

Wallace Mgoqi

LRC Oral History Project

19th December 2007

- Int This is an interview with Wallace Mgoqi and it's Wednesday December 19th (2007). Wallace, thank you ever so much for agreeing to be part of the LRC Oral History Project, we really appreciate your time.
- WM It's a pleasure for me as well, Roxsana.
- Int I was wondering whether we could start the interview by if you could recount your early childhood memories, what was it like growing up in South Africa under apartheid and then subsequently what was the trajectory that led you into the legal profession?
- WM I was born in June 1949 in a suburb of Cape Town known as Goodwood. And at the tender age of around six years my family had to leave Goodwood around 1956 as a result of the enforcement of the Group Areas Act, and we went to live in Nyanga, one of the sort of first African townships in Cape Town.
- Int This was a forced removal?
- WM It was a forced removal, yes. And started my schooling then in Nyanga, and when I was in Sub B my grandfather fell ill in the Eastern Cape and my father asked my mother to go and look after him, and my mother decided to take me with her to Fort Beaufort, and so I continued with my primary schooling here. And came back to Cape Town around 1963, and a school at Hlengisa Higher Primary at the time, and then I, for some reason, I developed some antipathy towards school. I remember 196...I left school in 1964, and when I reflect, you know, on those early years, I think one was a victim of the, you know, ones sort of environment, which was quite difficult you know, in Gugulethu. And also peer pressure, you know, that was upon one. So effectively I spent the whole of 1965 not attending school and trying to find some work in shops in Athlone area.
- Int How old were you by that time, Wallace?
- WM 1965; I was 16 years. And I also worked in some hotels in town as a scullery boy. And as well as in Seapoint. And it was, you know, the hard work, for example of scrubbing floors and polishing and all of that. That made one to make a decision about ones life, you know. Because I...I mean, there would be...I remember the white lady at the white house hotel who would like after I'd polished, cleaned the floor, she would kneel and sort of look down and say: Wallace, no, no, you must come back, you haven't cleaned properly here. And I said to myself: is this the type of life I'm going to be leading? And that day I decided that the following year by all means I'm going back to school. And at that time the only sort of...the second high school in Cape Town for Africans was Fezeka High School. And I went to start my schooling there. And one of my subjects of course was Latin. I had a Latin teacher, you know,

who was very good, and I then developed an aptitude for Latin. I mean, I remember when we wrote the final year school examination, we took a bet of about one rand if I would get a distinction and I did. And so...you know, I developed a love for Latin. It also exposed one to characters like Cicero and all of that you know. And I then also was beginning, you know, I seemed to have some interest in law, and lawyers. And so when I went to high school which was a boarding school in Hilltown just outside Fort Beaufort. And something also happened there because in our second year our Latin teacher died around about March. And for some reason because other students knew that I was like a leading student in Latin, there was no teacher around to take over the class, so I was asked to take the class through the syllabus up to the end of the year. And that also strengthened my understanding of Latin, and by then I was clear that I wanted to go and study law, you know, at Fort University the following year in 1971. Came 1971, of course after 1970 my parents really could not afford to take me to school, so I had to apply for a bursary, and this bursary I received was from a white family in Cape Town in Kenilworth. And it stipulated that a student had to do Social Science. You know, I tried to persuade them that I wanted to register for law, but I think they just didn't believe that a black student could pull it through, I mean, with studying law. And I then relented and registered for Social Science at Fort Hare, and I'd really...you know, feeling that I was somewhat deflected from my course. So for the three years I was at Fort Hare, I studied Social Science, you know, it was being a Social Worker and in my final year in fact I was then appointed as Chairman of the Social Students Association. And it was also interesting during that time that very year that I had the privilege of visiting Ginsberg, which was Steve Biko's school. It happened quite strangely because we as a Social Workers Association had invited Benny Gwapa. Benny Gwapa was quite a prominent black social worker at the time, and we heard that he had some fairly progressive ideas about social work and all of that, so we invited him to come. But of course the Rector of the university then at the time, Professor de Wet, when he heard about that, you know, he apparently I think formed a view, I think, from also the Security Police that this was someone who was, you know, rebellious and revolutionary and all of that, and he wouldn't allow him. So he actually banished him from coming to the university to campus. Then the Student Association asked myself and another fellow, Phillip Guma to go and meet Benny (Gwapa) in King William's Town. So we hitchhiked to Kings...I just don't know things happened, we hitchhiked and we got to Kings and we were then directed to go to a hospital where he was, and we met him, we found him there. and after our discussion with him, he shared with us what he was going to convey to students, and was asking us to in a sense relay that. But after our meeting he said he wanted to take us to his friend, and we drove in his car, and we ended up in Ginsberg. And we were at Steve Biko's home. And we entered the home and of course he was in one of the rooms, he couldn't see more than one person at a time, so Phillip (Guma) went to greet him, and then I also came in, and basically was saying, he was quite delighted to meet students from university and actually said that it's quite pleasing that students are able to come down to the level of the people of the community and feel the pulse of the community. And those words, you know, stayed with me. And being able to leave the ivory tower of the university and come to the people. Of course, 1973, and before the year ended we were involved in another drama, where the university, the same Rector, dismissed quite arbitrarily about 59 students, for having protested and having staged a sit-in in his office. And we summarily sent him away. And we said no, we couldn't allow this. I mean, we also exposed that students could be dismissed and I mean, expelled from university just in that way. Of course, we didn't know what

