

**Lionel Egypt**

**LRC Oral History Project**

**25<sup>th</sup> August 2008**

Int This is an interview with Lionel Egypt and its Monday the 25<sup>th</sup> of August (2008). Lionel, on behalf of SALS Foundation, we really want to thank you for agreeing to participate...

LE No problem.

Int ...in 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 you think your sense of social justice and injustice developed?

LE I grew up on the area which they call commonly as the Cape Flats, probably what they would today call a gang-infested area with...we were about...let's think...seven in a house, small house, two-roomed, two-bedroom flat. At one stage we were seven people in one room. So that was my growing up in the Cape Flats, but notwithstanding that my mother was pretty...pretty hard on two things, religion and education. And our sense of...that was really our sense of the Group Areas Act, we never got in contact with...really, with white people, nor with black people. We only really got in contact with...with black people, as it were, and I hate the term 'coloured', because I don't ascribe to that, I think it's either black or white. But it was really in my university days, so there you could see how apartheid worked because it really kept all the people apart from each other. My mother is what they would call today a dom...was a domestic worker, so she would take me to the richer neighbourhoods and you could see the kind of disparities from the ones you grew up in, and the neighbourhoods that your mom took you along, and you'd go and...when she'd go and do in a domestic work environment. Well it was a family which we, apart from them and apart from that, sort of, growth...growing up, we...my mother did manage to put the three...three of us through university and the two elders obviously had to work to pay the bills, as it were. But it was a, sort of, a crowded environment and I think you got a sense of family there. I think the issue of social justice really became...because I had brothers, one brother particularly, who was...was very involved in social issues, today he's still a social worker and works in the community. We were always politically aware, you know, being UDF people, to this day, people like Allan (Aubrey) Boesak, and those kinds of things, and I think that's where the issues of social justice came...came to the fore for us, really. And at school we did get involved in protest actions, we had marches or stayaways, or whatever...

Int And this was during the eighties?

LE This was during the late eighties, when it was really winding down, but my brothers more so than me, I got through the latter part of it. So I finished high school in '91, so there was...it was the late eighties, there was protest marches, there was Casspirs, and stuff. We did our bit of stone-throwing at the local...roadblocks where there was lots of boycotting and burning of cars and stuff like that. We did throw the odd stone or

two at the police, and protest action, but that was really our upbringing and it was social justice and stuff like that. And...I think what really conscientised us was the...also the sports environment, the segregated sports environment, and we're a family who loved sport and we never could excel in those sports, because of the way sports was set up in those days, and obviously at your sports gatherings you would sing all the freedom songs albeit at...or even at the schools. But it's really from my brothers...we got the, sort of, a political awareness, and from my mother our religious awareness, because we were a extremely religious family and I think that's also where social justice comes in. And I had an uncle who was pretty involved in the struggle from a religious perspective. He was a...he was, and still is, a reverend or pastor and he got involved in some of the issues and...that really is a bit of...a bit of the upbringing. And then you would have issues of not being going to...able to go to various beaches. I can vividly remember me and my brother going to a...I'll tell a small anecdote, kind of very interesting is that, there's a beach called...here in Cape Town...Glencairn, more towards Simonstown, and I...me and my brother went...probably strayed to the white area and a kid...and a little kid much younger than us, we were probably teenagers, if not younger, but a kid younger than us sort of said: what are you guys doing here? What are you black folks doing on our beach? That was on Glencairn. And years later I acted for the Glencairn Residents Association against a developer. (*Laughter*).

Int     Ironic... (*Laughs*).

LE     So for me the irony was...was immense, and the only beach we could really use at that stage, apart from some of the other smaller ones, was Kalk Bay Harbour which is not the best, and years later I found myself acting for the Kalk Bay Harbour Master. So there's a lot of ironies, but that was one of the incidents that really stood out for me. I don't think any kid should go through that.

Int     No. Absolutely.

LE     Because I still remember it to this day.

Int     Mm.

LE     Ja.

Int     Lionel, in terms of formative influences that may have led you to the legal profession, what were some of those, do you think?

LE     I don't think there was any. I was really led to the legal profession...I wanted to become a teacher, and I think because of my mother's influence. I, to this day, love history immensely, and I did excel at history at school and I thought: look, I've always wanted to...I must...I want to become a teacher. And I think my mother, sort of, instilled this idea you must become a teacher. You must know in the...in those

days, it seemed to have been the pinnacle of a non-white, and I hate that 'non-white' term anyway and I don't know why I used it, but, I mean, in the non-white sense that you either become a teacher, or you become a nurse, or something. So a teacher is really the pinnacle of a non-white person, it's an achievement, as it were, and they've always been looked up...a teacher or a pastor, have been looked up in the neighbourhood, as it were, in the community as someone very important. So I think that's probably why my mother pushed me in the teaching...to go teaching. But I just one day sat in a guidance class and I thought...and it was the time when the teachers were not being paid well and I thought: well, maybe I should give law a bash, why not? People say I always talk too much, and...And I filled in 'law' at my university and I got going. So there wasn't really a legal influence, as it were, I just filled it in that day and I think from my first day I just grew to love law.

