

Richard Rosenthal

LRC Oral History Project

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Int Richard, thank you very much for agreeing to be part of the LRC Oral History Project. We really appreciate it.

RR Well, it's a great privilege and I think it's also our responsibility isn't it, to capture this extraordinary story.

Int Sure. I wondered whether we could start the interview by...if you could talk about your formative life experiences... some of your memories growing up in South Africa...some memories about apartheid and then, your trajectory, in terms of entry into the legal profession.

RR Good. Well, um, I was born in Johannesburg, 1939, er...just a few months before the Second World War broke out...my father was an extraordinary product of German Jews...who had settled in this country about a hundred years ago...but nonetheless retained their identity, their language. In fact, his home language was German, although in 1939 you didn't teach your children to speak German, you rather hoped they wouldn't be identified as German but ...my father used to recall that...he was expelled, believe it or not, at the age of about 7 or 8 from Parktown Preparatory School in Johannesburg. The headmaster asked that he be withdrawn from the school because his family was German and this was 19...um...15 and there was too much anti-German feeling. Come the Second World War, he was not identified so much as German, as Jewish so he was on the wrong side of every conflict. (Laughs) Nonetheless, um, we grew up in this country. I was one of four children...relatively privileged...my father was a journalist, a historian. He became very well known in this country, authored about a hundred books... about South African history and related topics, but the world here knew him because of his weekly appearance for about forty years, on a radio program called 'Test the Team' and Eric Rosenthal was renowned as someone who knew answers to everything. So we grew up in that kind of an environment, it was very much an intellectual environment. My father was an apolitical kind of person...I think he...sought to avoid...involvement with matters that were contentious or political or anything of that nature, and...but he was much loved, much respected and it was a...home that was very rich in the experience that we children gained. My mother came from British stock, she...she had curiously, been born in this country but had left when she was about six months old, and only returned...about 25 years later...and married my father. They were both...absolutely committed and rooted in this country and very concerned about the evolving history of our time...but as I say, although they were involved and concerned, they were not political animals, either of them, although they behaved, tried to behave very decently towards the people with whom they were personally in contact. For example, they paid for the school and university education of several people, who were the children of our domestic workers. So that was the kind of background I came out of. Now, as a journalist, my father had very little money, and quite a lot of children. And so we were not indulged in any kind of material sense, but I had a wealthy aunt who offered my parents to educate one of their children at the best school in the country, and so I was given the opportunity to go to Bishops and found myself a boarder, first at a

rather upper class preparatory school called Western Province Preparatory School and then later at Bishops. And I found myself, really a bit of a stranger in an alien country because these were children of affluent homes, and the conversation amongst them was, had very much to do with what kind of car your father drove, and what sort of job he did, and what kind of overseas holiday you had at the year end. We didn't have those sorts of things...my family, we didn't have a car, never had a car. So...it was an interesting, very good education, but I was, I felt quite alienated from the people I was growing up with. And there are incidents such as the occasion when I returned one day from...a Sunday spent at home, when it was announced to the shocked dinner table, that...'Rosie' was a Jew. Now, this caused great dismay and I was asked whether it was true, and I denied it. And this boy insisted, his father had told him, and therefore it must be true. So I remember, a few weeks later, when I went home again – we were boarders – asking my father, Am I a Jew? And he hummed and hawed and he said, Well, I suppose you might be but not really because your mother's not a Jew. My mother was descended from Catholics, relapsed Catholics; my father was descended from Jews, relapsed Jews. And so that made me an Anglican. (Laughs) Um, anyway, that's a long digression, but that's where I came from and I suppose, at Bishops, I began to think about the country we were growing up in, became more conscious of the uh, the issues that uh, that we were conte... going to have to contend with. I shared a room with a...man called Anthony Eastwood, who later married one of Bram Fischer's daughters, and he already had the kind of...leftist...sentiments and I suppose, introduced me to the whole concept of radical societal change, and the conflicts and issues which characterized this society.

Int How old were you at that time when you were sharing a dorm with him?

RR About 14, 14 and thereafter. Yes, Anthony Eastwood appears in Bram Fischer's biography as one of the people who used to ferry messages to Bram (Fischer) when he was in hiding. So I left Bishops with great relief. I hadn't enjoyed my schooling experience and had not too much idea as to what I was going to do in the world. And after a holiday spent overseas, my father decided, I think he was afraid that I might make a really serious mistake in the choice of career and suggested that I should perhaps think about doing law, which he had done, although he'd never practised. And he said, It's a very good grounding. And so it really was by accident, and really by default, that I decided I would study law. It wasn't any kind of informed decision. Um, I did it by way of articles at clerkship, which meant I didn't go fulltime to university. I never got a university degree and I spent five years working for a law firm in Cape Town, and I guess during that period, not only did I discover that law was a powerful body of knowledge, a qualification that gave you a certain influence and capacity...but I also came across a number of situations which really touched me emotionally, I guess, and influenced the direction that my practice took. I think, for example...of those first race classification cases and they were given to articulated clerks to do, like pauper divorces. That was the grist that we worked with, but accompanying people to the Race Classification Board and presenting evidence and argument with a view to either establishing, or refuting, a proposed classification, with all the family implications, and that sort of thing, those experiences were radicalising, riveting, unbelievable. And one came across families where there were different members who were deemed to belong to different groups, and consequently were expected to live in different areas, and couldn't cohabit without permission, all within a family, and such

a situation, I mean, it was very much the kind of thing that Athol Fugard wrote plays about, and I came across it first hand and it really shook me to the core. I think of incidents also, of appearing for indigents who were confronted with situations that profoundly affected their lives. There's a man who would certainly not remember me today, because we're talking of about 50 years ago, Robson Monde. He worked for Resisto Dairy and he delivered milk and one day, he was fired, summarily fired; came to see me, and um, tried to explain to me that if he lost his job, he also lost his right to remain in Cape Town. If he lost his right to remain in Cape Town, he lost his ability to support his wife and family in the Transkei. So it all depended...he was a contract worker, so it all depended upon his retaining that job, so that his family could continue to subsist. And he came to me, uh, and this was long before the enactment of the Labour Relations Act, which provides effective remedies. We were dealing with Common and Contract Law, and the remedies were not very easy to establish or enforce. So I desperately tried to have him reinstated, and failed. And felt so frustrated that one day I naively perhaps, went to visit his boss, found out where he lived, what his name was – a Mr Shapiro, he lived in Sea Point. I went and knocked at Mr Shapiro's door (laughs), he was greatly astonished, I said I was Richard Rosenthal, and I was an attorney acting for somebody who worked for him or worked for one of the companies of which he was the Chairman. And he was very annoyed and irritated, and asked me how dare I come to see him at his house and that sort of thing and, however, he sat me down and heard me out and I tried to persuade him, to tell him what the consequences were of what was happening, and asking him to intervene. Well, he decided not to do so, and (laughs) I got severely reprimanded by my principal for doing what seemed to me to be a very good idea, but I was told that that was not professional conduct, you didn't do that. You had to deal with your adversary's attorney and not go and knock at the doors or the homes of their clients. Anyway, I mean that was the sort of experiences from which...which were very formative in a way and I mean, there were many others, there were the incidents where...there were very few black law students, just a few, two or three, and one of them, having qualified with me could not get articles of clerkship. No firm was willing to take him and I spent a lot of time, couldn't believe how much time, hours and hours, phoning every firm in the phone book, trying to persuade someone to take him on as an articulated clerk. And again, I failed, and experienced all that frustration of, you know, of feeling impotent and outraged. So, yes, my career path took a bit of a detour. I went overseas after I qualified and spent a few years in London, doing lots of interesting things that had nothing to do with South Africa. I took a job as a gillie working for the Queen of England at Balmoral Castle, and I started a little business in London to support myself called the Rosenthal Hotel Booking Service, which I later sold, and eventually came back to South Africa because I had to make a choice between being a hotel booking agent and being a lawyer. And I joined a large commercial firm: Sonnenberg, Hoffman and Galombik, one of the biggest firms...

