

Pansy Tlakula

LRC Oral History Project

22nd July 2008

Int This is an interview with Pansy Tlakula and it's Tuesday the 22nd of July (2008). Pansy, on behalf of the SALS Foundation, Washington DC, we'd really like to thank you for agreeing to be part of the LRC Oral History Project. I wondered whether we could start the interview, if you could talk about your early childhood memories, growing up in South Africa under apartheid, and where your sense of social justice and injustice developed?

PT I grew up in a township called Everton, which is in the Vaal. The Vaal is about fifty kilometres south of Johannesburg. What was unique about Everton is that at that time, it was one of the few townships where black people could hold title to land.

Int Really...

PT But it was a very highly socially depressed environment. I grew up at the time where there was no electricity in Everton. We used the pits latrine system, no running water. At the time of my childhood actually, we drew water from a well, and taps were installed quite late, I think, around the 19...mid-1960s, but before that, there was no running water. The streets were all dusty, and that's the environment in which I grew up. Nothing unique, though, because most South African people of my time grew up under those conditions.

Int I was also wondering...if, if you had to look back, where do you think you...how do you think as a child you understood the disparities between different people? Do you feel that you had a sense quite early on or did it develop much later?

PT Well, you know it's even difficult to say that, because we had very little contact with white people in particular, but in the township itself there was some sort of integration because there were Indians, who were business people. In my street actually, there was a big Indian shop and about four streets, four houses away from my home, there was also a family of Indians living there. There were also people who we called coloureds, who lived also not far from our house. It was actually even a church that belonged to, to coloured people. And then there were Chinese who were also business people. So we had contact and...with these people, the Indians in particular, who were living close by us, became real neighbours. They used to invite my family when they had weddings, and they were Muslims, so in that sense, we saw very little difference between us and them, except that they were better off...

Int Financially...

PT Yes, economically. But the Vereeniging town or Vanderbijlpark town, which is a town closest to where I grew up; the only time when I passed through Vereeniging is when I took a taxi or a bus to visit my aunt who lived in Sharpeville. And the taxi rank or the bus rank was out of town, so in the outskirts of town, and as you walked

there, you couldn't see white people. At the time when we grew up, the town that we went to, the town that people in Everton worked in, was Johannesburg. But that was quite later in my life. But I must say that the social conditions were appalling, the economic conditions were hard. I remember memories of big vans of police raiding men on the street and looking for, asking them for, to produce passes and bundling them into the van if they did not have passes. That was a very usual occurrence in the township, I mean, it happened so frequently that it did not raise any eyebrows. I remember also the incidents of violence; the stabbing...there used to be a very high incidence of stabbing that took place...

Int Amongst the community?

PT Among the community, especially during the Christmas periods. I remember quite vividly on a number of occasions, there would...I mean one or two occasions there were people who actually were stabbed and one of them died, you know, just outside the gate of my home, so those memories are quite stuck, and of course, as a person who grew up in that era, I grew up in a very religious family as well.

Int I was also wondering, in terms of the family, did your parents or did your family members like grannies ever discuss that there were things that you couldn't do or that your movement was restricted, or that people were treated differently. What was the family discourse?

PT My...my parents were both teachers, so in that sense we had an advantage because we grew up at least in a family which was educationally sort of better off, but we were brought up by my paternal grandmother, who was a very dominant figure in the house where we'd...although we lived with our parents and with her, my father and my mother had very little say in our upbringing, which is quite interesting, and if one tries to, you know, relay that to the gender discourse, that she was a matriarch actually, quite, quite strong and she is the one...we, it was an interesting upbringing, because our lives just rotated around going to school, back home, doing household chores, weekends going to church, back home. She was very strict, a disciplinarian of note, and did not want us to mix with other kids, or even play with them, with the neighbours...I mean to go opposite, to go and play with the kids, there was a mission. I mean, we had to plan it with my sister over two weekends that, Sunday month end we have to go opposite to go and play with our friends, but we had to then prepare our grandmother in advance, (laughter) which was quite interesting when I look back.

Int So when...you mention visiting an aunt in Sharpeville. When was your first experience of the problems in terms of...being black and living under apartheid?