was coming our way. I was one of the students who were going to the women's hostel to mobilize the women to come and join us at Freedom Square, you know, to protest against this expulsion. Of course on our way we saw already that the Rector had called the police, you know, from inaudible, you know, the time, had to come on campus, and there of course we then changed course from going to the women's hostel we had to now run through Davidson Stadium. I always say, when the way we ran across the stadium because the police were now coming closer...the dogs in fact were coming closer, the way I ran across that stadium, I say that if the only peak games selectors were around, I said we would have...certainly a number would have gained an award for sprinting. And of course as we got to the fence, I mean, quite a high fence, but the dogs were really closing in behind us, you just looked once and that next second you were other side of the fence. And you landed on the Federal Theological Seminary premises. It was supposed to be sacred sort of ground. And the fact as we landed and the dogs were like leaning against the fences. When we got to the Fed Sem we then, you know, grouped there and told them that we were running away from the police. Then they said, no, the police can not come in there, and all of that, but the police came. They were at the gate and they were saying that the Rector has asked all of us to go and join the other students at the Great Hall and they negotiated for a long time and they promised that we were not going to be beaten up. Because we'd heard that the other students whom we had left on campus had been badly beaten. I mean, the police would come through, you know, a student's room and some of these were like about two or three storeys, and there were three or four policemen beating students. And then some guys threw themselves through the window and they really got badly, badly injured. And we then rejoined the other students at the Great Hall, and again there we were all issued with expulsion letters expelling us, accompanied by policemen to your room, to pick up your luggage, and issued with a ticket, train ticket, to go back to wherever you came from. So went to Alice station and from there...that was in September, can you imagine? 6th September, we were going to write an exam around the 6th October, and for me it was my final year, you know, end of the three years. I was supposed to complete my degree. And that was the end of ones stay at Fort Hare. Came back to Cape Town, was compelled to no work, this was now '74, and had met my wife, of course we got married, and I got a job at a post office in Langa. And I worked there for about 20 months. In 1975 around about May, I joined Old Mutual. And I really felt...you know, I was studying...you know, I had reregistered with UNISA. UNISA said I had to do about **inaudible** courses because I had already completed with Fort Hare. And as a result I only completed that same degree in 1976. And so as I was doing this insurance thing I was really thinking about, you know, what am I going to do with my life? I wanted to become a lawyer and here I am. I'm doing a Social Science degree now, and I qualified of course '76, and I was employed by an agency that was doing work among informal settlements. It was called the Cape Flats Committee for interim accommodation. And basically, you know, mobilizing informal...people in the informal settlements to, you know...to engage in advocacy about their conditions, you know, to articulate their grievances and to bring to the attention of the authorities and all that. mobilise them and all of that. And so I didn't go and do traditional sort of...and formal sort of social work. But engaged in sort of organising people and all of that. And it was again during that time that the desire to do law, you know, came back. And remember we were mobilising the...Modderdam, when people were being evicted there...Crossroads, and all of that. But I must say that the turning point for me came around about 1979 when I was still doing that work, when one visitor from the

Netherlands came in to...because by that time the same agency had now gone under the auspices of the Western Province Council of Churches. So they were hosting some people who were visiting from abroad and had come to visit South Africa and look at conditions that people were living in and all that. So I would end up, you know, being a tour guide of some kind, telling them about what was...we were doing, you know, how trying to help communities to, you know, find accommodation, find rights and all of that. You know, we push it on the authorities and all of that. And this guy asked me a question, and that's when I realised also the power of questions. And asking a person a question and it goes to the very heart of that person. This guy asked a simple question: what are you going to do with your life? And...he said: I mean, you don't have to answer me now, but...we were coming back from Crossroads. And he said: because the conditions under which you are working and all of that, I mean, are quite depressing. Is there something that you want to do in your lifetime? But he said: I'm going to leave you my address and you can answer the question. So when he left, I thought about this, I said, look, you know, I really would love to study law, but I don't have the means now to do so. And in fact law – and at that time, this was now around about 1979/80, the LRC had just started. And, you know, reading about public interest law and all that. So I said: I really would want to study law and practise in public interest law around issues of promotion and protection of human rights. And we were just surrounded by violation of human rights all over. And then, I wrote this letter to this guy and he replied saying that: look, there's a church here, it's called van die Gereformeerde Kerken in Nederlands, which is willing to sponsor you and just write a motivation as to why you want to...decided to study law. And I went I wrote a long sort of motivation, you know, why I want to study law, about going into public interest law and I see law as an instrument that one can use for social justice and all of that. He wrote back saying that you've got a bursary, so I registered with UNISA, first year LLB. And that was 1980, and then I realised that, oof, studying law but end of that year, I passed...Latin was one of my courses, because I had this aptitude...and it was exactly that aptitude in Latin, because I got very good symbols and I think I got an A or something. And so I then said I would go to UCT. Because I was living in Langa, which is only six kilometres from UCT and I also there had to apply for a permit, because you had to get a ministerial permit from the Minister of Education to say why you are not attending like Fort Hare University, which was meant for Xhosas, or why you're not attending KwaZulu-Natal for Zulus. You know, I mean, Bophuthatswana and all of that. And I said, look, I live in Langa, I've got a home now, I was renting a house there, a family, I'm going to commute on a daily basis, you know, to UCT, I'm just going to attend lectures and, you know, the library. I'm not going to stay on campus and all of that. So I was lent the permit to study. So in 1981 I transferred my course from UNISA to UCT and then I completed the LLB in '84. And really my determination was getting stronger and stronger to move into public interest law, as I had promised. And come the end of 1984...'85 I then applied with the LRC to a fellowship program. And, I mean, people like Lee Bozalek in the time had just...they started in fact '83, with Shehnaz Meer, with William Kerfoot, Matthew Walton, the Cape Town office. And I did the Fellowship program for a year, which was then an orientation into public interest law. And then '86/'87, I then had to go and do articles. So I went to Syfret Godlonton-Fuller Moore. They are up here in the documentation. And at Syfrets, I spent in fact '86/'87 doing my articles. And I was very fortunate because, I mean, most African students struggled to get articles. And my problem in the end, and in fact, even when I was at UCT, my problem was making a choice between Mallinicks on the one hand, and Syfrets, because I knew

both senior partners in each of the firms. Like Michael Richman at Mallinicks, and Richard Rosenthal, who was the founder trustee in the Cape Town LRC. I chose Richard and I chose...so it inaudible. And Richard (Rosenthal) and I are still friends up until today. And so I went back then...when I completed articles at Syfrets and I was admitted in '88 as an attorney, I went back to the LRC and said I want to practise as an attorney. And that was '88...I was there for...the beginning of 1995. But whilst I was there...

Int The LRC from '88 to '95?

