not go to court unless there are issues in dispute. In South Africa you go to court on issues that shouldn't even be in court, there's absolutely no defence which means you are likely to win all your cases, which is nice. .It means also that you get more litigation exposure. You can also recover costs of course

Int Right.

PH If you were dealing with similar cases in the UK, the litigation would be probably far more difficult, because you would be arguing much finer points. Here the cases are much easier but it's still a lot of work. And certainly for Worker's Compensation, you have a whole system that's not working. There's nothing written on the subject so, you don't find books to guide you. You have to develop the law as you go along , which is brilliant, I mean, where else are you going to get that kind of exposure? In other countries the law is fairly settled. So it's different, and it's exciting.

Int Wonderful. I'm actually going to take you right back...there are two things that I'd really like to unpack, one is, where did your sense of social justice and injustice

develop, and the second is, what was the particular trajectory...the formative influences that led you to becoming a lawyer...and so...

PH Ya...

Int ...if you...if I look back and you grew up in Jamaica, I'm wondering whether there are particular memories attached to those experiences or maybe going on to Ireland...also it's a conflict country?

PH Ya. I'm not certain that's the case, I think it's probably more bourgeois than that, in a way, because my mother is a lawyer...

Int Ok.

PH ...and so was my uncle. He was a judge, and my grandfather was also a lawyer.

Int Right, so you have a strong legal background...

PH Ya, but I didn't see it as something that I wanted to go into initially, I was in London and suddenly I'm dealing with underprivileged people, people who couldn't fight for themselves. And it just seemed that you needed to do something for people like that, because it seemed so unfair that somebody could be defeated or denied their rights, just because they didn't understand the law and how to protect themselves. It's difficult, because many people don't recognise that they're operating within a legal framework, and they think it's very straightforward -, you don't steal, you don't this, - the ten commandments, sort of thing - but when it comes to areas like, say, social security or personal injury - they have no idea what to do. And, you know, a lawyer is almost like a doctor coming in to solve problems, if you like. But I think also living in a city like London, you are in contact with all kinds of people - we use the same transport system and areas are very mixed and you see poverty close up - its not like living in Pretoria where you live in the suburbs and you don't really know anything else and you are not coming in daily contact with the very poor.

Int Sure.

PH And I think also, there's a great welfare system, there's a great appreciation, understanding, though some people still grumble...there's a greater understanding and appreciation that one needs to be aware of those who are less fortunate . It makes you celebrate your own good luck also. I think it's that kind of background I'm from, where there's a, sort of, sense of responsibility to society. You know, whatever you did you had a basic responsibility to assist others. And I think that's where I'm coming from.- and of course being fairly socialist too.

Int Do you think that...having grown up in Ireland...do you think that influenced you particularly, about conflict and differences, whether it's in that context its religious...?

PH Yes, I think I was more aware of being different, because there weren't at that time many...still not many black people in Ireland, and being in a school that was predominantly white I was aware of this. And I think you were seen as a bit of an outsider, and I think, once you take that position, you become more of an observer as well.

Int Sure.

PH And you then identify more with people who may be slightly outside society, in many different ways, it's either through poverty, through being from a different culture or whatever, and I found that when I went to London I mixed with people from all sorts of places, I never stayed with West Indians or English communities – I mixed with people from from all over, because to me, I've always felt that I don't actually belong anywhere particularly. Now I suppose I see Britain as home , Still, when you see other people who are struggling to solve their problems, they're in a way outside of society as well, because they don't understand the rules, so they're not part of it, they're not in the cosy parts. So you tend to bond with these people - a sort of empathy I suppose..

Int I'm curious...because Britain has such a well developed social welfare and organised State, and I'm wondering, in terms of the advice centres that you mentioned how did they differ from a place like the LRC, for example? What's the structural kind of organisation, how does it then create the opportunity for people to come forward, in terms...I'm asking really about public interest law in...?

PH Ya. I think, these organisations in Britain have been there for a long while, and even though you have a nice welfare State, and we do, you know, this took a long time to achieve - we started off with the abolition of slavery, and then we went through the Victorian times when the rights of individuals were beginning to be recognized - until various rights were recognize, like the rights of children for example and of workers.
...

Int Absolutely.

PH ...this culture of appreciation for those who are less privileged along with a duty to look after people who are not as fortunate as yourself, is reflected in the welfare state. But, when it comes to people knowing their rights, in Britain people are much more clued up than here. For instance, in employment law, people know that they can seek unfair dismissal compensation if they feel they've been unfairly dismissed. They also realize they have to act quickly.

Int Of course.

PH And you can know your rights but not be able to do anything about it, if a lawyer isn't going to assist free of charge. Usually, if you're unemployed, or if you're on social security you don't have any money, you may feel wronged, but you're not going to get a lawyer to take your case because you have no money, you have to get help on a pro bono basis. Of course, in Africa, , many people are not even aware of their rights and are less likely to try to obtain redress.

Int Right. So...you mentioned that your husband came to South Africa and you also came and you wanted to do something...

PH Ya.

Int And so you came...I love the story about how you came across to the LRC, it's wonderful, but starting off, as a volunteer, and you got very involved in Workmen's Compensation, and you worked with Beulah (Rollnick) and Nic (de Villiers). In terms of the Pretoria office...it closed down in 2006, if I'm correct...?

PH Ya, ya.

Int Between 1998, when you joined and 2006, from what I can understand, the Pretoria office had a strong history of doing very important cases and...land being one of them, I think...

PH Yes, ya.

Int ...and the other is social welfare...

PH ...social welfare was very strong, ya.

Int ...and I wondered in terms of your work as well as the general work of the office, if you could talk a bit about cases, in particular, that you dealt with?

PH Ok, well, all the cases were...

Int ...were interesting, I'm sure...