PT Well, the problems were always there. I mean, we always knew that we were living in squalor; we always knew that we were living in conditions, which were sub-human. I mean it was just the way it was. So, and we knew that somewhere there were white people who were treated much better than we were. So, and...it has always, it had always been there, it was not, or subconscious maybe for some people, but it was in your face, you couldn't, you know...

Int In terms of...Sharpeville, and the major political uprisings in this country, where were you in relation to all of that, were you still at...?

PT I was young, I was very young. I mean, when Sharpeville happened...I was how old? I was born in 1957, so I must have been four, so I was quite young, so that I don't remember at all. I do remember the bus boycotts; I do remember it was called Azikwelwa...

Int Azikwelwa?

PT Azikwelwa means we're not taking the bus, we're not riding the bus, and then...because my uncle used to work in Johannesburg, and he couldn't take the bus to work, and there was always this talk among the elderly people about Azikwelwa, so that I remember quite vaguely because it was around that time, but I was very young.

Int What about going to school and in high school also in terms of 1976?

PT '76 I was at university actually, quite interesting. But we went to school...and I must say when I look back, primary school...no political consciousness maybe was expected, it was ordinary regular school, named after a very famous woman: Charlotte Maxeke, that's where I went to primary school, and it was all girl guides, music competitions, sunbeams, wayfarers, you know those days, it was all those kind of things. Nothing political, we did not even know who Charlotte Maxeke was, nobody spoke or told us the history, that this school is named after this great woman. So it was kind of business as usual, you know, in those days. And then I went to high school, even high school in those days...we went to Orlando High School, and even those days you...it was about sports, there was famous people who played sport: Jomo Sono was my junior and many other soccer stars who later became very famous in this country, music competition, you had one, two, three, four people who were quite famous, where our singers were politically active, but even then at that time, you wouldn't know, at Orlando High School, Jackie Selebi for instance, she was a year ahead of me and there were people like that. But even then, and it was the days mainly of black consciousness, so there was no political activity in school those days, even at Orlando. If it was there, it was very subtle, it was not anything that an ordinary student would pick up, and that was 1974.

Int So what made you...in terms of university, did you have a clear idea of what you were going to do?

PT You know, it's a very...because you know, when we grew up there was nothing like career guidance, where you could then sit and say I can become this or that. The people that you saw when you grew up were teachers because my parents were teachers, as I indicated, and then one or two you'd find people who were maybe in the health profession as nurses. There would be one or two doctors in the township. So really, what you wanted to be just came from the guts, more than from any guidance

whatsoever. I do know that my father, in his spare time, used to study law with UNISA but I don't know how far that went, but I just, for reasons which are unknown to me, which I still cannot explain, because I hadn't even seen a lawyer, I just thought I wanted to be a lawyer. I remember many years after I qualified, I met my father's uncle, who was very old and who said to me when I was three, four years, when people wanted to find out what I wanted to be, I said I wanted to be a lawyer.

Int Interesting!

PT And he wanted to know if I turned out to be a lawyer, that was probably early eighties...so it was just guts. And that's what happens.

Int Interesting...was there anyone in the community who had, you'd heard was a lawyer who could help people?

PT No, never heard, never saw.

Int Right. So you went to university at a very important time in the country's history, '76. Where did you go and what did you do? Was it a B Proc or was it a BA-LLB?

PT I went to university in 1975, actually.

Int Right...

PT I went into Turfloop. I did a B Proc, first year '75, '76, then there was the Soweto uprisings...I mean, Turfloop was a highly politicised university, so right from the outset when we came in 1975, there was high political consciousness with Onkgopotse Tiro having been kicked out in 1974, a year before we were there, with the celebration of the Frelimo rally; Cyril (Ramaphosa) and them having been kicked out, so we just walked into that environment. And then 1976 happened, and as, with all the institutions of higher learning, it was affected, and it was closed, people were arrested and we had to come back home, but coming back home at Turfloop was so usual, you know. There would be an unrest, there would be a strike of one sort or the other: if it's not about food, it's about this or it's about that, and it becomes...actually, when I look back and interpret this, these protests were political protests, which were probably masked as something else, because it was safer to mask them as food protests, you know, protests against this or that, without calling it political. But it always turned out political, it all turned up, ended up with people being arrested, and what was interesting about Turfloop was the collaboration between the university administration then and the South African police. Because every time when there was unrest, what used to happen, we used to have photos with the meal coupons in the dining room, and the meal coupons used to have our photographs and we did not carry our main meal coupons on us, we used to leave them that was the rule at the dining room. So every time you went for a meal, take your meal coupon, you give it to the attendant and then you have your meal and then...and we didn't know that that