Int In Cape Town?

RR Yes, in Cape Town...which at that time acted for most of the large Jewish businesses. Now, I myself, although despite my forebears did not consider myself Jewish and I've no doubt that they took me on because they thought I was Jewish and when I announced that I was to be married, particularly to a girl whose surname was Barnett I was asked which shul would we get married in, and I had to say the Rosebank

Methodist Church, you see. Anyway, so there was a bit of a culture shock and I felt as though perhaps I had got there by false pretences. Nonetheless, today they are a very big firm, they've amalgamated with Edward Nathan, Michael Katz's firm and they gave me a superb training as a lawyer. I worked as understudy to one of the best lawyers I've ever come across, no longer alive, Arnold Galombik, and really, he taught me my trade...and I found that I really enjoyed the law and I liked to be at the cutting edge of it and I enjoyed conflict...and I liked to be on the winning side. Now their practice was very specifically commercially orientated...and so this aspect didn't really...of social or politically relevant law didn't arise in that practice. There might have been a little bit of *pro deo* work but minimal. For a variety of reasons, I decided after about fifteen years there, having become a partner of the firm, that I wasn't certain I wanted to settle in this country. I resigned and um, my wife and I and two little kids, then aged about three, no, two and four, went overseas. We'd made a bit of money out of some of the public share listings that we'd done in our practice, Pick 'n Pay was one of them, and we spent two years wandering around, spending our capital and trying to make up our minds whether we were going to settle abroad or return to this country; and for the first, but not the last time, I discovered that my heart was really here, and that I couldn't imagine myself settling in any other place. Particularly because at that time, I'm talking now about '74, '75, the country was going through huge convulsions and I...I did really feel an identification with this place and wanted to be part of it. So I came back with the decision that I would look for a position that would be more socially relevant. And I remember going along to the Old Mutual and interviewing the Chairman, Jan van der Horst, and asking them whether they had any intention of forming some kind of social initiative. They were an enormous, the largest corporation in this country, and I remember him saying to me that the Old Mutual looks after people's retirement funds and therefore it is itself a charity and cannot give its clients' money away to anyone else...a familiar theme.

Int (Laughs.)

RR So...ultimately, I spoke to Beyers Naudé, who offered me a job as financial director of the...why 'financial' I don't know why, but he thought that was a good position, of the Christian Institute. But almost before I responded, the Christian Institute was banned and I wasn't ready for instant martyrdom. (Laughs)

Int (Laughs)

RR At that time we had a general election...and it was at the time when Helen Suzman who'd been on her own for ten years, I think, was joined to our great excitement by six others. They included, of course, a very promising young Afrikaner academic called (Frederick) Van Zyl Slabbert, people like Alex Boraine, Rupert Lorimer, and others who have subsequently played a role in this country. And I decided maybe that was the opportunity. So, I went and offered my services to them as a legal adviser and...they took me on, I think a thousand rand a month, which was much less than I had been earning but I felt it was enough and I...formed one third of what was described rather portentously as the Progressive Party Parliamentary Secretariat. The other two thirds involved a man called Barry Streek, an eminent journalist who has recently died; and a young Afrikaner by the name of Riaan de Villiers, who was the

journalist son of a leading Afrikaner, 'Lang Dawid' de Villiers, who had represented South Africa before the World Court at The Hague. So, for a year, I worked for them, writing speeches, researching law, and drafting amendments to legislation and just being, doing a backroom job for Members of Parliament, at some cost to myself. And I remember an incident which involved the, an amendment to the Defence Act and it dealt with conscientious objection and the grounds on which people might claim exclusion from the Draft. And I wrote an impassioned speech, which was to be read by Alex Boraine. It was his portfolio and the debate took a long time and at five o'clock I went home. Next morning I asked Alex (Boraine) how had it gone, how did the speech go, and...bit of a stammer, and then he said, I can't tell you a lie, he said, (Frederick) Van Zyl (Slabbert) and I were playing squash and we missed the debate. (Laughs) So I took a deep breath and that and other things led me to believe that actually I was more committed than some other people were and that that possibly wasn't the right place for me to work. So I resigned and decided that shoemakers have to make shoes, they're doomed to make shoes and so I went back, looked for a position in a law firm, but this time looked for a position in a firm that would seek an involvement, or have an involvement in the unfolding political events of the day. And I decided that a firm then called Fuller, De Klerk & Osler, would be the appropriate firm. Later it merged, became Fuller, Moore & Son, and then it merged again and became Syfret, Godlonton-Fuller, Moore and later on, in fact, now it's known as Cliffe Dekker Hofmeyr, so all those names have disappeared. But they were very much involved and probably the leading firm at that time, dealing with what was described generically as 'political work', whatever that implied. And so the understanding was that I must pay my way, the firm imposed a budget on fee earners, but that I would be at liberty to, in fact they would be very happy if I took on work that was also unpaid or politically sensitive. They acted for the Black Sash and they did some very good work, the Athlone Advice Office, and the Christian Institute. They were probably the firm of choice, other than, let me say, perhaps Frank, Bernadt & Joffe, Himie (Himan) Bernadt, who was a member of the Communist Party, and who acted for those who were a little to the left...Anyway, I worked hard and I made enough money, but I also began to do things that were a little bit dodgy. And I...the first perhaps involved... what I would describe as the bus fare cases. Now, these involved...a ground roots protest against the arbitrary increase of bus fares on which a large number of people were dependent...and which were really impacting upon their standard of living...And the company concerned, City Tramways, which at that time also owned Golden Arrow...progressively increased its fares from year to year and was never questioned or challenged...and this seemed to be an issue, a grass roots issue around which one could organise and rally considerable community feeling. Some of those involved included figures who are now well known, in that campaign, uh, Jakes Gerwel, who of course later became Secretary to the Cabinet under (Nelson) Mandela, and...other names that perhaps wouldn't be, particularly come to mind now but it was a very significant piece of litigation and for the first time we brought before the courts, this company. We also took the Road Transportation Board on review, they sanctioned various fares and we challenged them We challenged the company on a number of occasions...and we didn't always win but I had some very courageous clients, one in particular, Rommel Roberts, who was quite prepared to take the rap on the basis that he owned a guitar and a pair of shoes and if there was an adverse costs order against him it didn't hold any terrors for him. And I recall one occasion, one such occasion, when...when we had taken something on appeal, and Harry Snitcher who always acted for the bus companies, stood up, and he said the company was

becoming tired of this "vexatious" litigation that was being brought... in the name of particular clients, he mentioned Rommel Roberts who is the man I'm referring to, in particular; and he said they are clearly choosing indigent clients to bring this litigation in order that they are not effectively sanctioned when they lose their cases. And he suggested the time had now come for the court to consider a costs order to be made *de bonis propriis*, which implied a Court Order against the lawyer himself. And he described me, he... my biblical knowledge is not very good but he described me as the hand of Esau...or rather, ja...the voice of Isaac, rather than the hand of Esau...if that's the correct story. So that was very sobering to me but the judge ignored it. Following the bus cases... and there were many wonderful stories around that, came another and even more significant series of...cases which involved the so-called squatter phenomenon.

Int This is the 1970's?