Int Really?

LE Ja.

Int So you were at UCT?

LE No, no, I was at UWC.

Int UWC, right.

LE I was accepted at UCT, but I had two brothers who...one was already at UWC, he was finishing off and another brother who also graduated there, and we decided to go to UWC. And also for travelling it would be better, because those days, and it still is, you would travel probably about an hour and a half to get to UWC from where I stayed on the Cape Flats, and you need...and I needed a brother to travel with me and...those were dangerous times as well, just like today. It's one of my...another...I'm straying now...it's one of my other pet hates it's this whole notion of crime being out of control, but anyway.

Int It was then as well?

LE It was then as well, and I get a bit peeved off at people who say the crime is horrible. Crime was a black person's reality. You grew up in a gang area where you could...you...you...I was robbed many times on my way to church of my church money, or whatever, cleaned out, as it were. Crime was our reality. The apartheid government was just excellent at maintaining it, in terms of...so it was kept very bottled-up in the black areas. So crime was our reality. And the worse is today you can go to the police...those days you couldn't go to the police because they were just a waste of time. Obviously as soon as the apartheid government fell, those areas opened up and obviously the bottle then burst and it spread everywhere, but it was our reality, crime was our reality now. Travelling by train and being robbed, and stuff like that, those were just reality, so...I'm straying again, sorry.

Int Not at all, not at all, it's quite important actually. So, in a way, you came into law not with any kind of idea?

LE Not at all.

Int But at that time, having grown up through the eighties and having had a UDF influence, did you get a sense that law could be an instrument of social change?

LE Um...I saw law as very elitist.

Int Interesting...

LE Um...and I had a sense that, look, I don't know...I don't know if I wanted to maybe lecture at the end of...of university, but I just saw law as elitist, and it still is. And I think more towards the latter part of...I also did my stint at... in my last...last year or two years of university, I acted in the...I worked in the Legal Aid Clinic, and the Legal Aid Clinic obviously give advice to...to the lay person on the street who would come in and seek legal advice, and that's where I saw the importance of...of those type of structures. And I think, in a sense, it's probably just gotten worse for the man on the street.

Int Gosh!

LE Because there isn't that many organisations and if there's organisations, I don't know about the quality of the legal advice that you're getting. But I think, really, from doing my Articles, I just could see how it's such a tool. And that's why it saddens me when I hear some of the sad stories about the LRC and the waning in numbers and funding, etc. It's because of that really...because the quality of legal advice and the quality of attorneys that was...that is there and was there and is there...are there, and they are really excellent attorneys. And I've learnt a lot, I mean, I count two of them at least as my mentors, I got four people and two of them are the...at the LRC, it's Vincent Saldanha and William Kerfoot. I've...they taught me a lot of stuff.

Int So when you were at UWC were you involved in the Law Clinics at all?

LE Ja, that's...I was involved in the Law Clinics and I think that gives you the only sense of practice, the other stuff is more...or airy fairy, academic stuff. Ja. But I loved my time at UWC and I...although we...UWC graduates face (an) immense difficulties in the profession, it's a profession that looks...that looks down as it were, for want of a better phrase, at UWC graduates, and it's still continuing today, and it's something that I'm fighting very hard against, especially in the big corporate law environment. But we are making strides in recruiting UWC graduates and training them. I'm always have the view that the issue...people mustn't think that, look, you can take graduates and they're going to stay at the firm, you've got the responsibility to train them, so

when they leave they are better lawyers. That's something that we are also still working on. Ja. But really it was the Law Clinics, at the end of the day. And I think then obviously, through being at...being at university, you become a more critical thinker, as you were and maybe would have been at, you know, at...at school. But I was always a critical thinker, I loved debating issues at high school as well, and tried to get a Debating Society going but with little success at high school. Ja. And probably that's why law fitted me; after the...doing the first year, or during the first year I realised that I actually followed the right course.

Int What was the particular trajectory that led you into the LRC? How did you know about it?

LE Mm, I applied...

Int Based on an advert?