system was actually used by police to identify students that they wanted to arrest...every time when there was an unrest on campus, the police would actually go to the dining room, they would have photos of the students that they were looking for, and they would then compare the photos with the ones, you know, on the meal coupon. The meal coupon also had your room number, you see, if you lived...most of us lived on res, so they knew where to pick you up. So that was it, that's how it was, and 1976 happened, but the worst, I think, protest was in 1977, and I can't even remember the details of that protest, but that one almost brought that university to a standstill. And it was led by Ngoako Ramatlhodi, who then became the Premier of Limpopo. And what was interesting about that strike was that he was a first year student, and a law student, and brought that campus to a standstill, and we were expelled en masse, because there hadn't been lessons for...lectures for almost three months, so we were then all expelled, and after that, we got...when we were home, some people got blue letters, others got white letters, I remember distinctly. When you got a blue letter, it was a letter that said come back. A white letter was a letter that says don't even bother. But the blue letter was also conditional, you see. So I got a blue letter, I remember, and then I went, and I thought people had gotten blue letters and people would just go and...you know, go back to school. When I arrived, very few people were there, and the condition of this blue letter was that you speak to the Dean. I remember I spoke to the Dean of the Law faculty. He said to me: You can come back if you can tell me who the troublemakers are. And then I said: No thank you. And then I went back...I left, and I left the whole of '77, '78 and '79, because I couldn't go back. So that's what it was at university.

Int It's quite disruptive, in a way...?

PT Oh, it was, but it was so normal, you know, it was actually abnormal if we went, you know, for lectures uninterrupted for any six months. It was, you know, the height of political protestation. And Turfloop being what it was and how it was established, and being one of the Bantustan universities, it was sort of at the centre of that protest.

Int I was also wondering Pansy, in terms of what you decided to do after that in those three... years that you didn't go to university, what did you decide?

PT I studied with UNISA, made very little progress, passed three courses, I think, in those years, and also had a part-time job in some Indian...I always had part-time jobs, you know. I would go into Vereeniging town and look for part-time jobs and work at this Indian store that sold clothes that I used to work. So I worked there, but my father became very impatient with the rate at which I was progressing, and said: You know what, I think you have to go back. So I went back.

Int Ok. So you went back to Turfloop?

PT I went back to Turfloop in 1979.

Int Ok, now that's the year the LRC started. Tell me about that... in terms of what you did subsequently?

PT I was a little matured, I mean I had studied in 1975, it was almost four years later. The people that I had studied with, some of them were doing final year, others had left, because they stayed on, those who were prepared to accept the conditions for 1977. And there, and I found myself in a campus full of people that I didn't know, and most of them were junior to me, so my whole outlook changed. I just was there for business, I went there to just finish what I was there for, and, and move out. And that's exactly what I did. I just completed my degree and I finished in 1981, I think.

Int So at what point did you come to hear about the Legal Resources Centre?

PT Let me also say that when I finished, it was...when I was there to complete my degree, my B Proc, I was very clear, it was very clear in my mind that I was not going to do LLB at...Turfloop. I had made up my mind that I'm going to Wits. So I then finished and applied to Wits. It was strange days of obtaining ministerial consent to get to study at Wits; you had to get permission or exemption from the Minister of something, Interior I think. So I went to Wits to do an LLB, and another piece of history there, quite interesting, I was...we were the first group of girls to live at a university residence on campus, it's called Sunnyside. Because black students lived at Glenn Thomas, which was a residence at Baragwanath Hospital, which was meant really for medical students. So we lived, stayed at Sunnyside, which was quite interesting, I think we were how many girls there...I think I can remember four of us: Dolly Mokgatle, I don't know if you've interviewed her?

Int No, in fact, her name's come up before...