PH Ya, in my work we took many cases to court. Initially we concentrated on cases that involved the compelling of administrators, in this case, the Compensation Commissioner or their DG of labour, to take a decision, - simple things like that - they were very straightforward, and we always won those cases. We began then to understand some of the problems we had to confront. We had one very good case

which was referred to, as the “temporary claims case”. The commissioner’s office took the view that they had no duty to investigate claims and if, for example, an employer didn’t produce an employer’s report, they would just dump such cases in the “temporary claims section” where they remained unresolved for years. I think there were more than a million, but they admitted to two hundred and fifty thousand. In the meantime what happened is that people with horrendous injuries were being taken out of the workforce, getting no assistance at all, no temporary total disability payments, that’s the initial compensation or replacement in salary, which is so important after injury. And of course, they wouldn’t get compensation in the form of medical aid, so if they needed an expensive operation, they wouldn’t get it from the state, and of course, they couldn’t get anywhere else - these claimants were often crippled and permanently unable to work. The employee is unable to sue the employer, and couldn’t recover compensation by other means -, but the Commissioner office could see nothing wrong with this outcome. . We took this to court as a class action. The case was settled out of court and we were able to force the Commissioner to put in place procedures for processing all these claims, even those without employers’ reports. We’ve since been successful in another case - the applicant was a man called John Molefe, When someone is injured, they are entitled to receive temporary total disability compensation, TTD, and that’s seventy-five percent of the employee’s monthly salary, while they are unable to work. Now, if somebody isn’t helped and they’re then sacked from work they could wait two or three years before their claim is processed by which time they could have become untreatable and no longer able to work. The Commissioner would not accept liability for TTD compensation that the injured worker should have received at the time of the injury unless the applicant could show that they were receiving treatment during the time they were off work.. Of course they couldn’t get treatment, because they couldn’t afford it, and the state hospitals won’t assist them as they cannot usually afford to perform expensive operations. The applicant won his case and the court decided that the requirement of active medical treatment was an unlawful requirement and that the Commissioner must look at all such cases settled in the previous three years where TTD was not paid as a result of the Commissioner’s policy. This was a very good outcome.

Int Absolutely.

PH We don’t know how what will happen in the future, and whether we will still have to police it, but this was one of the really great victories.

Int Wonderful, wonderful. You came to the LRC in a post apartheid era, and I’m wondering, when you joined the LRC, what was your sense of the place, as you know it was started in 1979...

PH I know, it’s a long time ago, ya.

Int ...and it had this amazing history where they overturned key apartheid legislation...

PH Ya, yes...

Int ...how were you introduced to this kind of legendary...?

PH Well, I'd read a little bit about LRC, and I thought this is an interesting organization. Initially, I just saw it as another law centre, but I was coming from a different environment. When I first went to check it out I found it was an office in the centre of town and people, at that time, were saying, you mustn't go in the centre of town because it's so dangerous, blah, blah, blah. But it was quite nice being there, in, the post apartheid era, because segregation wasn't a problem anymore. There were lots of black people working in town, working very closely with whites, and it just seemed so interesting and vibrant. The LRC lawyers were very interested in their work and we discussed cases all the time, we had, sort of, tea-time meetings where, we would discuss, what the issues were, and, there was so much going on and, at that stage, there were lots of people in the Pretoria office.

Int Right.

PH I just felt that people were very dedicated and they seemed genuinely interested in just helping people. They became indignant when people were wronged. Everybody got very passionate about their work and I thought this is great, you know, it was wonderful. It was really very exciting and a wonderful place to be. But, I think it changed a bit after that, because there was a lot of, internal squabbling. I think it wasn't ever really properly run with somebody at the helm providing leadership. Lawyers are not necessarily so good at leading anything, anyway, you know, they're better off in the court, or whatever (*laughs*). Squabbling became a distraction.

Int Are you referring specifically to the Pretoria office or more generally...?

PH No, it was the whole organisation...

Int Whole organisation, right.

PH There appeared to be some rivalry between the offices, but, you know, when I went to some of the AGMs I found that actually wasn't the case, but there were some very prickly characters who always wanted to say something and tended to get their way. So, it stopped the organisation focusing a bit, I think. Projects were in place at that stage - some people working within their projects and doing quite well, but what I found was missing, was the ability to react to situations as they happened. The attitude was "I'm a lawyer and I do land stuff", "I'm a lawyer I do Worker's Compensation", "I only do this", and I felt that people were not really taking the opportunity of moving around, learning more and being just more versatile, they tended to become stuck in a particular area. And towards the end of the life of the Pretoria office, I think we all recognised that, and we were then trying to work together as groups, and Nic (de Villiers) (at the time, Nic de Villiers, was our Director) was trying to set up a system whereby people work together on the cases, and we would become involved in other people's cases, which I thought was a great

idea. You needed to move out of this niche, people felt very comfortable in their niche, and, I think they became like that because the issues were no longer, sort of...everyday something was happening, it wasn't like apartheid times, somebody's in trouble, we have to deal with it now. You could relax more, and I think there was less...I'm sure there was probably less urgency, people became more complacent. But I think that's fairly normal, when an organisation is in a society that's more settled, and you identify issues that you need to deal with, it's very easy then to relax into that position.

Int ...gung ho about?

PH You know, you're now depending on funding for particular projects, you couldn't just go and say: right, this case has come, it's very interesting, let's do it. That wasn't available, though there were...some cases could be done like that but, because you were mainly in compartments, people then didn't have that need to go outside their particular area. I'm not sure that's such a bad idea, you know, people then become very expert in their areas, and they can bring cases that have huge impact, because they understand the law so well.