RR Yes. And in that context...Cape Town had suddenly become the magnet for tens of thousands of people who began to migrate from the rural areas and who set up informal housing on the periphery of the city or wherever they could find open land... and built their rudimentary houses and established a family life. And....and of course this was unlawful because you needed "passes" and you needed permission and they didn't have it. And it really represented...an enormously significant social movement, which had minimal political organization initially. It really arose out of a sort of consciousness that arose almost spontaneously in these communities, which were no longer willing to...conform to laws that separated families and...implied that men, usually men, came and worked in cities and their families lived in the country. And they visited, if they were fortunate, once a year ("To make a baby!"). So...I acted for the communities of Modderdam, Crossroads, Unibell, Werkgenot...Vrygrond ... there were at least a dozen such communities in and around Cape Town representing tens of thousands of people who were, as it were, under siege, and whose dwellings were periodically demolished but they would rebuild them somewhere else... and they would be arrested uh, they would pay a fine or serve a term and go back home and build the house again. Quite extraordinary. (Can we stop a moment?)

Int Absolutely. (*Break*)

Continuation of Interview

RR Are we recording?

Int Yes, yes, we are.

RR Ok, I'm not quite sure where I left but talking about the squatter story...there were many significant incidents. The demolition of the camp known as Modderdam, which involved something like three or four thousand houses demolished in the middle of winter, and I was their lawyer. We attempted and succeeded once but failed the next time, in halting the demolition and ultimately, thousands of people sat there in the rain

on the sand dunes next to the University of the Western Cape, that's where it was, Modderdam Road; and once again, I experienced that sense of responsibility and impotence and failure...despite our best efforts. And there were some wonderful people, very brave people, the community was very well led and of course, the authorities were absolutely impervious and unwilling to...to budge. Anyway, at about that time, I had contact with a young man called Geoff Budlender, I think he came to me seeking articles of clerkship, having just finished his University Degree.

Int And this is around the early seventies?

RR Yes. I had yet to persuade my partners to accept this young radical and I think they had begun to feel that we were a little too far extended anyway...particularly because some of the cases which I had been involved with – the squatter cases – brought us into conflict with other of our clients, some of our valuable clients, including the Divisional Council of the Cape, which was the administering authority for the squatter camps. And I had been summoned at one stage by the Secretary and Chairman of the Divisional Council, who wanted to know from me, he said that they had noticed that my firm, and he understood I in particular, was acting for squatter communities and he said he just wanted to know that in the event of the situation arising where litigation arose between them as the administering authority and the squatter community, whether we were in a position to act for them. (Laughs) So I took a deep breath and said, (laughs) Well, I personally am not available to act for you but I understand that some of my partners might be so willing and I think you need to direct the question to them rather than to me. But they accounted for about a third of our firm's income so it was, it was a fairly sobering situation. And then along comes (Geoff) Budlender, you see, who had already distinguished himself in various protest actions at the University of Cape Town, and so I think there was a bit of hum-ming and hah-ing about that, but it became academic because he was offered articles by a very good attorney in Johannesburg, Raymond Tucker, and so he was no longer looking for a position in Cape Town. Anyway, after a few years, I forget how, many, through Geoff (Budlender) perhaps, I met Arthur, Arthur Chaskalson, and became aware of the Legal Resources Centre. At some point, Arthur asked me, Would I be interested in establishing a Legal Resources Centre in Cape Town?

Int Was this after the Legal Resources in Johannesburg had been set up?

RR Yes, it must have been two or three years after that.

Int So it's early eighties.

RR The first office was Jo'burg and then shortly after that, Chris Nicholson established the Durban office, and Cape Town was the third. So it was a case of whether I was willing to resign the practice that I had now re-entered and become an employee of an NGO or whether there was some other way of accommodating it. In the end, what happened is that I arranged with the LRC and with my firm that I would divide myself into two halves and I would spend half my time at the LRC and half my time at Fuller-Moore. That meant I was fairly busy but it was perfectly clear that my

involvement would be largely administrative and that I wouldn't really be involved too much in the actual practice...

Int At the LRC...

RR Of the LRC. Nonetheless...I did act in that capacity for a while, went overseas to raise money for the Cape Town Legal Resources Centre, and met some of your other friends, Reuben Clark, James Kilbreth and his colleagues, and in due course, hired the first lawyers of the Cape Town LRC who included someone who is now a judge of the High Court, Shehnaz Meer, and there was a young lawyer called Lee Bozalek, who later came along and joined us.

Int Who's also a judge. (laughs)

RR Who is also a judge! And there was Geoff Budlender, who should have been a judge but wasn't, for reasons that he will no doubt explain to you. So this little office began to do the kinds of things for which the LRC has become renowned. Took its lead very much from Arthur (Chaskalson) in the Johannesburg office, what they were doing, but also began to establish an identity of its own, became involved in issues that were specifically relevant to this region...including the representation of many of the informal squatter communities, for whom I'd been acting, and also, significantly, became involved in identifying and representing a number of leading cases – many of which originated with the Black Sash in the Western Cape - including the famous Khomani case and the Rikhoto case, which were really landmark cases, establish...uh, testing the limits and the validity of Section 10 of the Urban Areas Consolidation Act and the Pass Laws. Anyway, as I say, my own role at that stage was largely administrative, I would meet with them once a week, we would talk about our cases, and we began to explore the identity of the practice, what we did and what we didn't do, what was meant by public interest law. I remember, for example, somebody ringing up the office and saying that she had bought a Persian carpet from Ashby's Galleries and she had discovered that it wasn't as valuable as they told her it was. She felt this was scandalous and definitely a public interest issue and would we represent her? And so we had to sort of explain to ourselves and to her why we wouldn't. I also remember other cases where for example, we got a letter from a man who was in Valkenberg, in the psychiatric wards at Valkenberg, who wrote a most poignant letter about being unjustly certified as a State President's patient. He claimed to be...he told an extraordinary story of how he had been arrested: he'd been drunk over the weekend; found on a park bench and arrested; and then brought before the court on Monday after he'd sobered up; and his wife appeared in order to tell the court that he was completely crazy and he ought to be locked up. And this led to his being examined by a psychiatrist who agreed and certified him as psychotic and recommended that he be declared a State President's patient. Anyway, long story, he'd been at Valkenberg for twenty-five years and throughout that time, he had been campaigning by writing to everybody whose name he read in the newspapers, asking for their help to get him out. So would we help him? Well, we decided that we had to do something about it, so, Shehnaz (Meer) went along, and she came back and said that she found he was extraordinarily impressive and that the case was very disturbing. I decided that I also wanted to meet him and so I went for a second

meeting together with her, and was equally impressed. He was a bit odd, but he wasn't obviously seriously disturbed. So that was a case where I began to enlist people whom I came to know in other professions. Professor Francis Ames was somebody whom I, whom I consulted at that stage and to my regret, as the case turned out, all...the people who interviewed him, all confirmed the diagnosis and I...to this day, I'm not sure that we didn't fail him, that ...the sense we had was that he had been damaged by his institutionalisation in the wards for more than twenty years, so he behaved strangely, but I never felt that he was sufficiently disturbed to warrant his official status. Anyway, so again, these were individual cases...and no doubt Geoff (Budlender) and others will tell you about others, the famous Pewter...um, the Tartare Sauce case...

Int I haven't heard of that, if you could tell me. (I'm just going to adjust the plug while we talk...)