PT Dolly Mokgatle was one of those who lived with us there; Mpala Mogudi, who is now is a medical...is a psychiatrist, I think, she lives either in the UK or in the US, I don't know...so the floor where I stayed, I was the only black girl. The black girls did not use the bathroom in that floor. I had a whole bathroom to myself. It was quite...I loved that of course, ja. And then, I now can't remember how we ended up at LRC, I really now, I don't know, I just have a blank. I just do remember Felicia Kentridge...

Int Was it at the Legal Aid Clinics do you think?

PT I don't know if there was a course that was associated...it's amazing...

Int ...it was called Practical Legal...

PT ...we were doing Practical Legal Studies and one of the requirements for Practical Legal Studies was that we had to do a clinical, so the clinical meant that on Saturdays we had to go to the Hoek Street Law Clinic and do a clinical, and we used to take statements from clients, we had to write letters...on Saturdays, really, it was really

just consulting with clients, taking statements, and then during the week whenever you had time, when you didn't have...because you then had files of your own, you then had to go to the LRC itself, and sit with your supervisor, who will then critique your work about the kind of statements that you wrote, and also correct your letters if you had to write your letters, and do, and also the follow up, what kind of follow up, most of the cases were really cases around the pass...people then were...you know, the migration, people were given this 10.1B whatever, that they must go back to the rural areas and it was all around that, evictions and those kind of things. And the supervisors, I remember, Felicia (Kentrige) was there, but Charles Nupen became one of my supervisors, Paul Pretorius, I remember as well, and there was Mohammed Navsa who is now a judge as well, those are the people who were there, during my time, and of course, there was Pinky (Madlala), there was Faith (Maqubela) and there was Ma Vesta, and they really took care of us. I remember my memory of Hoek Street was just this hall packed...this room full of people, very miserable, in dire straits, you know, coming to ask for help, and we being students just going through the motions, you know, ja, so that was Hoek Street Law Clinic.

Int Well, I'm going to ask you about...to just try to go back into your memories and think about...for example at Hoek Street there was also Mr Zim...

PT Mr Zim, do I remember Mr Zim?

Int Morris Zimmerman?

PT Oh yes. The old man?

Int Yes.

PT The old man, ja. Is he still alive?

Int No.

PT Mmm...

Int But I wondered whether you could talk a bit about that experience because especially as a young law student, you must have in some ways really wondered how do you do this...and as you said, they really took care of you. I wondered if you could talk a bit about that?

PT You know, because Pinky (Madlala) and Faith (Maqubela) had become so experienced, they were not legally trained...Pinky must...I don't know if Pinky had some legal training...

Int She was a paralegal...

PT She was a paralegal. But because of the work that they did and their experience, they were not just there as secretarial support; it went beyond that. And they could even assist with the statement taking, because I think they also did that themselves during the week, so we knew that if you wanted help, and when you got stuck on the procedures, what to do next, you could go and talk to them and also because we spoke...they understood our language, English not being our first language, we could communicate with them directly. And I remember that the guidance that they used to give us was quite interesting.

Int Right. Then you had to go to the LRC office...do you remember Arthur Chaskalson?

PT Was Arthur there?

Int Probably...

PT I can't remember if he was there, because we were assigned, we were assigned to supervisors, Arthur I'm sure he was there, but the people that I worked with, I remember Charles Nupen, with a temper, and if...he had a very bad temper and if you, if your work did not make sense, he would just scream, you know. Paul (Pretorius) was very gentle, you know, all the time, showed no emotion, Mohammed (Navsa) was also ok. So if Arthur was there, he might...with Geoff Budlender, but we did not work directly with him, at least I didn't.

Int Did you work with Mohammed Navsa at all?

PT On a few occasions, I did, I did actually.

Int He was quite strict, from what I can gather?

PT He was, but in a gentle way. You know, he didn't shout. And we were all very scared of Charles (Nupen), let me tell you, because, you know, every time when you took your files, you'd say: Oh my God, what's going to happen...I remember, I haven't told him this, his wife is my friend, one day I'll have this conversation...she doesn't know what I'm telling you (Laughter).

Int Yes. Also I was wondering...when you were at the Legal Resources Centre, at that time did you have a sense of the kind of calibre, in terms of lawyering, of the people that were there... for example, Arthur Chaskalson?