LE Mm, no. I don't know how I got to it, I really don't know. It could have been at university, I really...I can't remember. I know I applied at a whole host of law firms, at all these 'fancy pants' law firms, as I call it...the bigger law firms and I all got the same letter: sorry, but...thanks, but no thanks, and so I...and probably that's where my dislike of huge law firms came from. So the ironies again, I find myself one of the partners of...from the 1<sup>st</sup> of September, the biggest one in South Africa.

Int Really! Cliffe Dekker?

LE It's going to merge with Hofmeyr and we're going to be a hundred and twenty-seven partners.

Int Gosh!

LE So...

Int Interesting...

LE That's one of the ironies of my life again, but I applied at the LRC and...very much like going into law, it's the same thing, LRC accepted, and gave me Articles. I got some good letters from my lecturers, I was always involved, I tutored as well, and stuff like that, and did reasonably well at university. And I got Articles there, and I wouldn't change it for the world.

Int Wonderful! Lionel, how...sorry you were saying...because...?

LE No, I was going to say that, so again, the bigger law firms saying: no, was again a blessing in disguise.

Int So you started in 1997?

LE Ja...

Int Articles?

LE ...Articles in '97, I did...no, I did first a...Articles is either two years or you did the...or you do the Law School at UCT and your year Articles, I did the Law School at UCT straight after university and I did my...

Int So in 1996?

LE ...and I did my Side Bar exams and then I went for a year's of Articles at...It's in fact at the Law School that I applied I think...

Int Right, so you must have gotten to know about the LRC through the Law School?

LE Ja.

Int But prior to that when you were a student at UWC, did you know about the LRC through law reports, did you know about its lawyers or the work they did?

LE I knew about the LRC as an institution, I didn't know about its lawyers, I didn't know about the good work it was doing.

Int Right.

LE And maybe that's something that...I don't know how focused they are in that...and I don't know if the people see the LRC as a training ground, but I mean, I know of a lot of LRC graduates who's done very well, be it at the Bar or the Side Bar. One of...like I said, on Friday was like a reunion of LRC people, one of...a chap that did Articles the year after I was there, or during the latter part I was finishing up, is now a partner at Webber Wentzel's...

Int Who is that?

LE Achmat Toefy.

Int Yes, right.

LE And there's people at the Bar who did fellowships maybe with...I think Ismail Jamie did a Fellowship at...he's a Senior Counsel now. And I don't think the universities or, for instance, UWC, knows the good work and the good people that comes from the LRC. Look, it's a great training ground for people who does Constitutional Law or/and Administrative Law, I don't think you can get any better.

Int Right. So from...the year that you were there, who were your principals, what were your rotations?

LE My principal was William Kerfoot, I worked with William, William Kerfoot, I worked with Vincent Saldanha and I worked with Steve Kahanovitz, but mostly with Vincent (Saldanha) and William Kerfoot. I did a bit of work at the Land Unit, but mostly with William (Kerfoot) and Vincent Saldanha. A bit of work with Andrews.

Int Andrews?

LE Is it Pamela Andrews?

Int Angela Andrews.

LE Ag, Angela, ja. I did a bit of work with her, so...ja.

Int But in terms...principally it was work with William (Kerfoot) and with...?

LE Vincent (Saldanha).

Int Vincent (Saldanha). And the type of law that you did...?

LE Um, William (Kerfoot) was doing refugee work, and then, sort of, general litigation, damages claims, and Compensation Commissioner claims. Vincent (Saldanha) was more law reform stuff, evictions, water rights, and stuff like that. I did a...I did an exciting eviction application with Vincent (Saldanha), which I remember to this day. Vincent (Saldanha) got speaking to the community in the back of a bakkie while it's raining, with his huge trench coat on, looking like Inspector Gadget.

Int (*Laughs*). And which community...what case was this?

LE That was the community out in Tafelsig.

Int Yes, right, he mentioned that to me. Can you talk a bit about that?

LE There was a...they were threatened with eviction, it was a huge area, Tafelsig, I know the Mitchells Plain area, because...because my wife is from the Mitchells Plain area, and it's one of the...I think it's a shining light for the apartheid government. To this day, they still vote, vote away from the current government, and it's one of the shining lights, as it were, for how apartheid worked. It just created a...comfortable...a nice and comfortable coloured state, as it were, where you find the most racist people. And it saddens me to this day when I talk about it. But be that as it may, there was this eviction application, me and Vincent (Saldanha) went out to consult with the community leaders, and the...