Also I think when I initially came to the LRC, I, kind of, sensed there was a...still a gap between...a divide between black and white, and as an outsider, I found that the black people didn't actually relate to me as a black person, they saw me as somebody that was not one of them, and to some extent, I think the whites were more accommodating, but I think it was really a class issue, I mean, a lot of the people, you know, especially people working at the reception, etc, come from the township areas, now, I wasn't living in the township, I was living in a white suburb, so obviously that's where your reference is going to be. And I've not ever been able to, , make that important contact, I think, with South African blacks as a result. But I don't think it's a colour thing necessarily, I think it's economic, it's social, and all those things. The blacks live in one place and the whites live in another. This impacts a little bit on the organisation, but people don't really want to face that, and whites seem to believe that they cannot be racist when they worked for the benefit of underprivileged black people - which is true, to some extent, but perhaps if people didn't live such separate lives, it would be easier. The whites don't understand where the blacks are coming from, and the fact that you can have, as a white person, attitudes that you have developed from your own background without realising that you may be condescending etc., which is a form of racism. I was amazed when I was involved with the affirmative action negotiations. I was given the task of representing the office.- blacks in the Pretoria office, and I'd started to talk to the black people and the white people separately - it was incredible. People would say: well, I'm not racist. And of course, you're not, you don't believe you are, but there are things there that are unconscious on both sides.

Int Of course.

PH Not just the whites...

Int Absolutely.

PH ...on both sides.

Int And you seem to be, ironically, the perfect person to see that.

PH (*Laughs*). Ya, because you can see the divide, and you can see the different attitudes particularly when guards are down - you hear both sides, and you can become like a sponge in a way, taking from both sides. I was more concerned about the attitude of the whites, in a way, because I think they were better placed to take on board, (being far more educated, having more financial security), the fact that there might be influences in their culture, that make them react unconsciously to certain things, that might offend somebody else. The LRC will not tackle the issue of racism...

Int Why?

PH They just will not tackle...

Int Why do you think that is?

PH I think they...I think they're afraid of it, actually, you know, the...I hear comments like: oh, well, you know, blacks are saying that because they don't want to work.

Int They?

PH They don't want to work. Or, they're skiving. There's an element of that, I mean, it happens in Britain as well, and obviously because I'm black, you know, everybody tries it on, but that's not the whole story.

Int What is the whole story? What's your sense of it?

PH My sense is that since the end of apartheid, the LRC was probably part of that white, liberal society and I think many of the individuals expected to be favoured in some way.

Int You mean the white individuals?

PH The white lawyers. But blacks were getting into high positions, though not very well qualified necessarily, and the intelligent white people who worked with the LRC were not getting the chance to take up those sort of jobs.. I think that whites were very much marginalised. And you get, you know, things like: "oh, I don't know why blacks are making such a fuss, they own most of the wealth now" which is not true.

I remember soon after I came to the LRC one of the black staff members lost her only son who died in an accident and as far as I recall none of the white staff attended the funeral.

Int She was an admin staff?

PH Yes. And I remember talking to various people, about this and one white staff member said that they didn't want to go to the funeral and wouldn't want to go to any funeral so why should they bother? And I thought: where is your sense of duty to a fellow employee who has gone through that? You must have this sense that they would appreciate your being there and the staff member in question would appreciate your support at a time that must have been devastating for this woman.

Int Right.

PH But, that's what happens, and especially with HIV and that sort of thing, many black staff members were experiencing loss, but no-one...white...would make an effort to attend such funerals I feel this is as a result of the cultural gulf between black and white in South Africa.

Int Gosh...

PH Ya, it's incredible. Somebody recently died in the Jo'burg office, but he went back home because he was very ill. I don't think anybody knew about his death until after the funeral. Had it been a white person, this would not have happened. And I don't think it's necessarily conscious, I think it's just the sense that black people...their background...they don't figure so much in our world, it's not that they don't matter so much, but they don't figure in our everyday experiences. And that's what comes from the separation. It's not like in London, you all go to work on the same tube, you all experience the same thing, we all have the same problems, and we had to relate to each other. I think people don't relate here, and it's seen within society and it's seen within the LRC.. In fact when I was involved in the sort of negotiation in the Pretoria office...

Int ...an affirmative action policy?

PH ...yea, yea, and I communicated with the whites, I don't think I handled it very well actually, I'm a bit of a bull in a china shop. And, you know, when we were in an open meeting, the black people there were suggesting that I had just put words into their mouths..

Int Is this the meeting which Nic (de Villiers) called twice...I understand that Nic (de Villiers) called two meetings to discuss the issue of racism.

PH Yes.

Int And the blacks didn't speak up, is that the one?

PH Ya, ya.

Int So you were being put into the middle?

PH Ya, and, you know, I sort of, took it on board in a way, but in the last meeting I got very angry with the black and white staff who I felt were intimidating of the blacks. My feeling was, ok, you needed some kind of forum for the discussion of racial problems. So, for example, if somebody felt that somebody's being racist, that person should be able go to somebody and say: listen, I think that person's being racist. You can talk it out, discuss it and it goes away, there's no hard feeling, and the other person might think: ok, maybe I shouldn't have said that or it was misconstrued, I've got to be careful in future, you're not walking on hot bricks all the time but, you need to be just a little bit more conscious of other people's issues. But I think that when it came into the open, I think the blacks seemed to feel terrified that they would be in conflict with the whites, and they were aware that the white bosses were present and could fire them - I think they were very afraid. And I was thinking: God, if this meeting was happening in a British organization the blacks would be getting up and speaking their minds. You know, you would really have people coming out and shouting, but the LRC staff just remained very quiet. Nobody said anything, even those who were really loud at the meeting I had with them, they absolutely said nothing. It's amazing. What can one do? ...

Int You take a tape recorder...

PH (*Laughter*).

Int Paula, in addition to the racial issue dynamics and all organisations have dynamics...

PH Oh, of course, yea.

Int They also had very strained gender dynamics, and I wondered whether you could talk a bit about that?