PT Well, Arthur (Chaskalson), I mean, stood out. We all knew Arthur, that he was a famous lawyer. Felicia Kentridge also, I guess, also because of her husband, I think, it's not a politically correct statement to make, but...although in her own right she was a lawyer, but she had subsumed the identity of her husband, which was quite

interesting, and unfair as well, because she was very active in that law clinic. Charles (Nupen) was there as well as...but the person whose identity towered (above) the rest, was Arthur obviously.

Int Also ...at that point...the LRC was really looking at test cases and...so there was the Rikhoto case, the Komani case, all those happened in that early period. I'm wondering, in terms of doing... vac students, you really came in on a Saturday morning and took the statements. But was there ever tension between the fact that, the LRC really looked at the high impact cases, and the Hoek Street really did the everyday concerns or consumer law cases?

PT I don't think so, because we were involved in the run of the mill Hoek Street type cases, you know, and we were never quite, at least let me say 'I', quite involved in the high profile...because we were students, and we were just there on a hit and miss, I mean, you go and then you do what you have to do, and it's a clinical and you get marks for it, so for you what is at the end of your...

Int Right...

PT What is in your mind more than helping people is to get through this thing and get marks and get it over and done, you know how it's like when you're students, so that was really the approach that we took. You never became intimately involved with your files, because they were so routine, there was all the consumer...it was all the routine stuff really, ja. So maybe candidate attorneys or other people got involved, maybe in the high profile cases and the research on those cases, I don't know, probably.

Int Also, Pansy, when you were there, the Hoek Street was in a way quite separate. Did the lawyers from the LRC come there, did Charles Nupen come there, or did you have to go to the LRC?

PT No, they never used to come. We used to go to the LRC during the week. We would take statements and do whatever we had to do, over the weekend, Saturdays, and then Mondays...during the week when we had time, we had to go to the LRC for consultation with our supervisors.

Int Ok. I wondered whether you could talk a bit about...Pinky Madlala, because it seems to me that she was really quite a powerful and guiding force in the Hoek Street Clinic?

PT I guess she ran it as well, because she was a paralegal and the type of cases that, you know, Hoek Street dealt with were cases that really needed a paralegal, but having said that, it was difficult to distinguish her role from that of Faith (Maqubela) for instance. Even if she was a trained paralegal, they, they worked together and complemented each other, ja, so she did not sort of, you know, impose her superiority

or her training on the others. If you didn't know that she was a paralegal, you would think that they are all the same.

Int Right. So subsequently, how long was your practical legal training at the Hoek Street? How long did it go on for?

PT I think it was a year, because it was a year clinical. Ja, it was a year.

Int And then after that you finished your LLB?

PT I finished my LLB; I never got to practise, quite interesting, got into academic...

Int Really?

PT ...law, and I taught, I first...because what then happened, I got married in the process, and that is how my career was over, and my husband is a statistician. At the time when we got married, we were both students at Wits, having come from Turfloop together. And he then got a job, which is interesting, at the University of Bophuthatswana, as a senior lecturer in Statistics. So as a young wife, I had to up and go with him. And then my first job was as a law advisor with the government, where they do legislative training. That is why I got my admission there as a...

Int In Bophuthatswana?

PT Yes...as a law advisor. And then I worked for one and a half years there, and then while I was there, I then got a post at the university to teach. And I taught Family Law, I taught Contracts, I taught Delict, I taught almost everything, and my consciousness also...political consciousness began there again. Because we were in a very repressive environment, in that place, so at the university, us together with others like Naledi Pandor, who's now the Minister of Education, we started a trade union...

Int For academics?

PT For academics yes. And a lot of other people like John Lewis joined, Teboho Moja who is now in the US as **inaudible** in the Department of Education as Director General, I think, and that union became very, very active and the university was then also conscientised, politically, and getting out of the mould of the homeland politics. Yvonne Mokgoro was also there, interesting, when I was with the Law Advisers Office, Bess Motsatsi, who is one of the Judges of the Constitutional Court, who is with this thing of Judge Hlophe, you know, who shared an office with Bess. And then I left, I got a Harvard fellowship and went to Harvard, and that was 1988, when I was on sabbatical. So 1988 I was at Harvard and then from Harvard moved on with my husband to Cornell University, where I got a research fellowship at Cornell, because I had finished my LLM at Harvard, which was interestingly enough, you know, things

just going in circles; my LLM was mainly with human rights, I did international human rights law, and I did human rights advocacy so it was mainly on human rights. Came back, worked for...I came back in 1990, after Mandela was released, I missed, I missed that momentous occasion because I was sitting in Ithaca, watching it all on television, and then came back and taught for a few more years and then left in 1993.