New Track

RR Right, this is a case that would be better described by those who acted directly. I think Geoff Budlender was one and Steve Kahanovitz might also be able to tell you about it. But as I recall, the LRC was approached by a waiter at the Mount Nelson, a big posh hotel here in Cape Town, who'd been dismissed for the heinous offence of having served Tartare sauce in a pewter jug rather than a silver jug, in the main dining room. So, needless to say, we represented him. And I must just say in brackets that on occasion, we represented individuals who had a personal issue, which wasn't really broadly representative of a commonly experienced problem, except in a very generic sense. And here was such a case. There was an injustice and we felt something needed to be done about it. It ended up in the court and I seem to recall that there were settlement discussions, which culminated in an invitation extended to the lawyers, the LRC lawyers, to dine with the Manager of the Mount Nelson and their lawyers, in the very dining room where this thing had happened, whilst they talked out a settlement. And of course, the LRC lawyers said that they would be very happy to do that but they would need to be accompanied by their client! And so this wonderful scene of the man who had been a waiter, who'd been dismissed, being served at table, sitting with the manager, and all the other waiters witnessing this unprecedented event, whilst the case was still in progress. It was a lovely bit of theatre.

Int Yes, it does set a precedent, doesn't it? (Laughs)

RR Very good, the Tartare Sauce case. But you ask Steve (Kahanovitz) about it.

Int Right.

RR Anyway, there were many cases that the Cape Town LRC got involved with. My own role became peripheral, particularly when Geoff Budlender agreed to take on the Directorship, on a part-time basis initially.

Int That was in which period? Was it the nineties?

RR No, no, this would have been the eighties. Exact dates would have to be looked at, early eighties I would imagine. And for a while, Geoff (Budlender) acted as the Director and I remained involved in the background but was no longer hands-on. I had my own practice.

Int Were you in private practice?

RR Yes.

Int So you had left the other firm?

RR Um, I...no, I was still with Fuller-Moore & Son doing partly commercial work and partly public interest work. And had lots of interesting cases in which I was able to act. You know, I acted for example in the case which...was brought against the doctors who had attended Steve Biko, and we were able to set aside the decision of the South African Medical Council to exonerate, and not reprove, those doctors. That was a very interesting case, a very important case in which Sydney Kentridge and Dawid de Villiers, we had a very good team, were involved, and remarkably we won the case.

Int Was this the Wendy Orr case?

RR No, no, it wasn't the Wendy Orr case, it was...this was a case brought by Francis Ames and a group of other doctors against their own professional society for its failure to...find malpractice on the part of the doctors, the district surgeons and the specialist who had attended Steve Biko in Port Elizabeth shortly prior to his death. And who condoned his being sent to Pretoria naked in the back of a police van. So the result of that case was in fact that two of the doctors were struck off the roll, and the specialist, Keeley...the other doctors, Lang and Tucker were reprovved and suspended from practice - and Keeley was given a severe reprimand. But the initial decision had been to condone and to find no culpability whatever. So that was the sort of thing that I got involved with. There's no reason why it shouldn't have been undertaken by the Legal Resources Centre, but one of the inhibiting factors in its taking up litigation has always been its self-imposed rule that it acts for the indigent. And so not only must there be a public interest issue, there's also a means test, and both have to be met. And sometimes, that would be an example, those doctors who took on the Medical Council, couldn't be described as "indigent", albeit that they were acting in the broad public interest. So there might or might not have been a problem in the LRC acting. It was a narrow line, Arthur Chaskalson in establishing the Centre, had negotiated with the Law Society and the Bar Council and had given the assurance that the LRC would not act in matters where the ordinary legal profession might undertake the work. And that really related to the issue of affordability. It's been problematic, that principle, all along, because frequently there is a big public issue, take an environmental issue, where those who are interested in litigating are not necessarily poor, and yet the

interest of any individual in the whole is sufficiently small to make it unreasonable for them to assume the whole financial risk of litigation. And in our system, in South Africa, unlike America, the greatest inhibition against bringing litigation of that nature, is the possibility that an order may be made and will be made, for you to pay not only your own legal costs but the costs of the other party, if you fail. And this means that you, you incur a considerable risk as an individual, when embarking upon litigation, which can...which might be lost, and might...and much of this litigation is marginal. Anyway, I became a Trustee of the Legal Resources Trust, and I'm still a Trustee and it's been in that capacity that I've maintained a fairly close relationship and am very proud and pleased to have had the opportunity to support it, because it is an absolutely wonderful initiative, a tremendously valuable institution in this society, and it certainly needs the support of the, of lawyers in private practice, and of the profession. Even now, having navigated through the years of hostility on the part of government and deep suspicion on the part of the organised profession, even today, it finds itself inevitably undertaking litigation, representing clients in matters where it is the government or authorities that are being challenged, and they don't like it. And so, it needs patronage, support, and a kind of fiduciary protection, which can best be offered, I believe, by other lawyers who are part of the organised profession.

Int Richard, you've given me a wonderful account of your involvement with the LRC and I wondered whether I could take you right back. (Laughs) You spoke about your childhood and also that your parents were very socially conscious but they weren't political. I'm wondering where your actual motivation and impetus lay in terms of really following your dream in terms of the type of work you wanted to do?

RR Hmm...I don't really have a simple answer to that question. I suppose it probably is a consequence of quite a number of influences and experiences, not any single one, some of those I've mentioned. But a growing awareness of one's situation of privilege, economic privilege, racial privilege, and the sense of living in the midst of a situation that was...abnormal...and I mean, I think that our parents helped to conscientize us in a way, which was ethical rather than political and there seemed to be an inescapable responsibility to do something about the society in which you found yourself, of which you were a part. And to try to empower people who were vulnerable and who were victims. As to why one does that...why would one not do that?

Int Exactly. (Laughter) Fair enough. The other thing is that you also mentioned the incident of where you felt very committed about certain things. For example, the speech you had written, and that hadn't been followed through on, and that actually made you resign. It seems to me that you were in a way, consciously or unconsciously, following a path to do something rather meaningful.

RR Yes. I mean, I think that in coming back to South Africa and deciding not to emigrate at that particular time, there was clearly a sense of needing to justify my being here, I needed to find something that is meaningful, a reason for being here. So that was most certainly involved. At an earlier stage, I'd been a member of the Liberal Party, which ultimately was banned. I became very friendly with Patrick Duncan, who was an amazing man, subsequently the only white member of the P.A.C. How he joined I

cannot imagine. It's never been explained to me, but he was. And he died in exile in Algeria, I seem to remember. Strange story. His father had been a Governor-General of South Africa, very aristocratic family...yes, I mean, I think, it's a kind of...it's a heart transaction. It's about a sense of involvement, commitment, responsibility, culpability, of sharing in the wrong and having a duty to do something about it. And of course, that recurs at different times in one's life. The one passage perhaps I haven't spoken about is...1985, '86, following the Rubicon speech, when P.W. Botha decided...told the world to go to hell.

Int Was that the time that you emigrated?

