

Louise du Plessis

LRC Oral History Project

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Int This is an interview with Louise de Plessis and it's the 9th of July (2008). Louise, thank you very much for agreeing to be part of the LRC Oral History Project, we really appreciate it. I wondered whether we could start this interview with you talking about your early childhood memories, growing up in South Africa, what that was like, where you grew up, etc, family background and your sense of social justice and injustice, and where that evolved? And what was the journey that led you into the legal profession?

LdP Well...I grew up in a typical conservative Afrikaner family. Low middle class, I think, especially when I was very young. I don't know, this thing about where does my sense of social justice come, I don't...it's a question between friends that similar mind that we always talk about that why maybe one person in a family will have a tendency to be more sensitive towards such issues. So it's not...I'm sure...so I can't tell you about certain incidents that had an influence on my life. But I mean, I'm the oldest of five children, so that's why...one of the other children are, specifically in this direction. But I remember when I was very young there was...of course I grew up where you weren't even aware of what was going on in the country, because of this apartheid regime in the schools and so on. But I think I always had a...ya, like I said, there's certain incidents that definitely had an influence on my life like...it's small things. Like being a primary school child, waiting for the bus and I saw these white school children coming past in another bus and who spit on a black man. So I remember things like that that definitely made the impact. Yes, and then after school I wanted to...oh, I must just say in high school as well, there were gender issues that we took up, like why the hockey team didn't have the same kind of resources as the rugby team, and things like that. And I was like, in school as well, there was the one incident where the whole school had a sit-in because...I don't know what was the problem at the school, but those things that never happened in Afrikaner communities. But anyway, after school I wanted to go and study and they tested me and they actually said I must go...if I wanted to go and study social work. And then I went for the test that you know they always give to standard ten, they said, no, I must go and study law. And that's how I ended up in law.

Int And where did you study law?

LdP University of Pretoria. In my first degree.

Int And what period was that?

LdP Um...that was 1986. So I went to university and I became involved in a program at Tukkies of giving classes to black children at night, and that was in Ga-Rankuwa, and through that I met some people and then became involved in Students for a Democratic Society, because NUSAS, they didn't allow NUSAS at Tukkies. So it was similar to NUSAS but just they called it SDS. And then of course I just became involved and became part of that circle and moved in communes with people that's

same minded and so on. So especially my one friend, Andries Nel, he's a Member of Parliament for the ANC, he's actually a deputy whip. So we stayed together for years and years in different communes. We studied and became politically very, very involved. I stayed in houses that were petrol bombed by the Security Police and participated and arrested...not for serious stuff, but were arrested twice for political involvement and so on. So...then I did my articles at a very, very, one man band, Mike van den Bergh, who's very conservative. But I then was always, because of the people that I knew and so I hanged around with lawyers for Human Rights a lot and also a bit with Legal Resources Centre people.

Int In Pretoria?

LdP Ya, in Pretoria, and they referred work to me from OHR and from LRC and stuff. So, and that, I think the most interesting thing I did while I was doing my articles, I was working on the petition for...it must be the last petition for the two guys who was on death row. And they...although we knew that they had to abolish the death penalty we still had to do...it was just a formality of doing the petition for the them, so that was quite interesting and we took up that cause to say, they were so long on death row that that was inhumane. So it was very interesting working with psychologists and stuff. But that's...so it's actually a bit strange because this guy that I did my articles for was really conservative. And then...so that was...ya, like I say, that was quite interesting. And then after my articles, Durkje Gilfillan left LRC to go...she was appointed as the Land Claims Commissioner, and she asked me to...then her position was vacant and I...LRC...oh, before that I actually, I was at that stage I was also...Lawyers For Human Rights also had a position that I could take but that was in Mafeking, so the LRC...and also the LRC work was for... **inaudible** more what I wanted to do, and yes, that's why I ended up at LRC.

Int Ok. So that was by 1996?

LdP That's 1996, 1997.

Int Ok. I'm going to take you right back because you mentioned growing up in Pretoria, growing up in a fairly conservative family, which as you say, typical, being the oldest of five children. I wondered...in terms of family discussions about what was going on ...in terms of issues around poverty, the disparities...were there any...discussions at home?

LdP I can't remember anything. Nothing at all. Obviously when I was a bit older there was...not even then, no.

Int Because...what struck me was that when you mentioned the incident about the school bus and the children spitting on someone, I'm just wondering, you seemed horrified by that, and I think you were at primary school?

LdP Mmm.

Int So you seem horrified by that and I wondered where you get that sense of being so horrified, was it just because it was another human being rather than he was a black person or you realised that it was a black person and you specifically...?

LdP Um, I don't know why, you know, but it's...I'm trying to remember because I remember there was something else is what, I don't know where it's coming, I think if one really analyses it, it might come from, when I was very young I had a very strong sense of community where I grew up. I loved that community, we were really poor but...and I had a very good relationship with my grandparents and so, and that, and I can remember that feel, it was interesting and nice and secure, despite the poverty and so on. And...you know, it's a bit strange now to try to explain it to you, but I think it's that sense that things are fine and secure and so on, and maybe if you see something like what happened to that guy that they spit on, you immediately just got this sense of that's not what it's supposed to be.