Int ...Where did you teach?

PT I went back to the university because I was on sabbatical, so contractually I had to go back. And then became the Executive Director, first started as the legal education officer of the Black Lawyers Association Legal Education Centre, so went back to public interest law, you know, after all those years, went back to public interest law, because as you know, the Black Lawyers Association ran continuous education, legal education for practitioners, also had a course for students but the major component of it was public interest law litigation, public interest litigation, and started as a legal education officer but then became the Executive Director when Mojanku Gumbi left the Centre to become the legal advisor, in fact she left just as I came in because she was part of the team that was preparing for the 1994 elections. So I was just on my own in 19...and Faith (Maqubela) was there, interesting, Faith had been there for a while so Faith showed me the ropes there again, and there I was back in public interest law.

Int And you were there for how long?

PT I was there for almost...more than a year. And while I was there, I started there in '94, and then in '95, after...'94, then '95 and then the new Constitution was adopted, isn't it? And the new Constitution made provision for the establishment of the Human Rights Commission, and then I was nominated to be a member of...the first member of the South African Human Rights Commission, and there I became a member, I can't remember whether it was...it must have been, we started in '96, I think, towards the end of '95 October, I think, I can't quite remember...and we established that Commission: Barney Pityana, myself, Helen Suzman, Max Coleman, Rhoda Kadalie, we were the first members of that Commission.

Int The Electoral Commission?

PT No, no, South African Human Rights Commission.

Int Human Rights...

PT And did fantastic work on racism. My focus especially, I was the Commissioner responsible for racism, racial discrimination, did work...if you go into the website we did racism in schools inquiry, racism in the police, the Vryburg High School racism, I mean I lived literally in Vryburg in those days. We did racism in the residences of tertiary institutions, and that was in the nineties, racism in the media, which became

very controversial, so all the reports that **inaudible**, and I was there and then I was also part of the team for the World Conference against Racism. I was in the government negotiating team. And then 2002, I started here as the Chief Electoral Officer. A new environment, although this work is very linked, very much linked to the creation of a democratic dispensation, as the elections is very much part of a democracy, but started at a time when the organisation at that time was very mechanical in its approach to elections, also because it was new as well, so this institution is not the one that conducted the first election. This was established in terms of the new Constitution, had to establish the first time voters roll, delineate the country into voting districts and so on. So its approach at the beginning was quite mechanical, and I came at a point where they had done the 1999 elections, did very well, and did the 2000 municipal elections, and I was coming in as Chief Electoral Officer for the 2004, and as a person who is very passionate about human rights, slowly began to turn the organisation into a human rights democracy, democracy...electoral democracy-based organisation so that our...we moved away from a mechanical, logistical operational approach to elections but infused that with a human rights aspect to it. And human rights refuses to leave me, so I worked here 2004, 2, 3, 4...did the elections which is a phenomenal experience; it is an experience that unless you have done it, you cannot describe it. I mean, you wake up on this particular morning, you know that the fortunes of the country rests on the shoulders of the organisation. You mess it up; the country can go up in flames. You saw Kenya. So it's a huge responsibility, it's like I guess, people who have been in the military who will say it's like that, it's like when there's war, and the thing about it is that you are sitting here in Pretoria, you're having 22 000 or 20 000 voting stations, and you have no control over what goes on there, nothing, you're just hoping that these 250 000 *ad hoc* staff that you have hired for the elections, will do the right thing, and you depend on them entirely. So it is an amazing experience. And I was sitting here, 2005 July, before July, beginning of 2005, May...April I get a call from the Department of Foreign Affairs. They say there is a vacancy at the African Commission of Human and Peoples' Rights, and our government would want to nominate you. So they nominated me and at the AU Summit, which was held in Libya, **inaudible** in 2005 July, I was elected, and there I was back into the human rights field, and that's where I am. I'm a member of that Commission, and I'm Special Rapporteur on freedom of expression and access to information in Africa, and responsible for four countries: The Gambia, Namibia, Swaziland and Zambia, and The Gambia, I think. So I've, you know, it looks like my life is human rights. (Laughs)

Int But you've also had of course an interest in public interest law...that ties up with human rights as well. I'm just wondering in terms of an organisation like the LRC, you haven't gone back? What has your knowledge and linkage been with the LRC since leaving?