WM Yes. LRC. And whilst I was there, really it was quite interesting. It was quite a period you know. A time of very intensive...I mean, repression was at its peak. Remember with the Emergency...States of Emergency in 1985 and all of that, '87, '88. You know, all of those years were very, very, very intensive. I mean, repression was really at its peak. And I remember in 1988, coming in a sense to the cases, where many, in a sense then at the LRC, doing a lot of labour cases, labour matters. And I remember one of the cases Lee (Bozalek) and I were doing was a man involved in a retrenchment of workers. So we had to go for an inspection in loco for some reason, we had to find out ourselves what was happening there. And I remember when we entered this guy's office, the employer, and I also sort of enter, you know, accompany...and I could see there were black workers there, there was something that was wrong. Anyway we told these guys what we were about and all that, and that we're acting on behalf of some workers. Hey, he was mad. And I learned that in fact the reason why they were like, was that it was the first time that a black man entered. This is a little office! I mean, this is big this office. This was a little, little...but I mean, he never allowed his workers to enter, you know. He would speak with them through a window, you know, give instructions through a window, give them pay slips through a window, but they never set their foot inside.

Int This was in Cape Town?

WM This was in Cape Town. It was here actually in Kuilsriver. When we fought that man and he ended up...because he tried to resist the matter and we'd win again, would take it on appeal, we'd win. He nearly went bankrupt I think. And anyway, but also around that time, you know, 1988, I was...we had a system of an attorney on duty at the LRC, just to make sure that no-one came to the office and would be turned away because they haven't made an appointment. Because people at grassroots level don't conduct their lives on the base of making appointments and all that. So there had to be someone who's always ready to see people as they come in. So we often were just on duty, and then there comes a group of people who were saying that we are being evicted right away out in Kraaifontein, not far from here. And then I decided to just check, because they had an eviction notice and I just checked with **inaudible** from one of my colleagues there as to...because he was doing deeds **inaudible** ...went to check as to whose name...who was the owner of this land. Only to discover that in fact the owner was not the person who issued the notice. It was some agent who was apparently contracted to get rid of those people. So there was some technical business in law to move an urgent application. So we got a judge and said we want to move an urgent application to stop an eviction because in our view this was unlawful eviction.

It was not the owner who had...who was empowered to do the law, to issue and to effect evictions. So it had to be stopped. And we got the temporary interdict and of course, that was just a technical thing. Because it could be corrected, you know, in the following day or a few days thereafter. And I discovered that the lady...the attorney who was acting for the owner was someone who was my colleague at UCT, a white lady, she was quite embarrassed because she knew that I stood for human rights and all of that and she felt quite embarrassed and compromised actually, that she had to oppose me and all of this on this matter. So I prevailed upon her and said: look, we know that you guys can...this is a technical victory for us and you guys could correct the application but how come that our clients don't have an alternate place to go? And that was before, I think, (Richard) Goldstone made that ruling about the duty for a person who evicts to find alternate accommodation.

Int Is that...

WM (Richard) Goldstone made...there was a decision to the effect that an eviction can be only justified when the person effecting that eviction makes provision for some alternative accommodation or something. And that was a Supreme Court sort of ruling at the time by Goldstone. And so we said: look, give us some time so that we can actually find alternative land to go to. Because that was really '89...the whole of '89 we kept extending for three months to six months to nine months. And 1990 February when Mandela was released, and the atmosphere somehow just changed, and they were quite embarrassed and of course the provincial government also intervened because this informal settlement was just spreading, spreading, spreading. And the provincial government intervened and said that they were going to buy the land from this owner and because they wanted to declare the area an informal settlement and put in some services. And so our clients got reprieved in that way. Because before then, I mean, from 1988 in fact, we were in court in Bellville, defending them, you know, the police...the council...you know, the mayor in this area was a guy who was...in fact the mayor was avowedly a Conservative Party member. Was very racist, and so they would confiscate people's belongings in that area and we would go and defend them. So I stayed with them from 1988, you know, from that first victory. Right up until 1992 when the provincial government intervened...1990, when the provincial government intervened. By 1992, in fact, when everything, the area in fact was completely laid out, there were services and water and all of that. The women who were really in the forefront, you know, without me knowing, apparently applied with the national places names board, to have the name of the area changed from Uitkyk to Wallacedene.

Int Yes, I've heard about this.

WM And, wow, I was completely overwhelmed. And that really was quite, you know, a very rewarding experience.

Int It's such an honour isn't it, to have a place named after you....

WM Yes. And you know, I had stayed with them through thick and thin over that period. You know going through experiences with them and of real pain and suffering. We had other matters, I mean, I remember a matter that Stellenbosch in counsel **inaudible** but there's a matter of again an eviction where in fact...court was a judge...these guys apparently they were supposed to have given some notice before tearing apart a structure, and they didn't do so. And the judge ordered them to rebuild, you know, the shack. It was quite an embarrassing thing. And in a sense it was a public order forcing the officials to, you know, undo what they had done. And again it was well publicised and one saw, you know, the power of the law when it works in favour of the people. And those were very fulfilling experiences. Of course towards the end of 1993, I was getting more and more engaged in defending people on land sort of related matters. And '94 I then went to Rome to do some studies in...I was doing a development course with the National Development Law Institute. It was run by Americans, American lawyers. And European lawyers and others from Africa and all of that. So when I came back...

Int How long were you in Italy?

WM Six months. And I came back in June and then I was appointed as a Commissioner to look after...because there was a collapse of the black local authorities in Gugulethu, Langa, Nyanga, Crossroads and Khayelitsha. So from July until about the end of the year, back up to January 1995, was doing that work. Then there was of course the nomination process for Commissioners that were going to be appointed to the Land Restitution Commission. My name was part of that. And I then left the LRC when I was appointed as the Regional Commissioner to look after the Northern Cape and the Western Cape.

Int So that was 1996?

WM That was the beginning of 1995. So when the commission started I was one of the original.

Int So you didn't return to the LRC at all?

WM No.

Int So how long were you on the Land Restitution Court?

WM I was on the Land Restitution Commission...I was a Regional Commissioner for four years, '95 to end of '98, and then from 1999 I was elevated to being a National Commissioner. And then I had to relocate to Pretoria. So I spent an effective...and then I was there till about 2003. So I spent a total of eight years. Four years Regional Commissioner, four years as National Commissioner.

Int Right. And then after 2003?

WM 2003 I was then invited to be City Manager in the City of Cape Town.

Int So you were mayor?

WM Reporting to the mayor. Managing the city and all that.

Int So how long did you do that for?

WM I did that for three years. My contract actually was for three years. Then because (laughs) of the controversies last year, are you familiar?