PH Gender dynamics, ah yes, I think, South African males, generally, are quite sexist, you know, it's not necessarily coming out in lewd behaviour or anything like this, but it's just, you know, we men know better. And I think there was a kind of bullying of women in the organisation, and I think, in fact, to some extent, Nic (de Villiers) was very much part of that. Nic (de Villiers) is such a nice guy, and so thoughtful and considerate in many ways, but when it came to working with women, I think there was a sense that women were not important in the scheme of things. I think the

women, being lawyers, were quite strong anyway, so they were able to fight back and I got the impression that they certainly wouldn't sit and take that. I think the women, generally, had less to say in the organisation, - this was more evident at the AGMs for instance.

Int The legal profession has always been dominated by men wherever you go in the world, but I'm wondering what is the specific kind of dynamic in the South African context...?

PH I think it's more so...I think in Britain for instance, at one stage, there were far more women going into the profession, but women are sometimes constrained by childbirth and childcare which is always a problem, wherever you go. I think that was also a problem with the LRC, because I think men felt women shouldn't have time off and should sort out their lives. I haven't experienced men being sexist, in the LRC but there are attitudes that could impact negatively on women..

Int Right...

PH ... just looking at the LRC, I think the men might have felt that women didn't have as much to contribute. So the men were always very vocal at meetings, you know, but other men also, kept in the background a bit. I suppose it was a matter of personalities. It is possible that women feel more threatened. Interestingly, since I have been with the LRC all national directors have been men...

Int You mean the current staff in Johannesburg?

PH Mm, I knew the new Director...I think...I worked with them, this is why the LRC office was closed in Pretoria. But I think that was actually closed partly because the office challenged the Regional Director, I don't think there was any...

Int Oh, do you mean the National Office challenged the Regional Director, or the Regional Director challenged the National...?

PH The National Office challenged the Regional...the National Director...sorry the Regional Office challenged the National Director.

Int So, to be quite blunt, we're talking about Nic (de Villiers) challenging Janet (Love)?

PH Mm, and not only Nic (de Villiers), because we were all involved - at one stage we were talking about the closure of the office, and how it could be restructured to avoid closure. The Pretoria office felt that if we were to restructure we needed to find out what we wanted to do as an organisation on the basis that we should have a better idea of what we're trying to achieve, as an organization and our goals. We felt that the organization could only benefit from restructuring once we were certain of our future

role. I remember going with Louise (du Plessis) to see Janet (Love) about a week or two before the decision was taken to close the office, and she said that she had no intention of closing the Pretoria office,. And then I think, something happened between Nic (de Villiers) and Janet (Love) and suddenly the office was closed.

Int Just like that?

PH It was not discussed.

Int Certainly from the interviews I have done, I've understood that the Pretoria office did some amazing work, and Nic (de Villiers) in particular, is a brilliant lawyer?

PH Absolutely. I felt it was just a case of managing, you know, you don't actually sack people or get rid of an office, in order to solve internal problems. You try to manage the situation although it might have been difficult. I felt that the same approach was adopted with the Jo'burg regional office. Janet (Love) seemed to have problems with Achmed Mayet and as a result nothing goes through him. He's not consulted, and people are being appointed apparently without any interviews being conducted, just somebody being put in place - it reminds me very much like government departments you hear about, suddenly these things happen, you know...what's going on? I am concerned about the future of the LRC. Already it seems to be moving towards becoming an arm of government, like the Human Rights Commission or something like that.

Int I mean, I'm wondering, Paula, the LRC has had a strong history of being aligned ideologically to the ANC, mainly because it was an anti-apartheid resistance...?

PH Absolutely, absolutely.

Int ...but, come '94, one of the things that Arthur (Chaskalson) said as that...despite the fact that the ANC is going to be coming into power, that, the LRC must do it's job, actively challenge government in the interest of the public, and so there have been some cases, you know, the TAC, Grootboom...?

PH ...of course, of course, ya.

Int ...and I'm just wondering at some point it seems to me that it's started to dwindle away as such?

PH Yes, .I'm not certain how the trustees view this or...whether they are aware. I met Kentridge, Sydney Kentridge, in London recently, at a hearing at the House of Lords. Sydney (Kentridge) is actually the senior silk for the applicants...

Int LAT?

PH No, it was the case of the Chagos islanders...

Int Oh yes, yes the Chagossians.

PH Yes, the British government is appealing the ruling in favour of the islanders and he's acting for the original applicants, the islanders. I discussed the problem of LRC becoming closer to the ANC. And he said that when the organisation was set up it was felt very important that it should not associate with the government in any way. It could not be party to government. Currently, the organisation is very much run on fear.

Int On fear?

PH On fear. I went to the Cape Town office to do a workshop for them, and everyone I spoke to individually, complained about the control Janet (Love) exerted but, they won't talk to each other, because they're worried about losing their jobs if they were seen to be in conflict with Janet (Love).. I noticed that when Janet (Love) became a member of the NEC of the ANC...

Int So she's on the ANC?

PH She's on the NEC.

Int Ok.

PH She's on that...and there was a question as to whether she should continue – I wasn't present but it seems that the Trustees were very much in favour of Janet (Love)'s association with the ANC and seemed to believe that being closer to government, was an advantage. I am sure that had the LRC, in the seventies, for example, been considering employing as National Director somebody from the Nats who claimed to be completely independent, and would act only in the best interest of the organization, the appointment would have been defeated because of a conflict of interest. The same conflict occurs now but it shouldn't be overlooked because you happen to agree with the political party in power or you are all members of that political party. I think everybody's just skirting around and not wishing to address it. Now she's pretty high up in the ANC and she takes time off to go to their meetings, and I mean, I was told...this is pure gossip...Achmed (Mayet) told me that he was sent down at one stage to Luthuli House, to sort out something that was going on there... a legal problem I believe. We don't exist to assist government but nobody is querying it because they're worried about their positions. It's unfortunate. Most of the LRC lawyers have been with the organization for years, and to be honest, they can't go anywhere else, because they haven't been in private practice for such a long time. So they're in a situation where they are scared, and they have lost complete control, I

mean, even in the cases they take on. And nothing is happening. I feel I will probably get completely fed up one day and try to do something about this ... it's difficult.