PT You know, not much I must say, except when we were, I was with the Human Rights Commission, because we could refer cases, you know most cases that came to the Commission did not quite fit in within their mandate, but I just think that...what was interesting is that the Human Rights...the LRC is, has an observer status with the African Commission on Human and Peoples' Rights, but I think on my side as a member of the African Commission, I haven't done a lot to link up with the LRC, and I think they, we can do better than we are doing now, because now there are a number

of organisations, NGOs in South Africa, which now have an observer status, CALS has just obtained one, POWA has just gotten a status too, so I think what we need to do is for me to organise and come together to say what do we do with this observer status, how do we push, to make sure that we push the human rights agenda of South Africa at the African Commission.

Int Ok. I'm also wondering, in terms of the BLA, you've worked in the BLA; you've worked at the LRC. How do these two organisations sit in relation to each other? Is it competitive, or is it a sort of a good working relationship, or... is there no real clear relationship?

PT No, at that time there was no competition, because once again, the BLA dealt with run of the mill everyday cases, at least when I was there, of the Hoek Street type, and the LRC did test cases, so as a result, I didn't see, there was no competition as such, no.

Int Ok. In the current state where there's some crisis in the judiciary...attacks on the Constitutional Court etc; I'm wondering in that context, an organisation like the LRC, which, as you know, has taken on government on key cases, such as the TAC case, Grootboom, etc. how likely is it that an organisation like the LRC, a public interest law organisation, can function when the judiciary might be under attack, do you think?

PT I just think that, and I don't want to single out the LRC, I just want to talk up in general terms, about public interest law organisations, I just feel that they can do more than they are doing at the moment, because there are so many human rights challenges in our country, and now and again you do hear about the Grootboom case, the TAC case, I don't know if they did the one about the water in Soweto?

Int I think that that might have been through CALS...

PT Oh, it's CALS, maybe. But I just feel that in particular on the enforcement of social and economic rights, that public interest law organisations can do...there is just so much out there. We're one of the few countries that are the envy of the world with a justiciable...with a Bill of Rights, which has justiciable economic and social rights, and the world is looking to us to provide leadership in that area, and the cynicism creeps in because, especially for those who resist entrenchment of social and economic rights in their Constitution, and those of us who work at the regional level, at the international level, you begin to hear statements that say: there they are South Africa, with their Bill of Rights that entrenches social and economic rights, and as we have said and predicted, they are supposed to be justiciable, but they are not able to show that they can actually make them justiciable. So that's why I feel that if we don't take that kind of leadership, and do more, you know, we are feeding into this stereotype of saying it's not do-able, you can't have the social and economic rights justiciable, and the only organisations that are best placed to enforce these social and economic rights, are the public interest law organisations like the LRC, the CALS, the BLA, you know, in particular. And you'd also at least, from where I sit, I would want to hear more from them on other human rights related issues, governance related

issues that continue to challenge us, and also providing also a sounding board but also providing constructive criticism to State institutions, organs of State, and Constitutional bodies, you know, to say how is the Human Rights Commission doing, is it fulfilling its mandate, where is it succeeding, where are the challenges, what about the Electoral Commission? They have this mandate of strengthening constitutional democracy, have they done that? Are they doing that? Where are the challenges? What about the public protector? The Commission on Gender Equality? You know I just feel that maybe the energy levels, at least from where I'm sitting, either the energy levels are down, or if these organisations continue to do the good work that they did in the past, or maybe they continue to do, they don't communicate it. Because we don't hear from them at all, at least in the media. Look at the case of, that was so much in the media, beginning of, was it this year, or last year? It was the whole case of freedom of expression, the right to privacy, involving the Minister of Health, and the Sunday Times. I don't know if you know about that?

Int No, I don't actually...