*(Interruption -let me just close the door...)*

and the community. It was raining and Vincent (Saldanha) was in the back of the bakkie, consulting with them and...and those were the...And then I went with counsel and Vincent (Saldanha) to the Judge's Chambers, I think we got a postponement, and the community stayed long, and those type of issues. But you know, you don't remember the details; you just remember things like Vincent (Saldanha) with his big coat on in the back of a bakkie. And I just thought to myself, you just...it was great coming...coming home after days of actually doing something, actually ploughing back to the community, actually doing good with your...with your degrees you got. It's a wonderful sense of fulfilment you got. To this day I still talk about it to the Article Clerks that work with me. Because things like and consulting around a little camp fire out in...is it Simondium or something, there was the Simondium matter, and also going out to consult in...in Hermanus when the...when the municipality was threatening to cut off water to a little community...black community there. Actually a lot of the time we consulted out of the office with Vincent (Saldanha), in Macassar, with the Macassar community. Those were good days, ja.

Int I'm also wondering, in terms of the refugee work that you did with William (Kerfoot), what were some of the cases that you did?

LE Well, it was just a general consulting and then there was...there's one matter which stands out, and I think Vincent (Saldanha) was away on leave for a while and I got saddled, just over...over Christmas period, with...with a South African citizen who didn't have the necessary papers. And the Home Affairs were convinced, and they actually had him arrested and detained, were convinced that, in fact, he's not a South African citizen he's a Zimbabwean citizen, and he was about to be deported back.

Int Right. Gosh!

LE And, I remember working with counsel on that matter and we stopped him from being deported. But he was a South African citizen, it was the weirdest thing. And then there was some Pakistani refugees we worked on. That's another irony, when I went to the State Attorney, I acted against William (Kerfoot) and I acted for the Department of Home Affairs against William (Kerfoot), which was quite fascinating. But those were the kind of matters I worked with William (Kerfoot), and then when there was compensation matters where I think William (Kerfoot) got a good result for



a client and I think she came one day with a...this very poor lady, and I think she came one day with a wonderful chocolate cake. It's the kind of things you remember.

Int I'm also wondering, in terms of...in terms of the general office, the LRC was undergoing its own transformation, post '94, and when you were there as an Article Clerk, what were some of kind of the organisational dynamics and issues within the LRC Cape Town office, and in the broader LRC?

LE Even within the LRC Cape Town office there was a lot of, I think, racial tension. Um, I can be frank about it now, um, especially the guys in the Land Unit, don't want to mention names, but there was that type of tension between the mostly black staff and the mostly white professionals, and I hate that term as well.

Int You mean the admin and the professional?

LE Ja. There was that kind of tension. And I know we, one day, had this wonderful workshop, and I don't think it's ever been successfully done again. We had a Race and Gender Sensitisation workshop with...and it gave an opportunity for the staff to be very open and honest, and I think they were, I think it's a workshop that worked well.

Int Was this in '97, '98?

LE Ja. Where we tackled issues of race and gender, and perceptions of race and gender, and I thought it was excellent.

Int What do you think were the specific dynamics, do you think that the particular individuals in the Land Unit; the professional staff, did not understand the needs and the rights, etc?

LE I think...I think to a certain sense that was the case. I think there was, at that time there were some...you know, you always get the...the...this...this admin staff speaking to you as a candidate attorney, you seem to be the middle...middle one, you seem to be admin and you also seem to be professional, as it were. I think it was the issue of, at that stage, management style, people weren't happy with the management style of certain people. And...and you found that people weren't maybe imparting skills like they should or...and I think it was...I think at that time it could have been an issue of remuneration...but I really can't remember now. But, I mean, there was those dynamics. And you know there's always this...I think it's just always this tension about people who view white liberals as...

Int Problematic?

LE Problematic...and...ja, those were that type of issues.

- Int Did you in fact experience any of that...those dynamics?
- LE Yes, I...I...it's just a matter of I preferred working with two people rather than some of the others, I didn't prefer some of my experience with the other people. Personally, I didn't like my experience in the Land Unit at all, even with...with the Environmental Unit, whatever, I didn't like that experience.
- Int What was the experience about the lawyering that you didn't like or was it personalities?
- LE I think it's personalities. It's just the personalities, I think. Vincent (Saldanha) and William (Kerfoot) have a wonderful way of training people, not that they were soft, Vincent (Saldanha) was...Vincent (Saldanha) was particularly hard on your...on your dress code. I think on Friday he reminded of my white socks I used to wear, so, um, he was very hard on dress code and professionalism, and stuff like that, and...But I think it was generally just personalities. The two of them were just streets ahead of everyone, when it came to personalities and their dealing with people.
- Int And the Cape Town office, compared to the other LRCs, has been the one which has had the longest-running staff, as you know, and the work is very, very specialised. As an Article Clerk did you ever get a sense, you'd of course had the exp...Public Law experience at the Law Clinic at UCT, but did you ever feel that perhaps you, compared to your peers, weren't getting adequate commercial, corporate experience? Was that a concern?
- LE Yes, well not at that stage.
- Int Not at that stage?
- LE It's a concern later...it became a concern later on, and because if you look at our Article Clerks here in this firm, you get the whole range of experience. You go to the Commercial Unit, you go to the Litigation Unit, you go to Conveyancing, you do the whole host of the legal field, really, except for Criminal Law. At the LRC they gave me a stint at the...at the Criminal Court, which was great. I enjoyed doing my own appearances and stuff. I had a four-month stint at the...how to do Criminal Law, appearances during a morning, often when I got back...came back to Cape Town, I did my office work, and stuff like that. And that was great. They may need to look at something along those lines, maybe twin with a commercial firm and give someone a commercial experience in terms of Commercial Law, not litigation, Commercial Law. Drafting of contracts and agreements and...and I think it's something that, I think, they may need to have a look at, to second people to the bigger law firms. But that being said, I still wouldn't change my Articles.
- Int What was so special about your Articles in particular?