Int Ok, hypothetically...if you did get to the stage where you get fed up, what's the process of recourse in a situation that's structured where the National Director makes the decisions?

PH Well, you see, the lawyers are actually members of the organisation, and they should use their powers in this regard. To be honest, if Nic (de Villiers) was still with the organisation, he probably would have sorted some of this out, because he was very familiar with the way the organisation runs. For instance, the loss of control of the regional director in Jo'burg, is very difficult, because decisions are taken above him. For instance, in my case it was the end of the contract, (to be honest, I'm not too bothered about it, as we're returning to the UK) but Janet (Love) took the decision not to continue with my contract even though Achmed (Mayet) was not of the same view.

Int So you're now technically under the Johannesburg office?

PH I'm not with them any more. I'm no longer employed with them, because my contract came to an end...

Int But when your contract ended after...2006 you continued...?

PH Yes, I continued with them under the Johannesburg office but I didn't want to be permanently based at the Johannesburg office as my home is in Pretoria. In a sense I can see why Janet (Love) didn't want to continue with my contract as I wanted to spend only 2 days per week in Johannesburg. I couldn't justify moving my family to Jo'burg. I didn't bother to argue or even do anything, it wasn't important. Nic (de Villiers) also didn't like the fact that the line of command was being blurred because when staff had problems the system of redress was no longer in place. You cannot complain to the trustees, about a work problem because they're not part of the structure, so the system of redress that was built into the LRC structure, was effectively taken away and that's why people in the Jo'burg office particularly, just don't say anything. And Achmed (Mayet), in particular, just gets very quiet because he doesn't want to have his head on a block, I agree that you should have somebody strong at the top, and I think it was hoped that somebody would be there to take the reins, stop all this squabbling and get the organisation onto a proper path. I think that would have been wonderful. But to take over completely means that the wider picture is not in focus. And, you know, I get the sense that the trustees have been in positions for too long. They need to rotate trustees so that you get new people coming in with new ideas, and people who have a different idea about managing. So you have jaded trustees who don't really want to get involved, and providing somebody seems to know what's going on, that's fine. But I was very surprised at the Trustees support of Janet (Love) when it came to her being part of the ANC, and I think at the next election, because she's in the (Jacob) Zuma camp, I think she's going to probably get some position in government. I think that's what she's aiming at. I just cannot

understand why the Trustees are so reticent - I think they are just shutting their eyes, it's really odd.

Int Earlier you said to me that lawyers aren't really necessarily the ones to lead an organisation. The fact that...Janet Love, the National Director, is not a lawyer, does that impact in anyway, do you think, in running the organisation?

PH I think it would be great, because I think, often lawyers get stuck in their own field and they don't necessarily have a broad perspective. . So I like the idea of somebody not being a lawyer. But I think when you have somebody who takes total control and who is not a lawyer, you might have problems. Because cases are being dictated by national office, apparently, in conjunction with the accountant, who should not be involved in the deciding what cases the organization takes on.

Int Is this Koop (Reinecke)?

PH Ya, and Koop (Reinecke) was appointed as a friend of Janet (Love)'s - no interview, no normal process, he was just appointed. And he's a good friend.

Int Really?

PH And I don't think it's appropriate for the national director to .have such a relationship with the financial director because you have somebody who is controlling everything, can hide whatever they want, and nobody really knows what's going on, which is what's happening now. We used to get a quarterly report on how the finances were doing, and we were always talking about what we needed to cut down as an office. None of that happens now, so we don't know, ...nobody seems to know what is happening from day to day. The lawyers as members of the organization should know what's going on. They don't have the same kind of responsibility as trustees, but they need to have some idea how to plan their work. Of course, as members they are expected to be involved in the running of the organization.

Int Right.

PH So the Johannesburg office have little control of what cases they take in and what areas they need to concentrate on. In Pretoria we often discussed the work we should be doing with regard to the resources of the organization. We tried to cut down by getting the receptionist to take initial statements and not spend lawyer time on initial interviews.

Int The sniff test?

PH Ya, that's it. So the receptionist would be able to at least take statements, get all the address and details from the person, and she did a certain amount of screening, so if

somebody came in for something like a family law matter, we cannot do that, so she would refer them immediately, and then we developed a, sort of, referral directory, where she would say: ok, we don't do this but you should go to here. That system worked pretty well and we were able to develop this as a result of our understanding of the current financial circumstances. These sorts of measures are difficult to take if no one knows how the organization is doing at any one time.

Int From what I can gather, despite the general differences, you had a very good relationship with Nic (de Villiers).

PH Yes.

Int And I'm wondering,...the Pretoria office was really his baby, as such, because he'd started it...?

PH ...I think that's it, yes...

Int ...and I wondered whether you could, elaborate, I think what one thinks of lawyers and you don't think of a lawyer as a person...

PH Absolutely.

Int ...and I'm wondering when you shut down an office, and particularly when someone who's started it, what does it do to the person? I'm just curious at what happened to the staff?

PH I think, well, it was horrible, actually, because the admin staff were first retrenched - that was the first level of retrenchment. I actually questioned that with Janet (Love) and I said: listen, you're in danger of creating a situation where you could be accused of indirect racism, because you're choosing staff who all happen to be black and that is indirect racism. Oh, no, we've had advice, it's nothing like that.

Int So then admin staff didn't get retrenched?

PH They got retrenched.

Int They got retrenched?

PH It was actually quite nasty, our office is the only office where we fought for the admin staff, the rest of them just let them go, didn't help them, didn't give them any legal advice, nothing.

Int You mean across the centres?

PH Yes, across the organisation, they did nothing. We actually got a lawyer in, to give them advice on what they should do to challenge their retrenchment. But when the retrenchments were put into effect, it was not done with much sensitivity. One lady who'd been working there over twenty years...

Int In Pretoria?