RR I'd left just slightly later than that Well, you'll remember it. And...suddenly the world seemed to implode and it looked as though this situation was hopeless. And that was one of the occasions on which, and there were a number, we felt that perhaps it was our responsibility to leave. Our children were mid...sort of early teens. My son had just received his registration papers for the SA National Defence Force. From then on, he was a boy of say twelve, thirteen, he had to apply every year for a deferment of military training. And the war in Namibia and in Angola was of course under way, with Cuba involvement although we weren't being told what was really going on there. And it looked like a tremendously menacing situation. And I began to feel there was really no long-term hope of a peaceful future for South Africa and decided to emigrate. Well, I say I, but I mean my wife and I talked about it, and with a heavy heart, decided that perhaps it was our responsibility as parents to give our children another kind of life. So we...having reached that decision...I began to feel that ambivalence about staying or leaving, and all the losses that one would suffer from going away and perhaps, the greatest of those losses would have been the loss of meaning, of purpose, relevance. And I imagined myself going to live in an affluent society, Canada or America, and wondering what on earth the purpose of life would be there, as compared with here. Anyway, this debate went on inside me for a long time, and one day, sitting in my garden, I asked myself the question, if I stayed...put it this way, what would be an adequate reason for staying? And I decided that there would really be only one thing that would justify it against all those negatives, and that would be if I could find a way of playing some role in facilitating a substantive negotiation between the A.N.C. and the government of P.W. Botha. So it seems a bit crazy, how would I do that, you see? And...it seemed highly eccentric and improbable, and I guess, in a way, I didn't believe there was such a role, but I felt that I had to...that I had a duty to establish whether or not that was possible. So one day, I sat down and wrote a letter to the Prime Minister, or the President, whatever the hell he was, P.W. Botha. Dear Mr Botha...(laughs) ...and I said basically, you know, this is who I am, you don't know me, this is what I believe, and I'm willing on a basis of absolute confidentiality to make myself available to explore the possibility of a negotiation process, if it is of any interest to you. The story then is told in my book. The first chapter's called "Dear Mr Botha" (laughs) .

Int Now that's fascinating

RR What happened is a long story, I won't tell it to you now, I'll lend you a copy.

Int I'd love to read it, thank you.

RR To my amazement... after about a month's silence, no reply. Incidentally during which I felt as though I was going to possibly be arrested... (Laughter)...for making such a treasonous suggestion.

Int It was the height of repression and resistance.

RR Yes. And (P.W.) Botha was on record as saying that those who met with and talked with the ANC were traitors – fraternising with "the enemy"....But there was beginning to be a kind of sense...Gavin Relly went to Lusaka; (Frederick) Van Zyl Slabbert played a very significant proactive role; and some highly improbable people... for example, Danie Craven, of all people, went to talk about playing rugby. So there was the beginnings of a non-governmental dialogue involving a number of different role players...and then IDASA was pivotally involved in Dakar, the Dakar engagement with the ANC. This was different, because this was me as an individual, with no constituency, no mandate, saying to the Head of State: How about it? Well, the reply comes back, to my absolute amazement...that he had requested the Deputy Minister of Constitutional Affairs to meet me and to discuss further what I had in mind.

Int Gosh.

RR Couldn't believe it. So that was the first of about twenty three meetings and I spent the next couple of years living a somewhat clandestine life, because it was required that I resign from my practice, and I put it out that I was going to...pursue other interests and concerns. That was my advice to clients. People would say, well, what are these other interests and concerns? And I of course couldn't tell them.

Int What about the LRC, because you were involved by then, weren't you?

RR I was involved. I didn't tell anyone. My pledge was to tell no one but ...with the authority of both sides, ultimately, (and I was dealing with Thabo Mbeki in the ANC.) I talked to a few people and one of them was Arthur (Chaskalson), and (Frederick van Zyl)Slabbert was another. But the LRC as such, no. So I was involved with this thing, and this is long before the uh...this is a couple of years before the substantive process gets under way, as recounted in the semi-official book by Alastair Sparks. And in fact, my initiative came to an end abruptly when P.W. Botha had a stroke.

Int Was it 1988?

RR Um, ja...'88, '89, that's right. So it's an extraordinary story and um, yes, I had all these parallel lives. I was involved with that, I was pretending to do other legal work...and I was dealing with the LRC amongst other things, but it was a big chapter

in our lives; and after it had come to an end, I was invited - through Arthur (Chaskalson) actually - to become one of the lawyers serving the negotiation process at Kempton Park.

Int CODESA?

RR Yes, what followed CODESA – the Multi Party Negotiating Process as it came to be called. And so I spent a year or two servicing that process and helping to draft some of the laws which would eventually...facilitate the transition. But interestingly, I never had any further contact with Thabo Mbeki...having met him a dozen times, in the most extraordinary circumstances, in hotel bedrooms in Europe and in Lusaka. Somewhat characteristically let me say, once I had no further useful role to play, I became dispensable or *persona non grata*, and although I made some attempts to contact him later, he never again replied. However, he did write the foreword to my book, an amazing foreword, quite embarrassingly laudatory...and I had hoped and assumed that a relationship might continue and that I might find a role in post-'94 South Africa, in some capacity, because I had been a channel, you see, that both sides had used for a while; but for whatever reason, he never again contacted me and...from time to time, I have seen him at a distance.. There was such an occasion the other day at the University of Cape Town, where he came and delivered some speech and we got as far as smiling at each other, nodding, but that was it. Anyway, that story is told in the book, and it was, it reads a bit like fiction, and it was scary, and there were a number of sort of sub-stories, sub-plots, including the fact that I acted in a big trial...the last of the big terrorism trials. One of my clients was Jenny Schreiner, the Tony Yengeni trial, that MK cell that was...um, so that was going on at the same times and then there's the story about an MK operative who by complete chance comes and lives in my garden; and nobody would possibly believe that I didn't know who she was...(laughter)

Int Well, it just sounds like a fascinating book and I've heard much about it from others and I'm looking forward to reading it.

RR Oh, really.

Int In terms of...the kinds of cases you took, you know you mentioned the bus fare case, the squatter cases, did you meet with a lot of resistance in terms of what you were doing within, not just your firm but also in terms of the legal fraternity around you?

RR Um...'resistance' I'm not quite sure that I would say yes about that...it was certainly regarded as unusual and...people would make comments like you do a lot of "political" work, whatever that meant. I wouldn't have seen it as political but...I didn't experience any significant prejudice or cost to my own practice. I mean there may well have been some people who regarded me as a little bit suspect, and particularly when you were wanting to engage with government, and you sought somebody who hopefully had a bit of favour and influence that they could employ, but I guess the answer to that is Machiavellian, whether it's better to be loved or feared. And he came to the conclusion it was better to be feared. (Laughs)

Int I'm wondering, Richard, given that...under apartheid Parliament was supreme, what do you think were the reasons for the legal victories incurred by, particularly the LRC here, you know, Rikhoto, Komani etc. ...not being overturned by the apartheid regime?