Int No.

WM The controversies last year with the DA, with (Helen) Zille the Mayor here.

Int The DA is the Democratic Alliance.

WM The Democratic Alliance, yes. Because they took over the city see, the middle of last year. And the Mayor, they had signed my extension of my contract for three years for another year. But the extension was supposed to have been endorsed by council and there were, no council sat between January and March when the elections took place. So the DA saw that and I **inaudible** because I tried to, on my side, to say, look, I had a legitimate expectation because the employer, you know, had made a **inaudible** undertaking that...probably I got a very bad Bench, van Zyl and some other chap who threw the matter out. And senior counsel involved, they took the matter up on appeal. And because even there, you know, we had how we then, without even asking, hearing argument on the matter. He gave me two judges who looked at the papers and they wrote back saying that no, there is no **inaudible** to this matter. The refusal to extend was actually right. So I gave up and then from the beginning of this year, I applied to be readmitted again as an attorney. And then May, I started this office.

Int And you're in private practice now?

WM In private practice now.

Int What type of law do you practise now?

WM Again, because I'm strong in public law, you know, so administrative law, contract law, labour sort of matters I'm also available for arbitrations and litigations. This is what I've been doing. And any land related sort of work.

- Int How much of your work is pro bono then?
- WM Quite a lot. I do a fair amount of pro bono work. Because I'm surrounded by people who are unemployed and would come here and need to be assisted with this and that. You can't then just send them away. And it's just in my heart to assist people that you cannot ask for a fee from, because where do they get funds from?
- Int I wonder whether I could take you right back, Wallace. You've given me a wonderful account of your life, and I was wondering whether I could take you back. You mentioned that when you were growing up, very early on, you experienced forced removals. At which point, and you've mentioned some of this, but I just want to get quite specific, at which point did you really believe that you wanted to be a lawyer?
- WM Uh...suddenly in matric, I mean, at Hilltown High School when I was in matric, you know, because we were checking each other out, you know, also as friends as to what is that you want to do, and I was clear in my mind that I want to become a lawyer.
- Int But why do you think that was? You could have chosen any profession, but why law in particular?
- WM I mean, already then because there were a number of...you know, we were reading the literature, you know, and those days that literature (laughs) at school it was going like, under the desk, and when you're getting a book, you know, on (Nelson) Mandela's life, was a treasure, you know. You read about this guy who's a lawyer, and (Oliver) Tambo, you know, Duma Nokwe, you know, and there was a very famous lawyer was, a number of high profile case in Eastern Cape at the time, Chizane. One was quite fascinated by this kind of character. The things that he gets involved in and all that.
- Int And then you mentioned that you went through a period where you had developed an antipathy of school and then you went back and you finished high school, etc. And then you described your trajectory in terms of doing the Social Science degree. It seems to me, and I could be corrected...it seems to me that politically you really became more conscientised at Fort Hare?
- WM Yes! Yes, most definitely. And it was beginning at Hilltown, you know, with the exchange of books, literature that we were reading. But real political consciousness and there was no way you could be on that campus...we're talking about SASO came to be 1968, Barney Pityana and all those guys. So I was at Fort Hare '71-'73. That was quite a hectic period. I mean, student politics was like very hot. You know, there were political debates. You know, SASO was very active on campus. We were interacting with students, with guys like Henry Isaacs, from UWC, Harry Gwala from Turfloop, they would come and even Christine Qunta. We met during the time, yes, and Black Consciousness was like all over. We were just saturated with political activism at the time. You could not remain apolitical in that atmosphere. And I mean,

I took a leadership position as well in the Social Workers Association and ya, one had to be on ones toes all the time.

Int You also mentioned that at some point, through the church, you met the person from Netherlands and at that point you mentioned that you were really quite keen to do public interest work, and I'm wondering how you...did you hear about the LRC in particular or did you learn about public interest law through other means?

WM I learned about the LRC because when I was...I remember, you know, the first time I met Geoff actually, Geoff Budlender, was when I was a student at UCT. I was also active in the Legal Aid sort of clinic. The establishment of that work. And we were doing legal aid work in Athlone. I remember one of the meetings Geoff (Budlender) came to address us there and he talked about the Legal Centre that **inaudible**. And there was beginning to be some publication, I remember when I would sit in the Law Library I would read about...those early newsletters that the LRC was releasing, you know, and one was quite interested in that. Look, I mean, this was quite an impressive organisation to work for and to identify with.

Int So when you did your fellowship, had you finished your LLB?

WM Yes. I finished my LLB '84...'85, and then did the fellowship program.

Int So that one year during your fellowship, what were some of the types of work that you managed to take on as a fellow? You were working with Shehnaz Meer, you were working with Lee Bozalek.

WM It was mainly labour related cases. Because at that time Labour Law was like the main sort of area of the law. The Wiehahn Commission had just completed its work in 1979, it was an opening up of the trade union movement, you know, and trade unions were now being recognised to mobilise workers. '81, '82, '83, LRC started in Cape Town. So labour work was an area in which we were operating. And of course, you know, defending people on pass laws, influx control cases and all of that.

Int You were also at the LRC, as you pointed out, during a crucial period, you were there during the height of repression, height of resistance, the eighties and the States of Emergencies, what do you think...and this is a question I ask people often, I'm wondering what you think...in terms of the fact that under apartheid Parliament was supreme, and it could overturn any legal legislations, and I'm wondering what you think were the reasons for the LRC victories – certainly the ones like Rikhoto, Komani, Matiya – for those significant legal victories not being overturned by the apartheid regime? What do you think were the reasons?

WM Well, I think you know...I think the force of those decisions, I think had the effect of **inaudible** exposed was...what was really attracted to that was the fact that up until then there was little of challenging of the status quo, especially by lawyers. So the

innovative ways in which people like Arthur Chaskalson would put together those cases and drive them through the courts was quite fascinating and it was a novelty just the fact that, I mean, they were able to put a case together and take it to the highest courts in the land, for those courts to grapple with the issues that were raised in those particular cases. And I think it sort of exposed, certainly, the system in that way if they were to check, go back and appeal. They never appeared before the courts to do so. But the publicity that was given also to those cases was just...the Rikhoto, all those cases, made the work just a sterling piece of work. And I think the publicity that sort of accompanied it...also because of the high proper nature of the lawyers that were involved, I mean, George Bizos, I mean, I remember one time (laughs) him putting me in my place (laughs). They were defending a case in...there was some killing, I think, shooting, by policemen, and George (Bizos) was the junior (This should read as Senior) and Ashraf (Mohammed) was also in the matter. And I had just spent a lot of time...