PH Ya, - she did not get even a letter, from the National Director, of recognition of her service, nothing. Not one of them got a thank you letter. That was incredible. And, you know, these people had actually come up the ranks, one had started off as a messenger and she made it to secretary...

Int Sure.

PH She'd spent a lot of time with people and she'd known Nic (de Villiers) from the very beginning. At that stage the Pretoria office was in a bit of a disarray, because, you know, it was closing down, everybody was going, and people stopped caring. I think Nic (de Villiers) was probably affected more because he'd started the law centre in Pretoria which was taken over by the LRC, and he just felt that it had been taken away from him, and he could do nothing about it. We suggested at one stage, that we could simply reduce the staff, partition the office, and then try to let the rest. This was completely rejected, and in the end, the LRC continued to pay rent for the whole office for a year, after the office closed down.

Int The lease?

PH Ya, the lease was...had three more years to run and that landlord was not willing to let LRC walk away from it. I don't know if it has been sorted out even now, but for over a year they were paying the rent.

Int On an empty office?

PH On an empty office and full rent. And no-one considered the possibility of doing it in stages,. One of Nic (de Villiers)'s ideas was that he would continue with the LRC...continue with the office, try to get some support in the form of equipment, etc, from the LRC, so that he could build up another centre and maybe work with LRC in the end, you know, have some similar arrangement, but that was just not even considered.

Int I'm wondering...

PH I think Nic (de Villiers) didn't help himself, he was very rude, and very abrasive with Janet (Love), and she took it badly, I can understand why, but this was a personal

issue. In the end she used her power to destroy another, and in the process the entire organization. I think Nic (de Villiers) was absolutely devastated by that, he really was, and for all his bravado I think it was really very upsetting, very, very upsetting. And it was the sort of organisation that he devoted his life to, and he still is very much like that, he wants to work with underprivileged.

Int He also had quite strong struggle credentials and he'd been detained...?

PH Yes. And, he took that in his stride. He is a little impetuous and often does things without thinking of the consequences.

Int He doesn't?

PH He doesn't always think before he speaks. And I don't think he appreciated he could be quite aggressive, but he was aggressive to male and female, alike. He was seen as the sort of quirky character in the organisation. "Oh, Nic (de Villiers), he's going on again". But he had some very good ideas, but I think he didn't have many friends because he was so forthright. And I was still thinking, you know, that he had a lot to offer and just felt that people are just so stupid, you know, they couldn't see it or they weren't going in the right direction. I got on with him because I, kind of, I agreed with the way forward. We discussed it many times and he said: ya, this is what we're trying to do; we should be giving ourselves some sort of focused structure so we can move on as an organisation. And he felt that it was important to have a structure as an organisation. So there are many things about him...I think I wouldn't necessarily like to work with Nic (de Villiers) closely, in the sense of, you know, sparring with him, because I think he would become very aggressive, and that I was a bit worried about that, even when I thought it would be nice to open the centre with him after this. But, as a colleague, if you went to him with anything, he immediately had ideas and it didn't matter if he was busy. Suddenly the problem was on the table and he's going to sort it out. And he had a lot of ideas and very creative in his use of law. I think that was brilliant and it is a pity that the LRC has lost him., It would have been easier just to control that energy, if you needed to, and put him somewhere where LRC could shine with him. I have spoken to other people about Janet (Love) and it seems that she likes to take over everything. I spoke to Derek Hanekom, about Janet (Love) – she worked with him when he was Minister of Agriculture and Land Affairs - he said that he had great difficulty managing her, because she would just not accept any boundaries, So although this might be an interesting interlude for her, I think she might leave if she gets the job that she wants. But I don't know what will happen then.

Int To the LRC?

PH Mm, mm.

Int You know, one of the things that's also been said quite often, is that...ok...during apartheid, people said that the LRC was unable to attract...to get black lawyers

because they weren't very well qualified, so they had to come in as Fellows, during post apartheid the LRC, as it says, doesn't have that many black lawyers because it's unable to attract them because corporate law firms, they're in demand and they can earn a higher salary and, you know, all of that. I mean, do you think that's a valid argument?

PH Hmm, I don't think they should be training anybody actually, you know, that's my advice, because LRC doesn't give very broad training - you're really dealing with public interest only. The Pretoria office, didn't think it was a good idea for the LRC to train CAs but it felt it could offer experience to people who have trained already and wanted to develop their interest in public law. We could give them expertise, and we could then concentrate on the training of black lawyers and encourage them to come into this sector. I think what's happening now- I noticed this in the Joburg office, there is a certain amount of racism with the black lawyers versus Indians. There's this kind of split at the moment. And...

Int How...where does it emerge and how does it emerge...what's the perception?

PH I think the perception is that somehow black trainees are not very bright. That was my impression of the last intake, and if the black CAs are not strong enough to defend themselves they will be simply dumped in the stupid category. The organisation have a policy of rotating CAs to make sure they get the best training possible. But that is not happening, and what you're finding is the Indians are getting preferential treatment now. When I was there, the black CAs were complaining to me, one of the guys said that he has...ended up just ferrying Achmed (Mayet) around. And he became the driver until he put his foot down and said: "no, this is not what I came here to do, I came in to learn". I don't think Achmed (Mayet) is racist, I don't think he's that sort of guy at all. But he is brought up with a certain background, and I think he feels very comfortable with black people because he speaks Zulu and I think he actually feels happy in their company. I went with him once on a trip to the Mozambique border with Bethuel (Mtshali), a paralegal from the Joburg office, to see a group of people Nic (de Villiers) had been helping. We were sitting at breakfast and I was talking to Achmed (Mayet) about all sort of things, books, etc, and I suddenly noticed, when we were talking about Houses of Parliament in the UK that Bethuel (Mtshali) didn't know what we were talking about so I explained to him. I could feel that I was actually being like a South African, ignoring somebody, not intentionally, because I know that they couldn't participate ...because they're coming from a different culture, and they didn't necessarily read the same books, listen to the same music, etc, - I could relate to Achmed (Mayet) because he'd had a similar educational background. And I think it's automatic in a way,...and though Achmed (Mayet) gets on very well with black people, separate development is clearly also apparent in the LRC. It is demonstrated in the way people relate to each other. The blacks also behave the same way .., When I was in Pretoria I used to go into the tearoom and if the blacks staff were sitting there, they would continue in their own language leaving me out of the conversation. I don't believe this was intentional either - they were simply more comfortable in that language but I felt excluded nonetheless.