RR Well, my personal view is that there was a fundamental ambiguity in the...psychological, ethical, religious make-up of the Afrikaner. He wasn't...- I mean if you can talk in generalities like this - I never felt that the Afrikaner was a thug. Wrong-headed, yes, but he found a way to embrace his Calvinist, conservative, ethical view of life alongside what appears with hindsight to have been abominable behaviour towards fellow man, fellow human being. And I think in that conflict of values, lay the possibility and the weakness of the system. I think that the system could have survived for quite a long time had they been willing, and maybe one or two of the leaders of the past - B.J. Vorster for example - was willing to...employ all and any means at their disposal. I guess there were others who for different reasons acknowledged the depravity of apartheid for pragmatic or principled reasons but frequently, that conclusion also came out of a religious conviction. It became a Holy War, a Holy cause. If you have the chance, I would urge that you read the astonishing thesis from which I quote in my book, of Dr. Neil Barnard, a very sinister character, who headed up the intelligence service. He makes a statement in his thesis about God putting the sword into the hand of man in order to do his work in the world...sort of a sense of crusade, of this evil, materialistic, communistic threat...I mean it's like the Crusades, and they saw themselves as having a divine mission...to bring Christian values to darkest Africa, of having been a specially chosen people with a special destiny. But this link between Church and State was fundamental to their philosophy, and incredibly, the very foundations for apartheid were laid in their religion and were provided by their theologians. There was an ethical framework for it, so if you can bring issues of human rights before the courts...I mean, take the issue of man and wife and laws separating them- you could sense the discomfort. I mean, I give you an example, during one of those meetings that we had, on behalf of a squatter community on the edge of the precipice, when, twenty-four hours later, the community was under threat of the demolition of all their houses, we met with a man called Frikkie Botha, who was the Chief Bantu Commissioner; and...up stands a very simple but eloquent man, Kenneth Kewana and (Frikkie) Botha says to him, Kewana...firstly what's your pass number? Ok, now all that's intended to intimidate. He gives it to him. Then the Commissioner says, "So now where were you born?...you're a Section 10(1)(d), that's a contract worker!" "No, that's a 'borner';, he's born here!". "Yes", says (Kenneth) Kewana. (Frikkie) Botha says, "And what about your wife?" "My wife was born in Lady Frere". And so he says, "well, why did you marry her? You knew you wouldn't be allowed to live with her...you see. You got to obey the laws of the land."...and there's silence for a defining minute. And (Kenneth) Kewana says, "Mr Botha, love is love!" You know, it was one of those moments when the whole room fell silent. You could just see (Frikkie) Botha swallowing. And then to my amazement he told us; he said, ". I realise it's hard for you to imagine - but he said, you know, with modern technology, I can imagine the day will come when great aircraft will take off from D.F. Malan airport here in Cape Town and people like you will be able to go home for the weekend and spend the weekend with your wife and come and work like many travelling salesmen do in Cape Town...that was his solution to the

ethical dilemma. But in answer to your question, I mean, I think there was a soft underbelly in Afrikaner nationalism which was its religion, its adherence to a religious framework of ethics; and these cases...presented them with a huge kind of convulsion, you know...the problem of how did you reconcile A and B? And so, there were the fascists who were prepared to cast the law to the wind, but for the most part, in my view, the core of the Afrikaner people, was actually quite religious.

Int Certainly this has come up with other people who have analysed it similarly as well. I'm wondering also, during the 1980's, the LRC, and here I ask particularly about the Cape Town office, given that it was the height of repression, height of resistance, whether the LRC was subject to, you know, bannings, why it was not under threat of closure, and also you know...what do you think was the reason that the LRC was allowed to operate as such?

RR Hmmm, it's an interesting question. I think they navigated a fairly fine line, and at times they were under some degree of threat, and we know that they were being watched...there was one of our conferences where it was clearly established that the conference rooms had been bugged...

Int Was that in the Magaliesburg?

RR Yes, yes. It's a difficult question to answer...I think on the one hand, they recognized the integrity and sincerity of, and quality of this organisation. This was not some kind of covert front. It wasn't a kind of...I don't think they ever doubted that the LRC was practising law, albeit that its cases had a very significant political relevance. So I think there was a kind of grudging respect for the high quality of the people and of the work they did. If it had been shoddy work, if they'd taken unwise cases or they'd made extravagant claims that weren't substantiated by fact...Arthur (Chaskalson)'s a very conservative person...I mean, he frustrated a lot of his colleagues by his reluctance and his insistence upon...ensuring that the cases you represent were properly researched, were well grounded; that the facts would not be an issue, and that there wasn't an obvious weakness in the whole cause; and in a way, that served the organisation very well because, when it went to court, generally, it won. And it won on the force of its legal argument...it wasn't just making an emotional or a political appeal. It was able to ground its work by using law and by 'out-lawyering' its adversaries. I'm sure that was a key thing. So I think it would also be true to say that they not only respected the quality of the LRC's work and its integrity, as I say, but they may even have had an element of pride that our society could accommodate such an institution. It was in part an answer to some of their critics who said this is a fascist state, it's...you know, undemocratic and oppressive and so forth. They might be able to point to an LRC and say, well look, you know, we allow that. Whether they were also a little bit intimidated - that's possible now in the early days, the identity of the Trustees was important - they were "heavies" - and Arthur (Chaskalson) with characteristic strategic *nous*, chose a group of people who were not sentimental 'lefties', some of them were extraordinarily middle-of-the-road conservatives, and he kind of converted them to a belief in this cause...and they came...I mean, think of Charl Cilliers; you know, I mean, he wasn't any kind of a radical, he was in a big firm, representing rich clients. People like Carveth Geach, represented Anglo

American, but they were basically decent human beings coming from a different world, but given the opportunity to identify with this human rights organisation, they found its message irresistible, and became some of its strongest advocates and defenders. There were also people like Johann Kriegler and Sydney Kentridge, and others, who had been more clearly identified as critics of the government; but there were others who were conservative members of the legal profession, respected in their own right, and as long as they were there, providing that kind of paternal oversight, there must have been some comfort and protection in that. The lawyers might have been perceived as a bit unreliable and given to embracing subversive causes, but at least the Trustees were known to be "respectable."

Int I'm wondering also people such as Arthur (Chaskalson), George (Bizos), yourself, had lots of close...were in a way, closely aligned in terms of ANC, anti-apartheid movement. You'd represented people on terrorism trials, political trials, around the time of transition, what were some of the discourses around how the LRC was then going to approach an ANC-led government?

RR Well, I must say that Arthur (Chaskalson) and Geoff (Budlender) who followed him, were very clear about that and it was articulated quite specifically...and the organisation was reminded that its job was unchanged by the new dispensation – namely, to empower those who were vulnerable in society and to enable them to assert their rights and defend their interests. That frequently would mean not merely asserting their rights against capital and employers, but also, and very, very frequently against authority and the State, and that one shouldn't have any hesitation in doing that. It did give rise particularly in the beginning, to a lot of ambiguity, and...hesitation, I suspect. Because after all, these were our friends, and now they were in government, and we were on first name terms. It was no longer difficult to get a meeting with a Minister, you knew him, and he couldn't say no to you. Now, it would be one thing to go and nobble him in private, but if you were going to embarrass and confront him in public and take him on in a robust way, then you were going to, and we did incur, from time to time, resentment and wrath, as though one was being disloyal. But I think, to its credit, I'm not aware of any occasion where we backed down for fear of that kind of disapproval.

Int The LRC's been noted for taking cases against government, whether it's the apartheid government or whether it's the ANC-led government, and one of the cases is the TAC case. And I'm wondering whether that somehow has changed the tenor of the relationship between the LRC and the ANC government?

RR I think it was a watershed case insofar as the (Thabo) Mbeki government was concerned. (Laughs)...we may have a different one very soon. But...yes, I think that, (Thabo) Mbeki doesn't take kindly to criticism, he's an extraordinarily impervious character and I think, as we witnessed in the last few days at Polokwane, he suffers humiliation painfully. One could see it written on his face. Now, on this issue he has been humiliated, at all sorts of levels: in public debate; in the courts; he's the butt of cartoonists...and as at Polokwane, when he should have seen the train roaring down the tunnel, he couldn't or wouldn't get out of the firing line, he couldn't change course. It's an extraordinary aspect to his character, that having adopted a position, he

finds it almost impossible to bend. So it's all or nothing, I mean, its victory or defeat. But yes, I mean I do think the TAC case...cases, have been immensely important for the society, saved lives, many, and all credit to Geoff (Budlender). Though he had a wonderful client. (Laughs)

Int Do you think that that sort of case in the post-apartheid dispensation, has actually maintained the LRC on the map, or it somehow hasn't managed to do that, like it had during apartheid?