PT It's probably because you were not here. It's where the Sunday Times published a long article about the Minister, alleging that the Minister was, while admitted in hospital, drank alcohol and so forth and so on. Now, the Sunday Times, we don't know how they obtained the records because these records of what happens in hospital are confidential records. They published these records, and they said it was in the public interest because these records involved a public figure. I mean, the matter went to court on the right to privacy *Vis a Vis* freedom of expression: where are the limits? And it was a very interesting debate, and me being the Special Rapporteur on freedom of expression, was looking at that case to see whether the limits...

Int ...had been transgressed?

PT You know, where...is it freedom of expression, is it a limitless right? The Minister took the matter to court, but the court never really dealt with the rights issue as such, you know. And those are the cases, which I thought, you know, that...because it was for me such a precedent setting, you know, case, in the public domain.

Int Interesting.

PT And those are the kind of things that I think we, these organisations, the role that it can...they can continue to play, to strengthen our constitutional democracy.

Int As you may know, one of things that the LRC has been struggling with since apartheid ended, is funding, and the argument is often made that they also are unable to attract good quality black lawyers, because when black, young black lawyers qualify, they are immediately snapped up by corporate firms, who can pay them so much more, so they are in demand. What's your sense of that?

PT It is true but it also depends on your strategy to catch them. You see, if you're going to wait for them to qualify and think that once they qualify, they will then go, you know, to the LRC, no, you have to have a strategy that catches them before that, while they are at university, first year, to say that it's not all about commercial law, not all lawyers should be commercial lawyers, we need, we still need human rights lawyers in this country. So I think the strategies...I don't know what happens when these firms, because what these firms do, they have open days at universities, career guidance day and that's where they talk to all the students; maybe what these organisations can do collectively is to have a program like that, where the BLA - CALS is in a different league because it's attached to a university - the Centre for Human Rights at the University of Pretoria, which is doing phenomenal...I mean, there's no centre in this country that is doing phenomenal work like that, the Centre at the University of Pretoria, they have LLM students in human rights from all over the continent, they have the moot court competition, they are the only university that have practically...that made practical the African human rights system.

Int Right...

PT You know, so they are doing well because they have found a niche for themselves. They are probably not publicising it as much as they should. But the LRC and the BLA's, I know the BLA has a student program, and during my time we used to have the student chapters, we used to go out...and maybe this is something that these organisations must start considering.

Int Absolutely. Pansy, I've asked you a range of questions. I'm wondering whether there's something that I've neglected to ask you, which you feel ought to be included in your oral history interview?

PT Ja, I think most of us, you know, our consciousness to become what we are today, you know, can be attributed to the experience that we received and the opportunity, by the way, that we got at the LRC, because it was, it's not many of us who got that opportunity, and what is good about it is that almost without exception, the people who went through that experience, very few of us will be sitting as commercial lawyers, we all are still linked to public interest law in one form or the other, and that's, that's where our passion lies, and this underscores the point that, that I made earlier, that you see, if you catch young people early at that time, you are able to influence their career direction. I'm sure if I hadn't had the LRC Hoek Street experience, I would be sitting elsewhere, you know. I'd probably also be a commercial lawyer sitting...but look at how my path and my career has turned. It has gone in full circle, from the Hoek Street Law Clinic, and I'm still sitting in human rights after all these years.

Int I'm wondering whether we could end the interview by you talking about a particular memory....of something or someone to do with the LRC, whether it was a client or a particular case...

PT There were so many that you know, when there are many they become a statistic. But for me, you know, every time I...the memory that has stuck is the memory of people who are in despair, in distress, not knowing where to go, and you, seeing you as their only hope, out of their difficult situation. I came across that experience for the first time at the LRC. I'm still sitting with that experience, at a larger scale, where at the African Commission, you sit with a person who has a complaint before the Commission, where the Commission is his or her last hope, because they have been sentenced to death, they have gone through all the internal processes, courts, amnesty, everything, and that the Commission is the only last link between their life and their graves. And that's the experience that I remember at the LRC, of the people that we helped, and I still have to deal with that today, in my adult life.

Int Pansy, I would have been able to talk to you for a long time, and asked you many questions, but I'm aware of the demands on your time, but I really want to thank you for a very thought-provoking, and also in some ways, a very thoughtful interview.

PT Ok, thank you very much.

Int Thank you.

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