Int This was...you were not a fellow, you were an attorney?

WM I think I was an attorney at that time...'83? No, I think that I was not even an attorney...'83. So I was still doing an LLB.

Int You were volunteering?

WM I was volunteering, yes. And George (Bizos) said: Wallace, I'm the advocate in this matter, and I'm not sure which role you are playing (laughs). He now wants me to mention that, he gets embarrassed when I say that: George, you put me in my place, you know. But I mean, those cases, the involvement of these guys, I mean, at that level, in itself was just so inspiring. I mean, here were lawyers also, for me, I mean, as a black activist, these are guys who in a sense had, you know, were sacrificing their normal careers and all that, here they were coming to defend, you know, people whose rights were being violated and all of that. And that in itself was quite, you know, impactful, I mean, upon one. As I said, I think the publicity that accompanied those cases, I think, shocked the system, almost to a point I think of paralysis.

Int During the eighties, especially the late eighties when you were involved with the LRC, what do you think were the reasons for the LRC not being banned, not threatened with closure, people like you and others not being detained? Were you under surveillance? Were there issues that...?

WM We were definitely, those of us who were known, were under constant surveillance. And at times we would cross the line, I mean, when I was arrested staging a motorcade in the centre of the city and taken to Caledon Square, and detained there. I mean, one taken in one by one, you know, they had this system of, at Caledon Square, this system of doors, the passage, and a system of doors locking as they lead you through one door they lock the other door, and as you move you can realise that, and even psychologically, I think it's meant psychologically that you realise you are getting deeper and deeper into trouble. Because as you move in the door closes, you move in, closes, you know. You go like through five, six doors. And then there's an

interrogation room and they sit you down. And they ask you a whole range of questions. I mean, they would raid my home for example, any time, and confiscate books and all of that.

Int So this was while you were working at the LRC as an attorney?

WM Yes. Ya, ya, ya.

Int How did people such as Arthur (Chaskalson), etc, feel about your activism?

WM Ya, they were...I mean, Arthur (Chaskalson) was the one who was always questioning us, and he made the point all the time that it's very important for the LRC to stick to doing legal work, and not to be seen to be...because we were able to give them ammunition if we were to be seen to be actually a politically motivated organisation. So he kept questioning, you know, about the importance of the conduct of LRC people, and in handling legal work and cases, and all of that, so that we don't give the authorities...I remember whenever in his speeches, he would make those kind of comments, you know, questioning us to conduct ourselves ethically and not give the system any excuse. I mean, the LRC meetings were in fact bugged. I remember one time, you know, we had to...I mean, we learned after the conference at Mount Grace just outside Johannesburg...

Int Magaliesburg?

WM Magaliesburg, that the conference facilities were actually bugged. So whenever the LRC met we always knew that we had to be cautious also about what was being said, because we were being followed all over.

Int And then you also...the LRC took cases that were aligned in terms of the anti-apartheid sort of ideology and so that was closely...it dovetailed with the ANC ideology in a way...and then around the early to mid nineties the ANC was coming into government, what were some of the discussions about how the LRC would actually have to deal with an ANC led government?

WM Well, I think the debate really was about the fact that the LRC in a sense had been doing some sort of pioneering work in the area of human rights, you know, promotion and protection. And that it was seen, in fact, as an ally, you know, and as a pioneer in the actual implementation of human rights, as contained also in the new ANC documents. So it was seen as an ally that would help the new South Africa in the way it would promote and protect human rights, because they had been doing this work, you know, over the period.

Int And then you were there from 1988 to 1993?

WM 1995.

Int And during that period you took on this amazing case, which became the Wallacedene settlement, I'm just wondering besides land issues, what were other issues that you were involved in?

WM You see, I think at that time, because you see, what we were...the LRC's approach was really targeting cases which would have a wide impact and also involving large numbers of people. So those cases were, you know, for example at the time, there was the major cases were influx control matters. Where issues around family values. Where issues around...suddenly issues around gender discrimination, because seeing women in a place like Langa, for example, being raided, you know, running with their babies, on their breast like this, escaping arrest from police, I mean, it just breaks my heart when I read that evidence. Because in 1977, before I got involved at the LRC...I was helping the community here in Kraaifontein, not where Wallacedene was established, but just on the upper end...there were employees of a company called Everite, and Everite was a company dealing with cement product. But its workforce was...it consisted of migrant workers. And these migrant workers, most of them were married people. And when their wives came, they were issued with 14 day permits to be in the area, by the Stellenbosch Divisional Council inspectors. And when those 14 days expired, the inspectors would come and raid, and these men were establishing temporary structures outside the compound with their wives, and this one time...and the women would sit together in the bush, watch for these vans coming, and when they saw them coming, one would shout, it's red, *ibomvu*, and they would run deep into the bush. On this one occasion this woman was pregnant. (*interviewee expresses emotional content*) Oh my god! She ran and she fell upon a rock and she died and the child died. The husband when he told me what had happened, he asked a very philosophical question, who can ever compensate you for a loss of a wife under the circumstances, where my wife could produce a paper that says she's allowed to stay with me indefinitely, and she died because her 14 day permit had expired. I mean, those conditions, I mean, that extent, just broke my heart. And it breaks my heart each time. I've never seen sadness written on a man's face the way that man had experienced. Ya, what had happened to him, I can imagine, losing your wife in those circumstances was so senseless and I thought, how many people were losing relatives under those circumstances? So it's one of those cases that just messes me up. And to think that it was, these were manmade laws, you know, that were unjust and then so one had in every way to stand up and be counted in fighting them. Ya...I'm so sorry...

Int Not at all...it's these kinds of things that in a way it seems to me your professional work has been about making a difference in terms of suffering of people.

WM Ya. So gender issues, I mean, were...gender repression, because, I mean, these were women who have been...a whole lot of them who have been prevented from living normal lives, you know, of living in an urban area where their husbands were working and living as families. The law was against them. They had to be here for 14 days, after 14 days these inspectors, I mean, knew that certain permits were expiring, and they would come raid them, arrest them, and these women had to run for their lives.