Int Sure...

PH It is both sides but what I find is that if you are more...if you have a better advantage, then what you need to do is recognise that, take cognisance of that and...because people who feel disadvantaged are much less able to come to meet you, so therefore you need to come to meet them, and not on a condescending basis. It's not a case of: ah, poor thing, you know, we need to talk to them, it's responsibility, treating them as equals in every way and with respect, that's all. And I think in South Africa, that divide is still there. And it's alive and well in the LRC.

Int (*Laughter*). Like a microcosm of today's society.

PH Ya, it is, it's exactly the same and even down to...I mean, I find, in South Africa, people are very much 'every man for himself'. I found that, apart from the Pretoria office, particularly Nic (de Villiers) and other people who were working there - we had a different culture, to some extent, even though we had this divide, there was a culture of understanding of people who were less fortunate, so we tried to actually meet halfway. I don't think it worked, because of the divide, as I said, but .it seems that we were a little bit more successful in trying to understand the difficulties... and though it didn't always manifest itself in the way it should, I mean, for instance, somebody's late because, their taxi's broken down, they might get a telling off for that, but I said to people: well, listen, the reason why you don't understand is because you're not taking a taxi in the morning and having to wait in a queue and then somebody's shot in the taxi, or whatever happens, or the wheel falls off, I mean, I've seen taxis...I used to take taxis when I first came here, I know what they're like and you know that people can be delayed because of that. So you...it's not like, as I say, going back to the UK, where everybody's taking the tube. You and your boss will be in the same tube that's broken down, so we understand where we're all coming from.

Int Of course, of course.

PH So those commonalities just don't exist. And I don't know how one fixes that, in South Africa, I think throughout South Africa it's exactly the same, and there's a division between Indians and blacks, Indians and white, coloureds...I mean I've seen them...they're lots (*Laughter*). And, you know, I've had coloured clients and to be honest, I felt much more at ease with a coloured client because they remind me so much of the West Indians. Their sense of humour is very similar. And I suddenly felt, oh gosh, they're very close (*laughter*), Obviously coming in, as somebody from outside, you want to see everybody and you want to try and make friends with different people. But, honestly, the Africans find it difficult to make friends with me. That's why I think it's economic, and social differences. And the divide in South Africa is still along those lines, regardless of whether there's BEE, or whatever, even though the divisions are there, I mean, in the upper echelons, you find those things are, kind of, lessening, I think, but strictly in situations like any organisation when you've got the tea lady there, the receptionist, etc, they tend to be black and the secretaries, etc, tend to be white - the secretaries at the LRC were all black and I remember they had a problem with English, and everything's done in English. So I was thinking that maybe what we should get them to become more proficient in

English by sending them on courses. Nothing came of it because the lawyers felt that they would not benefit much because they were simply not interested in improving.

Int The legacy of apartheid?

PH Mm, separate development still exists. And I find that in universities, and I was really surprised. I used to use the law library in Pretoria University, and I'd see students together and they would be whites on one side, blacks on the other, and Indians, and I'm thinking: gosh, what's happening?

Int Clearly they're still in transition...

PH Ya, The transition is just not happening - they say it will take a few generations maybe, when the kids start to get together more.. But, you know, it feels just completely separate. Amazing.

Int I'm wondering, Paula, you've had this very close, good working relationship with Beulah (Rollnick) Nic (de Villiers)...how did Beulah (Rollnick), who obviously was a volunteer, if I'm not mistaken...

PH No, she was paid.

Int She was paid. She's obviously very, very dedicated How did she manage the closure of the office?

PH Well, she had retired before that, but she was actually very upset. I think...and she's very critical of what's going on in the LRC. She stayed at the Pretoria office, even though she lived in Jo'burg, because she preferred the people in the Pretoria office. Which is interesting. So though there were all those differences and there were those divides, generally, I think the office gelled together despite our differences and we worked quite well as a team. Much more than any of the other offices. So, I think she just felt that was worth keeping, and when I told her about it she was really very upset, she tried to volunteer at the Johannesburg office and she wrote to Achmed (Mayet), who didn't reply to her,

Int He didn't?

PH Yes, he said he didn't get back to her because people were being retrenched at the Johannesburg office, and he felt that bringing Beulah (Rollnick) in was considered the wrong, kind of, signal. But I think it was just an excuse because she wasn't getting any money, I mean, people wouldn't be worried about people coming in...they might be worried if she was coming in every day of the week. Then they could get somebody for free and sack somebody else, but she was only thinking about one day a week or so, so...but they just ignored her, and I think she's very hurt by that.

Int I can imagine.

PH Ya. So but, I think, you know, she comes from a struggle background as well, but I think Beulah (Rollnick)'s much more able to cope with the difference in races. She's the sort of person, if you're black, white, whatever, she'll tell you exactly what she thinks, as far as she can see you're equal to her, and if you accept her, black, white or whatever, she's going to let you know. And you know, we had a situation where people would borrow money in the office, and Beulah (Rollnick) was the one person, if you borrowed money from her, and you didn't give it back, you're going to get an earful.

Int I'm wondering, Paula, the Constitution is regarded, particularly overseas, as the most advanced Constitution in the world, and so I've arrived in South Africa and found that the Constitutional Court judges are referred to as counter revolutionaries, and...it tends to influence the Constitutional Court, and I'm wondering, as someone who's, come from a different place altogether...but you've lived in South Africa for...

PH Ya...