LE Um, *sjoel*. It was really the type of work we did. The sense of fulfilment you got from your work, and even the LRC was, even at that stage, was paying the candidate attorneys well. I think it was...it was reasonably placed on how you pay your candidate attorneys. And that brings me to why I want...I desperately wanted to stay at the LRC after I was done, because I enjoyed the people, I enjoyed the work. And I applied for the Land Unit, it was the only available post but I wasn't interested, and Vincent (Saldanha) gave me absolute hell in the...during the interview process because he knew I was applying for the sake of applying, I wanted to stay at the LRC and I wasn't applying to be a Land Lawyer, and he said as much to me. And so I didn't stay on there, and ja, but...but through William Kerfoot I got another job, and I stayed there six years and that took me...

Int Which was?

LE Ja, I was another depressed young man after not getting the job with the LRC, and on my CV was William's (Kerfoot) name and William (Kerfoot) used to take on the State all the time, and one of the very senior State Attorneys, who's a Deputy State Attorney in fact, he's been at the State since the apartheid days and acting for the apartheid police, and all the apartheid ministers, 'phoned William (Kerfoot) up and William (Kerfoot) must have given a good recommendation, and I was called and I was asked if I wanted to apply, then I applied and I got the job. I became an Assistant State Attorney.

Int Right. Gosh!

LE But by that time it was obviously...it was in the...they were five years into a new government. So you were acting now for the new government, but you were still acting against people like William Kerfoot.

Int Which you did?

LE Which I did.

Int What was that case about?

LE It was a whole host of cases. I got the portfolio...a bit of a portfolio of acting for the Department of Home Affairs, which is a nightmare, they're notoriously bad, so most of my cases with William (Kerfoot) I settled, because the...they're always treating people very badly and...and...But the State Attorney was just another awesome experience, I got some great training, I did some...I was lucky to be entrusted with very big matters. I did the Arms Deal Review...

Int Really? Gosh!

LE I did some of the King Commission matters, so...ja.

Int So that took you into six years and then at what point...did you come immediately to Cliffe Dekker or...?

LE Ja, I was six years at the State Attorney, then I realised, look I've, sort of, hit the ceiling there, and I could become a Deputy State Attorney for the next ten years and I didn't want to be a Senior Assistant State Attorney, but by then I became a Senior Assistant State Attorney which was, apparently, also very quick, I was promoted very quickly to a Senior Assistant, it's because of the types of matters I did, I did some huge matters. And from there, I then put the feelers out that I'm ready to leave and I think the...the industry knew about me. I had a couple of approaches, and one of the approaches was Cliffe Dekker, and I met some of the partners, we had an informal chat and they were just genuine and nice guys, they made me an offer and I accepted it. And I became a partner here about four years ago.

Int And you've been here ever since?

LE Ja.

Int Ok. So that brings you full circle. I'm just wondering in terms of...doing Public Interest Law, do you do any pro bono, or any Public Interest...?

LE I do a lot of pro bono stuff. Um, I do...currently I'm doing some land claims issue on a pro bono basis. I think we...our firm is pretty strong on pro bono stuff. I do a whole range of pro bono, we've got a partner who deals with pro bono work and dishes it out, but I think even when the staff have little problems I deal with it, and stuff like that. There is a fair sense of pro bono but it just goes on difficulties; you can do pro bono on a small scale but because of the whole conflicts which...the firm is so large and they act for so many people, you can't necessarily do pro bono stuff against, for instance, the big banks, because you're conflicted out, as an example. Or the City of Cape Town for instance, you know, those types of issues, you can't. But...but the firm, as far as possible, do a whole lot of strict pro bono work.