Because their husbands then had to go and bail them out, pay heavy fines in order to get them out. I mean, it was such a senseless exercise. Housing matters were also matters that affected large amounts of people as well. So it was influx control, housing matters, land sort of related matters, that ya...we were dealing with at the time.

Int Even though you worked for the LRC for a considerable period of time, I'm just looking at your profile, you've done such amazing things, I wondered whether you could talk about some of the things...for example you were the Chairman of the Trust for Community Outreach and Education for 17 years. That's a long period of time. I'm wondering what that organisation was about and how it dovetails with our interest in public interest law?

WM Ya, I was quite...it still is actually, because it's a development organisation. And that was started also around...we started...in fact, I was still a student at that time because I was still at UCT. In 1980 when large numbers of students would live in a school because they didn't have...you know, the conditions at home were bad, they didn't have bursaries and all of that, so we started organising for bursaries. So we started off as an educational sort of project. We called at the time **inaudible** Western Cape, but we called it the Masifundise Special Project. So we had Masifundise. And then we learned as we were doing this support work to get bursaries for students and mobilising classes for them, you know, and teaching on weekends, that in King William's Town there was Zingisa, an educational project as well, which had been started, you know...which in fact was born by the Ginsberg educational fund, which Steve Biko had started. And around that same time we learned that around Grahamstown there was a organisation called Masifundi. And of course there was Itireleng in Phalaborwa. Education project. Then we said, why can't we bring these organisations together, and in 1983 actually, we did. Mamphela (Ramaphele) started this one out in Tzaneen actually at the time.

Int This is Mamphela Ramphele?

WM Mamphela Ramphele. So we said...because most of the people were of Black Consciousness sort of background. Activists were involved and all of this. Thoko Mpulwana was here. And Malusi (Mpulwana). And some other guys...all Black Consciousness people were involved. And Malusi (Mpulwana) suggested that we actually approach the Federal Theological Seminary at Federal Theological Seminary, which was based in Pietermaritzburg at the time. The same in fact that was at Fort Hare, but Fort Hare fought against them and ended up having to relocate their facilities to Pietermaritzburg.

Int They're known as Federal?

WM They were known as Federal because they were...they're still there. They're Federal because they're a federal institution that teaches people from the Methodist Church, Baptist, and all, so I think that's the reason they're called Federal. And Malusi Mpulwana said let's approach them for them to host us as a Christian sort of body. So

then the idea then came that, let's form a trust, and then this trust we're going to trust for Christian outreach and education. Hence the acronym, TCOE. But of course in the course of time we were infiltrated by people of Muslim sort of background, of socialist background...they said, no, what's this Christian thing? Let's call it Community. And then it cuts across all the sort of sectarian tendencies. And so that's how TCOE really was born. These were the first sort of bodies, and then later there were others like Khanyisa and also in Modise around Bloemfontein, in the Free State. So it became quite a big organisation. It still is even now, and for me it was quite a great privilege and an honour to be Chairman for a period of 17 years...National Chairman for 17 years for an organisation that was dealing now, because we moved away from, at the time, we moved away from like bursaries to more developmental, and also learned quite a lot of in fact about development. You know, how you go about engaging in issues of development for people. And that it's not about doing things for people but it's about people themselves taking charge of their lives and you just becoming a catalyst, you know, that helps change to take place. And facilitating the process of transformation and all of that. But the people must be at the centre of their own development and actually control the process of development. So there was a lot of growth, and also in me as a person, in my understanding also of issues of development and also, you know, linking law and development. And I think that has helped me a great deal, that experience and exposure.

Int I'm also wondering Wallace, after you left the LRC you went to the Land Commission...

WM Yes.

Int And did you deal with issues that were brought by the LRC at all or were there other issues that came up? Did you work closely with the LRC?

WM I worked closely with the LRC. People like Moray Hathorn, will tell you, and even here in fact the LRC...from the time that I was...I can tell you the first land restitution cases that were brought to the Land Claims Commission, and ultimately brought to the Land Claims Court, were LRC led. Cases like Mfengu, the very first case Mfengu case out in the Tsitsikamma area. Those cases were brought by the LRC. Most of the prominent land restitution cases were actually, had the LRC involved in them. In all the provinces. Western Cape, Northern Cape, in Gauteng, the LRC has been definitely...has been at the centre actually, has been pivotal in driving, not just land restitution, but land reform in general. Even at the level of policy, influencing policy. Bringing submissions about how policy should be formulated and why it should be and all of that.

Int You've also been extremely honoured in terms of...you're the third recipient of the Sir Sydney and Lady Felicia Kentridge Award. I wondered if you could talk a bit about that, because the only other people who've received these awards are Ismail Mohamed and Arthur Chaskalson.

WM Ya, well I mean, later there's been also...I'm not sure at what point, I know that people like Judge (Richard) Goldstone, I think, and I think...what was this chap that was controversial, Johann Kriegler. They also I think have received the award. I mean, this was really out of this world. It was completely overwhelming for me and it came at a time, I remember, because as **inaudible** it was quite critical as well. Because I think it was around 2002. And it was at a time when you'll recall that Zimbabwe really started when the centre could not hold, around about 1999. And that was something like 20 years since the Lancaster House Agreement. And of course in 1989, it was the end of the first standing period, when in 1990 the Zimbabwe government instituted the Land Apportionment Act, and of course there was a stream of litigation in the High Courts in Zimbabwe. Until 1999 when the likes of Hunzi Hitler (Chemjera Hitler Hunzi) and all of that, took the law into their hands and there was great fear between 1989 up to this period of 1992, that this could be copied in South Africa.

Int The land invasions?

WM The land invasions and all of that, people taking it into their hands and all of that. And I was quite vocal actually. I mean, I brought the issues to the fore. And in a sort of reassuring way that there was no way that these invasions in Zimbabwe could prevail because in South Africa we had a system that was dealing with the issues, and that system was in fact working, the system was delivering, and I think that had quite an impact, you know, in the way that one was saying that the rule of law in South Africa is operative and is effective, and we cannot allow a slide into a situation of anarchy, as it were, when in fact there is a rule of law that is in place and that has got to be observed. And I think that attracted this recognition of the award, and it was a singular honour to be associated with Sydney and Felicia Kentridge, people who've done exceptionally, exceptionally well as lawyers in the area of human rights...in human rights promotion and human rights protection. I have an immense, immense, immense respect for them as people.