Int ...a significant period of time. What are your concerns? How do you understand the dynamics that are currently happening in the judiciary, and it's been going on for a while in terms of the Cape Town courts?

PH Ya. You see I'm not really surprised, and maybe I'm a bit...you could say I'm racist, I don't know, but I certainly find throughout Africa, and African culture, democracy, independence of the judiciary and that sort of thing, are difficult to accept. I don't think it's so different in South Africa, and what worries me is that democracy here could also be under threat, because politicians feel that they're almost being hampered by the courts. We get court orders, but they're just never implemented, and you've got to make a contempt application in order to get the relevant department to implement the order. And that's just delinquency.... if you've got an order from a court you obey that order. If you challenge it, you challenge it, that's a different matter. So I think that somehow respect for the rule of law is not necessarily so strong among government and government officials, and they need to get to grip with that. I think the criticism of the Constitutional Court and (John) Hlophe's interference may be justified as I feel that the Constitutional Court probably shouldn't have publicised it quite so quickly, but I still think it's worrying that anyone should think that they can influence the highest court in the land. And the Constitution is brilliant here, I mean, it's better than all other African Constitutions and is worth preserving. I think politicians, Government, are finding that it's quite onerous as it puts pressure on government to perform. It gives rights to citizens that many other citizens in Africa, don't have. Maybe, the respect for human rights is not necessarily strong, in South Africa as seen in the demand for the death penalty. But, you know, you're getting corruption all the way through now, and I find that really worrying. So, I think...

Int When you say you get corruption all the way through, what do you mean?

PH I'm thinking of the influence of politician and the police on the courts. You get some really strange judgments, but I'm not certain that necessarily indicates corruption because I think in Britain you get some very strange judgments. A judge is a person, an individual .. they come with their prejudices and that's reflected in their judgments, so, fair enough. But I think the (John) Hlophe problem has to be addressed. If he was trying to influence the Constitutional Court for political reasons I think that's a huge problem, and should not be tolerated, he needs to be investigated and if he is found guilty the you've got to get rid of people like that as an example to others. But, you know, I think what also worries me, is how the ANC is spreading into every area, and though I think it has good credentials and it did a wonderful job, once you've got power, it's very easy to want to hang on to it at all cost. And you see that time and time again in African history. Post independence, so many of these leaders have wonderful ideas for a democratic society encompassing socialist principles but gradually the need to retain power takes over. So they surround themselves with people who are not necessarily competent but will support them. And you know, we're, seeing this with (Jacob) Zuma and (Thabo) Mbeki too.

Int How do you think the LRC fits into this area of concern?

PH I think the LRC has to be completely independent as a result and the need for an organisation like the LRC is much greater now. It was the apartheid regime, now we have potentially a one party state where government has extraordinary powers because they are not being challenged by an opposition. And you can see in the way departments are run, that people are incompetent, and because they happen to be for the right party, they stay in place, the Department of Labour for instance. They've had three or four years running qualified audits and the Minister of Labour just sits there. In another country that minister would be responsible for his department, but because he's the right person and has the right credential, he stays. And what I find also quite interesting is, how many white individuals join the government who are so keen to toe the line, because they so want to be part of something that they helped to create. But they too are beginning to lose whatever, integrity, they had in the beginning. I think there was a high degree of integrity among people in the struggle, black and white, but I think now, you'll find that the ANC is so much in control of everything, that everybody wants to be part of it, and compromise their principles as a result, and nobody wants to stand up. I'm not certain that's so different to the Labour Party in Britain, where people just stick to the party line, it's the same, but I think because of the potential of a one party state it's much more dangerous, at least with the Labour Party and the Conservatives...you know they can be thrown. But I'm not certain you're going to see the same in a one party state, so the danger is greater that abuse will increase, and corruption will be more difficult to withstand. But I think LRC needs to continue taking government to court and making sure administrators obey the law. It has a real job on its hands in the future.

Int Absolutely. Paula, I've asked you a range of questions.

PH You have, exhaustingly so.

Int Yes...I wondered whether there's something I've neglected to ask you that you feel ought to be included in your Oral History?

PH Ah...maybe we should come back to that. (*Laughs*). I think we've gone through quite a lot, haven't we? Ya. I think we've gone through most things. But I think, the only thing I still believe is that the LRC has a very exemplary history in the past, and I think it can continue to be that way, but we need to make sure that we don't become submerged into some sort of parastatal, or an arm of government in any way, that's very important. And I think the lawyers in the LRC will continue to be committed to ensuring that the poor people are not disadvantaged, and that the most vulnerable people in society are protected regardless of what happens, . I do believe the lawyers have that, so if they remain, hopefully, I think that sense of needing to correct injustices will continue, regardless of whether it's against government or individuals...or companies, or whatever. ...

Int I'm also wondering...is there a particular memory of a client or of a person, or just general interaction with the LRC, that you treasure...?

PH Ya, I think with the clients, because often you get clients who don't seem to appreciate the work you have done for them. But I had a client who was in a wheelchair, he is a paraplegic. We battled for a long time to get him compensation, and I was really pleased when he got it, and it was very difficult for him to get to the LRC, because he has to come in with the wheelchair. When the case was finalized and he got all his money, he thanked me very much, and then he came in to the LRC one day with a gift, ... it was just a carving that you can buy on the side of the road. This was so nice, I mean, to actually come all that way and make that trip...I thought was wonderful. And it really made it all worthwhile because I could tell that not only was his life much better as a result but he could get closure to that particular part of his life and he was going to be well looked after. He could now have his family and his kids...that was just wonderful. I've put his name on the carving which I display at home..

Int That's lovely. Paula. On that note, I want to thank you very much, not just for your time that you gave so generously, but also for your candour which, I think, really goes to the heart of doing Oral History, it's not always easy, particularly with lawyers, to get that kind of candour and I think in the LRC situation, it's absolutely vital. Thank you very, very much.

PH It's been a pleasure talking to you.

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