RR You know, it's a very strange thing. The story of the LRC, as we know it, and I don't know all of it, is astonishing. When I read the papers from year to year, which I get as a member of the Board of Trustees, and Executive Committee,...which describe synoptically some of the work we do, I'm always astounded by the range and the depth and the significance of it; and yet, in the broader society, the LRC is hardly known. Now, that's an astonishing thing. At one time, that may have been deliberate - a strategy to ensure its survival. It also represents, coincidentally, the character and preference of a lot of the people involved, particularly the leadership, Arthur (Chaskalson) and Geoff (Budlender) by way of example. Very introvert, kind of personalities. They're not "out there"; they're not the sort of John Dugards making big noises and grandstanding, they tend to be self-effacing, understating, and it's completely contrary to their culture and their style to talk about themselves, claim victories, promote the image, even tell its story. So the story is largely unknown; that's why you're doing your job. It's substantially unknown. Some of those who have been close to it know a piece of it, but the whole story is not known. Now, you ask about the TAC case, of course that case enjoyed quite a lot of publicity, but the identification with the LRC was obscure. If you read it carefully, you'd find it, sometimes. Frequently, what you found was mention of "Lawyers for Human Rights" - they mixed us up. It's better known, that organisation, which is a relatively small organisation but it's much better at making noise and so people get to hear about it, talk about...oh, you're involved with Lawyers for Human Rights...I say, no, Legal Resources Centre...And they reply "Oh, I've heard of it, but you know what I mean?"

Int I certainly agree with you, it's astounding, particularly given that I've done interviews abroad, the United States for example, where the LRC is described as the greatest public interest law organisation in the world. And given, you know, the strong tradition of public interest law work in the United States, that's quite a compliment. What do you attribute this kind of lack of recognition, whether it's general public or the legal fraternity or the corporate world, the state, you know in terms of the LRC's sort of lack of recognition? Or even the media?

RR ...I think myself it's more self-inflicted than imposed. I think the default exists in our own handling of our public image; it is just not there. Now, there's a...there's a whole Anglo-Saxon culture about understatement, and lawyers are not meant to be propagandist in this country (laughs) of themselves, and they are reminded that they represent a client. But the institutional ethos is one of doing the job and not making...and not making claims or trying to...propagate its self-image.

- Int And that ties itself somehow to the problem that...one of the things that's been said about funding in South Africa, is that the LRC has relied too heavily on external sources of funding and it hasn't really garnered enough funding in the legal fraternity.
- RR It's outrageous! I mean...this is not a poor country. But to this day, less than five percent of its budget is raised inside the country and there are really no significant donations. It simply hasn't built that kind of support base or...which involves at least in part, establishing its public recognition.
- Int The other issue, Richard, which is interesting, is that it seems to me that during apartheid and certainly the early part of the nineties, perhaps until '95...there were (Chaskalson) and Geoff (Budlender) and yourself, sort of really offering a very strong mentoring type of role, a middle tier of high quality lawyers and then a sort of lower tier in terms of up-and-coming younger lawyers, fellows, candidate attorneys, you know...and it seems to me that now, in a post-apartheid context, is it's very difficult to actually, for various reasons, to attract and maintain very good quality middle tier lawyers and also, the upper tier has also gone into government and come back, and gone away and so on...
- RR It's true, it's very difficult. One of the difficulties is that there is such a famine and a need for good black lawyers that they get swiped, and they get offered remuneration with which we can't compete, and therefore, those who stay with you, do so either for a while only...or unusually, have a kind of sense of social commitment, but that's surprisingly rare these days. You know, in the bad old days we had the affluence of a society that was so depraved and outrageous that it wasn't difficult in a sense to enlist people to commit themselves to something. What (Thabo) Mbeki has done, alas, is to preside over a process in which the vision, the commitment of the organisation, has been largely lost....
- Int You mean the ANC?
- RR Yes. And self-promotion, self-enrichment have become the benchmark...if you look at the whole civil society sector, it has not only been denuded of some of its best talents who have been taken into government - that was inevitable - but it's unable to enlist and retain people because there's...I don't know what, there's...I mean this may be part of what's been going on at Polokwane; but we have lost sight of the fundamental issue of disparities in our society between affluence and poverty...you know, the...it's very depressing to meet up with people who have, in the past, played such a wonderful and often courageous role, but who are now embarked upon self-serving careers, reaping opportunities and profits for themselves, being promoted to positions of great responsibility, and...and also reward - but who somehow have lost touch with the roots from which they came. And I include people of the quality of Cyril Ramaphosa and Tokyo Sexwale, people who have chosen to go into business and who have not evidenced a continuing commitment or concern for the underprivileged.
- Int I'm wondering about a man like Wallace Mgoqi?

RR Why wouldn't Wallace (Mgoqi) have gone back into the LRC when his career in the City came to an end?

Int I wondered that myself?

RR Good question. But you know, it's very tempting if you're a black professional today, the world's your oyster, enormous opportunities, it's all tilted now in your favour; black economic empowerment means that you've really got an enormous advantage. And that's...it's a rare person who can say "no" to that. Maybe one's asking too much, I don't know. I have wondered, actually, whether...a more sustainable model for the provision of human rights or public interest law, might not be a system that was more integrally located in the profession, rather than taken up into an organisation that is separately constituted and which has a specialized focus. It seems to me, you know, for example, why don't big firms set up public interest departments and fund it and employ good people? Some of them have. Shouldn't that be the model? It would raise a question if there's still a role for a specialized Legal Resources Centre that does nothing else? I don't know.

Int That pre-empts another question of mine, which is, you know, there are smaller public interest law organisations that have opened up, like the Aids Legal Project, and I'm wondering whether the LRC really is positioned within that space?

RR Yes. Well, there are specialized law projects: the Women's Law Centre, the one you mentioned...there's an environmental law body that's being formed at the moment, and that's also a possible development. One thought I have had but I mean this is, really top-of-the-head stuff - is whether the LRC shouldn't really represent a kind of "constellation" or a sort of an association of specialized units that focus on particular areas but which associate generally, and share in common resources and administrative capacity. That would be a possible model. And maybe it does have some difficulty in identifying at this stage what its focus is...or should be

Int You mean the LRC?

RR Yes, and to distinguish itself from other bodies in society which have chosen a more discreet and specific area. I don't know. In a sense, it provides...it has provided... a kind of umbrella, it has embraced the whole area of rights legal representation maybe that is too broad, maybe we do need an environmental body, a women's law project, I don't know.

Int But then that probably brings us back to the probably perennial tension, which is the focus on high-impact cases and the everyday need of the person who comes through the door...whose problem is quite important to them. And I'm wondering how the LRC of today is having to manage that, given that there are no advice centres. There are the University projects of course, clinics, like Hoek Street for example, doesn't exist anymore.

RR Ja, I think that's valid. I think that in the past it may have been easier to identify those significant cases...in part, because you were able to draw upon the experience and the filtering of those civil society organisations that were dealing directly with communities and people who were affected...whereas today the whole advice office movement is in some disarray. And if you like, "the enemy" is not so easily identified.

Int That's true, the lines are blurred.

RR Ja...some of my best friends... (Laughter)

Int What do you think would be the main areas of focus that the LRC ought to be focusing on for the foreseeable future?

RR Ja...it's my own sense that in the past, its role has been largely characterized by contest; and in the future, perhaps the emphasis should be on development, which is a more constructive involvement, and less adversarial. It no doubt will generate issues that require contest, but I would think that the task of this society is to address disparities and needs, and that the LRC should be more actively engaged in the developmental process, which in turn, perhaps, raises the issue of multi-disciplinary interventions, not just legal but collaborating with other skills, other abilities, which also feed into the development process.