Int Also Wallace, in your profile it's mentioned that your most important contribution is land restitution process. I wondered whether you could talk a bit about that?

WM Well I think again, going from my experience with the Legal Resources Centre, the work that I was doing in defending people whose land rights were being violated be it in relation to lack of housing and being shunted around by authorities and all of that, and helping people to have access to land. It was a matter of transferring ones skills from that into the area of the processing of land claims. And something that was very fulfilling for me, in my life the period that I spent between 1995 and 2003, was the most fulfilling period in terms of seeing to it that what was being promised in the Constitution that those persons who had been dispossessed of their rights in land as a result of racial discrimination and/or practices and **inaudible** of racial discrimination, would have such rights in land restored to them. And directly in the form of the land they actually lost in the form of alternate land, in the form of financial compensation, actually seeing those remedies being accessed by people, by communities, was the most fulfilling work. Seeing people, relating how they had been forcibly removed from their land, and now...I even wrote poems, some of my...because I'm also, when

I'm moved by a situation I sort of write, and I write mainly poetry. And I would express...I mean, I could send you some of that work.

Int Sure, please do.

WM And I would write poems that really tell the story. So that work, between this period was the most fulfilling ever work. Of course I must say that the one sort of shortcoming of course, was that because of the political pressure, you know, we're mainly driving quantities as opposed to also driving quality, in the sense that it was a question of seeing to that as many, as many claims as possible were being settled. As against what then happened after those people who were restored to the land. That is why currently where I am at the moment, and I left the Commission, with a sense that there was some unfinished business. Because I felt that the unfinished business was for me, we did not do much to ensure that the land that people received was used productively, was used in a sustainable way. So for example, my appointment and my serving now on the Board of the National Development Agency, the NDA...I've recently been appointed in October by the Minister of Social Development, to sit on that board...my fulfilment there is because the NDA really is a statutory body and that receives funds directly from Parliament aimed at eradication poverty, to grant funding of projects that would have the effect of eradicating poverty. So I have the sense that, in a sense, I am having a second bite at land restitution. And because there comes before this body, projects, some of which...and I'm coming into it myself from the angle that I'm making sure that those land claims where people receive the land but do not have the wherewithal to use the land productively, should be assisted. So I'm having in the sense, the second bite of the cherry as it were.

Int Right. The Land Commission closed, didn't it?

WM No, no, it's still operating. It's supposed to close, finish its work the end of next year. 2008.

Int One of the criticisms that comes from people, particularly lawyers, is that the land restitution process in South Africa is very slow. What is your sense about that?

WM I think that is the case really, I mean, quite frankly, I mean, if you compare the restitution process in South Africa, for example, with New Zealand, Australia, even Canada for that matter, In Canada, it's ahead. I mean, we had something like 79 thousand cases approximately, and I understand that they are sitting at the moment at 74 thousand. So effectively they are left with about five thousand. And these are rural...big rural cases. When there's lots of information, research, it's quite difficult to complete and all of that. But I mean, really when I left in 2003 we had settle already about 36 thousand, and I felt this was a substantial contribution that I've made and according to my successor and has taken the process up to this point. Which I think is great.

Int I was also wondering, there are people in the Cape Town office in particular who are extremely devoted and committed to land issues, thinking of Henk Smith, Kobus Pienaar... And I'm wondering whether when you were Land Commissioner whether you had much to do with people like Henk Smith, Kobus Pienaar, etc?

WM Yes. I did. I was working with especially Kobus (Pienaar), because Kobus (Pienaar) was handling cases like Ebenezer...and Henk (Smith), you know. Henk (Smith) and Kobus (Pienaar) were actually...I was dealing with them directly when I was in the Western Cape office.

Int Did you have much to do with the Richtersveld case?

WM Um...Richtersveld, no. Richtersveld came later.

Int I'm wondering from your sense, you've been involved in various aspects of public interest work, what's your sense of the LRC now, do you think it's changed...since you left, which was '95, do you think the LRC has changed? Are you still aware of it as a leading public interest law organisation?

WM Ya, I think...ya, I think to a great extent the LRC has a reason for existence, because we are living in an imperfect world, you know. I mean, however much, in the previous dispensation of course, there was no...there wasn't a framework like our Constitution that guarantees rights for people. But the guaranteeing of rights is one thing. The enforcement of rights is another. And that's where the tyre hits the tar. And that's where a body like the LRC is critical in ensuring that not only our rights, I mean, the work that the LRC has been doing since 1994, is precisely premised on that. You know, enduring that the rights which have been promised under the Constitution are in fact translated into, you know, service delivery for people. And I think for as long as you have governments, governments have to be monitored, not by its own agencies but by independent bodies, like the LRC. So for me the LRC will always have a role to play. I think it does now and I think it will in the future as well. Because it is going to take time too, I mean, for South African society for example, to catch up with the backlog of injustices and inequities that were perpetrated in the past. Our people are going to continue to live with this legacy and we need bodies like the LRC to make sure that justice is done, and not only done, but is seen to be done.

Int I'm wondering how you would deal with the situation for example being part of NDA? In the Eastern Cape for example, the LRC has enormous problems with the government in terms of social development issues, gender rights, child rights, etc. Do you ever feel that having been part of the LRC you might somehow be a much...be well placed or would that create a conflict of interest for you?

WM No, I don't think so. I don't think so. Because the NDA really is about...its mandate is eradication, contributing to the eradication of poverty, so any initiative that would fall under the criteria that are set down, it doesn't matter who is behind it, I mean, that would merit consideration. And support.