Int Right, ok. In terms of the LRC, since you've left, what has your contact been and what sense do you have of what kind of work they do?

LE Um, the contact has been on and off. I would...on odd occasion I'd get a call from William (Kerfoot) to assist in a matter, or...or, as the other day they needed a Commissioner of Oaths, you know, a big eviction application, so I went out to the informal settlement with a little container there and I did a whole host of commissioning...

Int Was that Joe Slovo?

LE Joe Slovo, yes,

Int Really?

LE Joe Slovo.

Int That was Steve Kahanovitz?

LE That was Steve Kahanovitz, ja. They needed a whole host of Commissioner of Oaths, and they called up people and I said I'll...I went out to the community and I sat in a little container and I did...can't remember how many affidavits I commissioned.

Int Gosh! Right.

LE It was nice. It was always nice to go...If the LRC asks me to do something I invariably will do it, as far as I can.

Int What is this bond that you have with the LRC because it seems to me that you've really wanted to work there?

LE Yes, no, I would, and maybe this is a fanciful...I would go back to the LRC tomorrow.

Int Really?

LE If I could get the same pay (*laughs*). Which obviously is not possible but, I mean, I would go...I would leave my current firm without any hassle, and I'd go back to do LRC work with pleasure.

Int What is...the attraction as such, let's put it that way?

LE I think it's...I think it's Access to Justice, because we seem to have in today's...and this disparity bet...we've moved from a race-based system in South Africa, to continuing to be a race-based system on a smaller scale, but we've become a class-based system, and it's become worse and worse with time. And that goes to Access to Justice, the richest become richer, the poorest become poorer. I, you know, when I go to Mitchells Plain to go and visit my in-laws, I always take the path through the informal settlements, and it's been now, ten years, I'm ten years in practice, ten years and a bit, and nothing has changed. People are still living in these informal settlements and when I go back to the neighbourhood where I grew up, those flats are still there, and they're still looking as dilapidated as they did many years ago, post apartheid and...and pre-apartheid, so...It's Access to Justice, it's getting quality lawyering for communities, and that really is the key. I've...I've sat in court once and I've listened to Legal Aid lawyers and because of the training they have just not been

up to scratch, and you think to yourself: oh my word, because this chap can't afford a lawyer he's getting a bit like a lesser service. But it's not that person's fault, the attorney's fault, they just didn't have the training. It's giving back and, you know, the sense is a big law firm, it's not up to date, and there's nothing wrong with that, we're running a business, and the business is rendering legal services to those people who can pay, and our hourly rates is huge. And I would go back in a heartbeat, to do...to do Public Interest Law, but obviously you won't go back, it's because of the money, and just one of those issues, but it was just knowing that you've done something with your skills, it's...I don't think anything can match that.

Int Lionel, in terms of...the current context is...there's attacks on Constitutional Court judges, the Judiciary's in crisis, the Cape Bar is in crisis, Johannesburg Bar...What are some of your concerns about that as a lawyer, and in particular what are some of your concerns for Public Interest Law organisations like the LRC?

LE My concern is...I would have the odd occasion running into LRC staff who said things are going very bad, we are closing, they are closing this, they are cutting staff back and we don't know where our future...this one has left...that one has left, you always get the staff in the roads, whatever, you have an ear to listen to, and it saddens one but...And I know funding has to an extent, dried up, and I think maybe the LRC needs to maybe get more focused and I...and take on lesser matters and to take on more bigger matters and more specialised matters. It can't really be a Legal Aid Clinic where you service people sitting in the waiting room for the odd advice, it actually just needs to be a, sort of, more focused...I know William (Kerfoot) for instance got this...William's (Kerfoot's) got this great heart, he can't say no to matters, it's always been his problem, he would take on lots of matters but he can't say no to them. It's just the nature of William (Kerfoot). Maybe LRC...I know towards the latter part they were saying no to more matters than what they did before, but maybe this was just...take that up...um...But my concern about the attack on the Constitutional Court is...it's...a lot of this industry needs to change, the legal...the legal fraternity, it's still white-dominated, white-male-dominated, despite the best efforts of firms to change that. This firm, for instance, is doing great with regards to that, I think, in terms of our BEE stats we are probably the firm that's done the best. And what I liked about the way this firm approached BEE was that it was black partners who were not just there for the sake of their colour, it was the quality, the quality of the lawyers that they are. But, ja, it's...things at the Bar is also not...is also taking slow to change, there are some great people there trying to change it but you still get your black counsels struggling. I think that's where people like Patrick Mtshaulana at the Jo'burg...He's probably had these fights because the industry is so...is so white-dominated. And it's...it comes from...because industry, business, is white-dominated, they prefer white attorneys and...who then brief white counsel. So it's very difficult to crack into that market. But I...but with regards to your specific question of the Constitutional...attacks on the Constitutional Court, I'm sure it will all work itself out. I think we've got a...I think Langa had links with the LRC as well. But I think it will work itself out, I'm not too concerned about that. I've got my own views about the incumbent president and...