Int Richard, I've asked you a range of questions and I'm sure I've tired you out. I'm wondering what are the possible questions I may have neglected to ask which you really think ought to be included in an oral history of the LRC?

RR (Laughs) It's a huge canvas, you know...there are details which one will pick up, perhaps somebody...you'll survey documents, maybe, and I've got a host of documents, somebody must collect those and at some stage people must go through them and try and put those papers in some kind of order and archive. And the specific cases, many of them have been written about, many of those reports are contained in the meeting papers of successive annual general meetings. I don't know whether you've seen those.

Int Not yet.

RR But as Board Members we're generally given, we used to be given several hundred pages of case reports; and the individual practitioners became rather competitive with each other but the result was that they provided some marvellous material describing the cases, because our overview is at a very high level and what we're really talking about is: what were the cases, what was their significance? Much of that is actually contained in paper and not just in memory, and should be collected and indexed. Ja...I think we've talked obviously in quite general terms and at a personal level; and we could go on talking for hours, there are many, many stories...

Int What do you think are the stories that remain to be told? The ones you are particularly fond of?

RR (Laughs) Oh dear...well, one day, I had been raising money for the LRC across America and...I, having been in San Francisco addressing some lawyers there, I couldn't resist going to the Grand Canyon and slept overnight in Las Vegas, somewhat to my discomfort, in view of the fact that I was on a mission of mercy, you see. Nonetheless, I allowed myself a certain amount of money to lose on the tables and went down there and I remember having difficulty losing it, because I had decided I would only go to bed when I had lost it all, you see. (Laughter) And I had an early morning plane to catch. Finally, I did succeed; I made bigger and bigger bets and got rid of it all and went to bed. Woke up early to catch a flight to Washington and you know, all over Las Vegas, there are these slot machines, so I found I had a few quarters left in my pocket and I dropped one, in fact I have to say I was in the urinal, the men's room, there too was a slot machine. And I dropped a quarter in, and I won the jackpot. So all the bells started to ring and of course, money spurted out of the thing. At that moment, the flight is called. I rush into a shop and buy a bag, an airline bag, and ladle coins into it until it was so heavy I could hardly lift it up and then, they say, it says: This is the final call, we're going to close the flight. Now I had a whole lot of arrangements after that. The slot machine had a notice, which said: "Payout incomplete. Consult cashier." You see? So, this is an LRC story, hey? So I abandoned the machine and I caught the flight and just about got this bag onto the plane. This is hand luggage, but I could hardly lift it off the ground. Flew to Washington.

Int I'm surprised security let you through.

RR Today they wouldn't! I mean this thing, the handle was falling off the bag, so...and I remember the taxi driver, I was going to see Reuben Clark (Sr.). The taxi driver offered to put my luggage in the boot and I said, no, no, I'll do it myself, didn't want him to know what this thing contained. So I put it in the car, you know, you see the car sort of heaved down...we drive to Reuben (Clark Sr.)'s flat and I take the lift up to this very comfortable pad that Reuben (Clark Sr.) and his wife had. So after I had unpacked - we were going out for the evening - I did a rather theatrical thing, which was to say to them, "Do you people ever need quarters", you see? And they said, of course, everyone needs quarters - parking meters, Laundromats. So I went and got this bag; unzipped the bag and all this money fell onto the floor, you see, and there was a huge mass of it, and we rolled around laughing looking at this. Reuben (Clark Sr.) wants to know whether I'd robbed a bank, you see. (Laughter) Anyway, we went out to dinner, we left the money on the floor, and when we got back, I was tired, we went to bed. I thought it would be a bit gauche to collect my money off the floor so I left it there. Next morning when I woke up, the money had been cleared up and I waited for Reuben (Clark Sr.) to tell me where he'd put it. But he said nothing and the day passed; and the next day he said to me, "By the way, how much money was that that you gave us? He said, it was very generous of you. And that's the way I lost all my winnings, I gave it to Reuben (Clark, Sr.) by mistake, he swiped it. (Laughter)

Int That's a wonderful story, Richard. (Laughter)

RR So by accident I won it, and by accident, I lost it !.

Int You must be very lucky. One of the things you know, you had said before, (and my last question), before we started the interview was the kind of quality of people the LRC seems to have attracted, not just the people who work in South Africa within the LRC, but also on the Board of SALSLEP, on the LAT and the LRT, and I wondered whether you could talk a bit about that?

RR Hmmm, yes... (Recording ends)

Final Track

RR The question you asked was the quality of the people, how, why...hmmm. It is extraordinary, isn't it? I think, you know, one of the wonderful dividends or benefits of living through this history has been that the situation itself...called for and facilitated special human quality. It required people of an unusual quality, to engage with...an issue that was unpopular, that brought with it a certain amount of personal cost and sometimes danger. It sometimes did involve a measure of courage... And you know, I think that in a sense, this is what South Africa has lost today that some of the people we've been talking about, were the products of a very hostile environment, and like the desert flower, you know, they evidenced a particular beauty and strength and qualities that were really unusual...and...it's sad that today one is less conscious of those kinds of qualities. They are there, but they're not to be found so easily. So that's one...as you will know already, I mean there are some wonderful people, you know, and why should it be so? I mean, I think that...the botanical metaphor is a good one - That there are plants that only thrive with scarification. We have some flowers here, the protea, you know, Proteus was the god of fire, wasn't he? And that seed will only germinate after fire. Now there are some people perhaps, who need fire...when you see them constellated as they were in an organisation like this at a particular time, it's quite stunning...whether that will endure in a society that is less challenging in that same sense, remains to be seen. And I have a great deal of respect for many of the people who are now involved; and many of them do indeed retain those qualities and evidence them, but there are also others who see working for the LRC as a career, as a way of earning a living, who are more disposed to asserting their own rights, are interested in their remuneration package. I mean in a sense, that was irrelevant in due...In fact, as Trustees, we frequently had to contend with people like Arthur (Chaskalson) insisting that they should be paid less not more, but less! And promoting the lesser paid. You never added a fixed percent across the board. It was always a case of promoting the lesser-paid employees and narrowing the gap. That was a sort of institutional ethos. Also, everyone's remuneration, top to bottom, was available and known to everyone. So it was a shared enterprise...those at the top always paid a much bigger price, made a much bigger sacrifice than those at a lower level; but...I must confess that I miss the sense of cause, of privilege, of having the privilege of being funded to do, what you want to do, and doing it because you wanted to do it, because it's right but also, because it's actually...I think that if you ask the people in

those days – I talk about *those* days (laughs) – you would find that they were extraordinarily happy and satisfied and there was a strong sense of community and shared pride and purpose; and I suspect that today, the response you'd get is more ambiguous and I think, I mean this is one of the reasons why I didn't immigrate, that to live in a place which is undergoing the sort of challenges and stresses and strains and fears, brings with it extraordinary reward. You know, you climb up that rock face, you will be terrified at moments, but you will experience exhilaration when you get to the top, which you can't find down here. And so, I remember my son saying, when I...having decided to stay, I spoke to each of our children, and I asked Jonathan (Rosenthal), my son, whether in the light particularly of his military call-up papers, whether he wouldn't like us to make it possible for him to finish his schooling overseas. And in his own language, he said, I don't want a life that is warm and fuzzy; I want a life that is meaningful. And that's...you know, people would often say to us, friends overseas, why do you still live here; why don't you leave? And that's part of the answer, because we had here an opportunity and a privilege given to few, not only to witness a historic event, but to be able to play some small part in it, and what greater satisfaction could anyone have?

Int Thank you very, very much, Richard, for not just for your incredible time and generosity, but also for your reflections. I really appreciate it.

RR It was a pleasure.

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