- Int ...with the LRC now, since probably transition, is that steadily funding has dwindled, and one of the criticisms that emerges is that perhaps the LRC shouldn't be relying so extensively on external funding but should be relying on funding from the legal fraternity, the corporate world and from the State. What's your sense of that?
- WM Ya, you see, I think it takes time for a society to develop a culture of giving. You know, because you know, for example...and also I think it also has to do with its level of wealth. And because, I mean, in the US for example, the notion of philanthropy is a big thing. And that has to do with the level also of wealth that you find in that society. And I think that culture it's not as if it's absent in South Africa, I think it is there, it's growing and I think people may be wanting to rush it. It's going to take time, but I think it's there. I mean, the culture of voluntarism, the culture of philanthropy, of giving and all of that, that will assist the underprivileged, it is there and it's growing and I think a **inaudible** community I think shouldn't rush their withdrawal arguing that it's our time that this civil society looks after itself.
- Int You've been part of....,Director, of many Boards, and I'm wondering what your sense is of whether the LRC is on the map...is on the agenda of any of these Boards in terms of giving?
- WM Um...I don't think so. And then the LRC, I'm not sure how strong their marketing strategy is. In some it is, I know there's definitely some law firms where the LRC is on their sort of radar screen, and certainly some companies that I think, it certainly is not.
- Int Wallace, when you were involved with the LRC, there was this very strong tier. There was Arthur (Chaskalson) and George (Bizos), etc, at the top level, then you'd have the very strong middle tier of lawyers, and then you'd have the lower rung which is the up and coming, young lawyers. It seems to me that the divisions are not that apparent anymore, it's very difficult now for the LRC to attract and also to keep very good high quality lawyers. What's your sense of that?
- WM I think so, I think so. Probably because on the part of the younger lawyers, they probably are not as sensitised to the need for, for example, working for a salary. And doing this kind of work. They come out of university already...I think they rush into, go into the commercial world. Because even sort of run-of-the-mill sort of law firms, they don't stay, they get inaudible and immediately run into private sector to earn big salaries. So I think also there's a shifting of values, I think. We were much more, I mean, altruistic...I don't think because we were made of better material, but I think the material conditions in which we were living were such that we couldn't be otherwise.
- Int I'm also wondering in terms of public interest law work now, there are more large firms taking on corporate social responsibility sectors and then there's also smaller public interest law organisations that have been cropping up like the AIDS Law

Project, Legal Project. I'm wondering where you think the LRC is positioned within all this?

WM Um...I may not, I mean, I'm not as close now, I mean, to the sort of thrust of the work of the LRC, and as I was. I have like a sort of casual conduct with people like William Kerfoot and other lawyers as well operating there. I think one would be in a better position to evaluate that when one understands fully what is the current sort of thrust in the milieu of what other agencies are doing. Small and big.

Int Sure. But if...if some lawyers say that...who are in private practice say that if people come to them, they're not really clear what the LRC is doing anymore, what its focus is, and I think that's understandable given that during apartheid it was very clear, but now the lines are more blurred.

WM Are more blurred, ya. I would imagine so.

Int I've asked you a range of questions about the LRC, I'm wondering whether there are things that I've neglected to ask about the LRC which you think really ought to be part of an Oral History of the LRC?

WM Mmm...I'm just trying to think now. You know, actually the question of values, I think, is quite important because I think that is what I think drove the original sort of actors in the LRC. The motion of, and the commitment in fact to social justice and using the law, you know, to achieve that goal. And I think...I'm not sure how much of that is done, is really to attract and to enthuse younger people, up and coming lawyers. I mean, you know, people like, for example, Sandile Ngcobo, those were the early LRC people. Now sitting in the Constitutional Court. And even those who were not inside the LRC, but...people like Skweyiya (Zola Sidney Themba Skweyiya) and all of those were open and willing and keen to do LRC work. Because they understood what it was about. And I think that's not going to change, you know, because of the current era in which we live, if we understand that the thrust of the LRC work now is about the realisation of the promise of the Constitution. Which was not there before. There it was about defending, defending and defending, in the belief that the law represents those values. But now those values are now engrained in our Constitution. And the challenge of the LRC, in society as a whole in fact, is making sure that those values are actually lived by people and that people's lives are made better by the promotion of those values. So I think maybe the LRC needs to have a way of spreading that message because that message is going to ensure the production of layer upon layer of cadres who are going to come into the fold as we did, because we were inspired by those values and attracted by those values.

Int I wonder whether I could end by asking, what are the stories that remain to be told about the LRC and the people involved, etc.?

WM Ya, I think...I think the stories that really need to be told, they reside, I think, in a large number of ordinary people who were in the LRC. And that's where I think the

value of the work we are doing, that's where that value lies, I think you create an opportunity for ordinary people like myself and even others, I think, to tell the experiences that they got through. That they got exposed to. And I think more of such people are inside the LRC, and apart from you'll have wonderful stories coming from people like Arthur (Chaskalson), from George (Bizos), you know, from Felicia (Kentridge), from Geoff Budlender, but even, you know, the person who was sitting at reception, you know, at LRC over that period, they've got wonderful stories to tell about what was going on, what they went through, what they experienced. And I think those stories need to be told.

Int I'm wondering...you've had such an incredible professional trajectory and as you said, the land restitution work has been very, very close to your heart, but I'm wondering in terms of, specifically the LRC work, how did that shape your professional and personal development?

WM Ya well, I certainly had I think great and very rare role models in the LRC. For example my principal, under whom I did my advocates...Richard Rosenthal. You know Richard (Rosenthal)?

Int I will meet him this evening.

WM Is that so? He's just an incredible person. An incredible man. He's funny also. He's sort of...he's funny, but very deep and very profound, and he shaped my life in a very nice (way?). And many others...interactions with the likes of Ashraf (Mohammed) that time you just, you know, aspired to be the best that you can be. And wanted to bring out the best that was in you. Geoff Budlender, Lee Bozalek, you've spoken to him?

Int Yes, I have.

WM Lee (Bozalek) also goes...Lee (Bozalek) in a sense I came under his direct tutelage when I started at the LRC. he was a Director of the office. His method to...his approach to work and very systematic, you know. And little even, little sort of habits that you pick up that really build you as a professional. From the moment a client comes in and you take a statement and you know, the importance of taking that statement so meticulously there because you know that upon that statement rests a huge case that will match, and all your litigation sort of tactics and techniques are dependent on how well you take that original statement from the client as to what happened. And so...and generally you experience also with other colleagues in conferences, I mean, they went a long way towards shaping ones professional outlook and professional conduct.

Int Wallace, is there anything else you'd like to add before we end?

WM No, I think I've said my piece.

Int Thank you very much, Wallace, it was such a pleasure to meet you and thank you for your time.

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