Int You mean (Jacob) Zuma?

- LE Ja. But look, I'm an ANC loyalist and maybe I'll stay loyal to the ANC...not maybe, I'll definitely stay loyal to the ANC. I can't see any other alternative.
- Int But in terms of being loyal to the ANC, at the same time being a Public Interest Lawyer and being involved, the LRC's mandate really is to take on government when needed, and it has actually done that...
- LE Yes, it has.
- Int ...I'm just wondering what your sense is about respect for the rule of law from government, etc, with regard to judgments and orders? What's your sense of that?
- LE I think it's...it's probably...I'm trying to think of my State Attorney days without breaching attorney/client confidence. (*Laughs*).
- Int Sure, sure.
- LE Sometimes is just pure government inefficiency from a departmental side, and things not getting done, and then it gets perceived as being government that's not respectful of judgments. It's pure government inefficiency at times. But I think there has been times that our government maybe forgot the roots, I mean, forgot his roots and maybe that's why it leads to the popular appeal of someone like Jacob Zuma. It's because he doesn't seem to be forgetting his roots, and I think, to a sense, some of the government has stayed out of touch with the people. As I said earlier on, that nothing seemed to have changed on a grassroots level. But...but there are some good people, there are really some good people. I mean our former Premier of the Western Cape was an excellent...excellent politician and an excellent person who was trying to address all the issues of the Western Cape.
- Int And that was, sorry?
- LE Ebrahim Rasool.
- Int Oh, right. Who has been in some controversy, of course?
- LE Ja. I acted for him in the **inaudible** Committee Hearing, I was his attorney in **inaudible** and I got a sense of the man, and I thought he was excellent at his job. But I think it's probably the movement of...you must understand that, at times, a liberation movement becomes a political party, it's now probably fully a political party. And while I...I think the best thing that could happen to this country, is if we can get a strong opposition, but it must be a strong principled opposition, and not a strong...not an opposition based purely on race.

Int I was wondering you were recently...on Friday you went to Vincent Saldanha's event; was it an inauguration or was it..?

LE It was just a little...little...I think it was a little party to congratulate him, you know, it was the National Association of Democratic Lawyers, because Vincent (Saldanha) was involved in...for many years, and as an Article Clerk he used to take me with to some of the meetings and the workshops.

Int So it wasn't LRC but it was...but there were many people there from the LRC?

LE Ja, people from the LRC were invited, I think.

Int What were your...some of your experiences of...that?

LE It was a wonderful occasion. Vincent (Saldanha) I think summed it up when he said: no-one...no-one should...no-one alive should hear such comments about himself or herself. Because they were speaking, in glowing terms, about his...his involvement in the NADEL...in setting up NADEL. And it made me think of the LRC again and the good work that the LRC did and how long Vincent (Saldanha) held out...

Int ...Against being a judge?

LE That, and also, I'm sure, approaches from big law firms. He would have been **inaudible** law firm and a big law firm would have been great in terms of procuring government work, just from the people he know, but he's never done that, he's never gone to a big law firm, he's stayed loyal to the LRC. And I'm sure there was many approaches. The sense of...the sense to stay loyal and the call for bigger money, to say no, it takes a...it takes a...a special person to do that. But then again the LRC allowed him to do many other things than just LRC work, Law Society work, NADEL work, so maybe...which he would not have been able to do in a law firm environment. But it was great seeing everyone again, it was great seeing Vincent (Saldanha) and William (Kerfoot), seeing Vincent's (Saldanha's) kids again, because the last time I saw them I was an Article Clerk stamping documents in his...or numbering documents in his front room at his house out in the Retreat area, his kids was (were) two or four and they're, you know, quite bigger now so it's good seeing them again, and seeing Lee Bozalek who was also an LRC person, who's now Judge Bozalek and...um...it was really great.

Int I've asked you a range of questions, I'm wondering whether there's something I've neglected to ask you which you feel ought to be included in your LRC Oral History interview?

LE No, I just...I'm just concerned at the possibility that there might be a demise of the LRC one day, and it's just too ghastly to contemplate. Because there's such a role for the LRC to play, no-one will take on these big cases, the Joe Slovos, no-one will take



on the government as, and successfully and quite skilfully as William Kerfoot has done in the refugee work. And where will those people turn? It's just not about taking on government, it's taking government on skilfully.

Int Right.

LE And doing it successfully. **Inaudible** that I think LRC loses cases.

Int Sure.

LE Um, because they have so much experience, and what worries me is that, to a sense, any government needs...need a constant...any government need a balance, checks and balances, and I think LRC, for me, is one of those checks and balances on government power, and the exercise of government power. No matter the LRC's links to the then Liberation Movement, they've still managed to challenge government. And I don't think it was a challenge, it was also trying to educate government as to what is the better route and what's the...how to treat people and how to respect people's rights. Where unfortunately some government members see it as...probably being obstructionist and not supporting the government, but that's not the case. And any good government need checks and balances. But I'm very concerned about the LRC's survival, and I hope they do survive. But I guess it's a matter of funding. No-one would probably fund as much as they did before...as they did before, and then it's really going to leave communities out there just...in serious difficulty. Of course they'll go to Legal Aid Clinics, which again don't have the...no-one can compare with the experience of a William Kerfoot, for instance, of twenty odd years of specialised litigation skills against the government. Of course it takes...it takes a certain type of litigator to take on the government.

Int Mm, absolutely!

LE Because it is a...it is a litigator who won't be worn down by...by government lawyers, remember government lawyers are not being paid by the hour, so they are...they have...government can...they'll have...they'll give law firms most times, so they don't have that legal bill. And that's the problem when people go to private attorneys you...even if private attorneys do it on a pro bono basis, or even on a reduced fee basis, it just takes so much time. And they won't necessarily have the skill and the institutional knowledge and memory of an LRC, and that's maybe where the LRC Constitutional...was it...what they have Constitutional...?

Int ...Litigation Unit?

LE ...Constitutional Litigation Unit, which is so crucial, a great training ground. And hopefully that survives.

Int I'm just wondering Lionel, if you could end the interview with a particular memory, whether it's working with Vincent Saldanha, or with William Kerfoot, or a particular client, a case, that you feel embodies what the LRC's about and your experiences of doing Public Interest Law?

LE Um, a memory would probably be...it's a...I don't know if it was a Saturday or a sunny Saturday...Sunday afternoon, probably, where we consulted out in Hawston, and me and Vincent (Saldanha) in the community hall, small community hall, speaking to a fisher community which had been neglected by the Hermanus Municipality, and their water's about to be cut off, and being lavished with great seafood and (*laughs*) and just the sense of appreciation of the people, when they listened to Vincent's (Saldanha's) advice. And the good advisements he gave them, and apart from just giving advice he was educating. He was educating people about their rights and educating people about, look, we're fighting this eviction for you but we do not believe in the culture of non-payment, you must pay for the services you're being given by the municipality, but not to the detriment of your rights, obviously. And those are some of my fondest memories of consulting with communities, and their absolute appreciation for the work that the LRC's doing, and I hope long might that continue and I hope that other Article Clerks will have the same wonderful experience that I got. Um, hopefully one day I'll get millions and I can...I can fund the LRC as well.

Int That would be wonderful. (*Laughs*). Thank you so much, Lionel.

LE It's been a pleasure. Thanks.

Int Thank you.

(*Interview continues*).

Int Yes, you were saying?

LE I said I was doing this...it was a AECI claim, it was a sulphur dioxide claim out in Macassar, and we would go out to the community to consult and there would be folks in the...as the more Vincent (Saldanha) is consulting with the poor...people I think the people thought the more they cough the higher the claim would have been (*laughs*). You would have a community all of people that's all coughing (*laughs*)...Just thinking, look, our lawyer's got to know that we are very sick and we're all coughing, it was just absolutely hilarious. Those were good days, those were good Articles.

Int Sounds like you had a very productive time as well?

LE Yes. It was great matters, I learnt a lot about litigation skills. And look, you know, the skills of the LRC, is also how you treat people and how you treat your clients. When I went to the State, when I would advise State Departments I'm informed by that

background, I'm informed by the advice that they gave me and I would tell them that...that these are fundamental rights so when you advise a minister or whatever, you are informed by that type of background. But, ja, like I said, I'm repeating myself, it's just...I've got many ironies in my life and LRC's probably...LRC and State Attorney are the exact two opposites because in the apartheid days those were the two people who went hammer and tongs at each other...acting for the apartheid government. And I would find myself **inaudible** I played a...the LRC played a role there, **inaudible**, it was just that the government didn't give them proper advice and properly informed advice. But whatever the LRC needs I'll always be there to assist if I can.

Int That's wonderful!

LE I just hope the LRC can survive.

Int I hope so too.

LE Thanks for your time.

Int Thank you.

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