Int It's your sense of right and wrong?

LdP Ya, ya. But...ya...I don't know where it's coming from. That's actually the thing. It's difficult to say. Because I can't say that my brothers and sisters have the same...same awareness.

Int It must have been somewhat difficult for you in a sense that...you mentioned the gender issues, which I think is also about discrimination, and right and wrong. But then you go to university and then you become involved with black people, you have contact, daily contact, you're working with young people...?

LdP That's the first time, I think, except for our domestic workers, and I can remember, you know, that...I can remember a sense like that when I was very young as well once the domestic worker came back from holiday, and I ran up to her and just hugged her, and my mother told me, no, that's not done. That's the only thing I can really remember about black/white when I was...and there was the...I remember also the Indian...oh, yes, that's another incident that actually had a huge influence on my life, is that when I was also very, very young, there was a market here outside Pretoria, vegetable and...vegetable market, the Indian market. And we always went there to buy our stuff, and while we were there, there was a young black boy that they caught, had stolen an apple, but the punishment was to rub some white stuff into his hair. And obviously it either burned him or...I don't know what but that was the...and I remember that as well and that horrified like...

Int So who did that?

LdP That's what I can't remember. I can't remember if it was a white or black or Indian guy who did it, but I remember very well it was a little black boy that they caught who stole an apple?

Int And then...growing up, and then you went to the University of Pretoria, and then you became involved in the student politics, and I'm just wondering how that in some way coincided alongside the fact that...your siblings were not involved and also you were the oldest in your family?

LdP No, no, my family wasn't very happy with me. But...because I was kicked out of the church then. I grew up in the Dutch Reformed Church NGKerk, and because of my political involvement that wasn't very nice for my mother. And that was one of the **inaudible**. No, they didn't like it a lot. Especially...my father was, I think, more conservative than my mother, but also more open, wanted to discuss things, so...but they got used to it. Moved out of the house very quickly and I worked at...while I was studying I worked at Weskoppies, it's a mental institution, so we could work as student inaudible at night, so you worked the night shift. When I started there, there was also still separation between the black and white wards, and there's a person that I met that was the first black matron, Maureen Mabena, and also the...she's actually the superintendent of the hospital now. And she also had a huge influence on the way that I...not that she really was so much politically involved, but I think I found out, but that's **inaudible** discussion it was just the person that she was or is...

Int In what way?

LdP She's just like this extremely impressive, decent, intelligent, nice woman. I mean, that's why she most probably appointed as the first black matron in Weskoppies, first superintendent, first woman, you know, everything. Ya, so...luckily for me, just to come back to my family, I moved out of the house very quickly, and stayed with all these friends, this bunch of lefties. So my parents knew I was involved, but they never knew I was arrested for example, or...one night we were in Mamelodi in a township and I hit a person...somebody had run in front of me, and it broke my window and so I had to tell my mother, no, I was actually in Lynwood and somebody just ran across the street (laughs), so...and the other funny thing, for example, was the one time I was arrested, my younger sister was also arrested, but by accident and totally...there was a huge women march, and we were part of the marchers. And I was arrested, and what happened, she was still at school and she and her friends came into town, I think, not even aware...weren't even aware of a march had to take place. And she and her friends were waiting for the bus on Church Square to go back home and the police were just like arresting everyone that they passed, and they by accident arrested them. So when I went in...when they took me into the police station to take my details, there was my little young sister sitting there (laughs) waiting because then the police realised they made a huge mistake, they arrested these young children. So I had to tell her, please just don't tell my mother, then I was scared that my mother will come in before they managed to get me out again (laughs). So I think my parents, of course they were aware of what I was thinking and...but they weren't aware exactly how involved I was.

Int And then when you finished your undergraduate degree, did you go...continue to do law at the University of Pretoria or did you do it...?

LdP Yes, I did. I first did my BProc...I started with my articles, after I did my first sojourn there and I realised it would be quicker to be admitted as an attorney if I did my BProc so I did my BProc after LLB.

Int I was wondering...you chose a very conservative person to do your articles with and I was wondering what the reason was?

LdP You know...I think...you can ask Johan...I not thinking about things like this, I did my articles and then this guy was a friend of my father...when I started my first year then my father came and said: listen, you can go and do your articles with him. And there's always a bit of a struggle to do articles, so I thought, oh, well, off I go, and I did. I didn't think of it at the time. He was very conservative but he's also into art and he sees himself as a bit of an actor and so on. So he's conservative but you could talk to him.

Int So were you getting work from Lawyers for Human Rights and Legal Resources while you were doing articles?

LdP Yes, they just referred matters to us, if they couldn't do it, with civil matters, whatever, they would refer it to us. Because obviously in Pretoria there isn't a lot of people (laughs) who were prepared to take on...especially issues around, at that stage, around domestic violence and...

Int And was he prepared to have that kind of work?

LdP Yes, he didn't...

Int ...didn't seem to mind. That's interesting. And so the people that you started meeting from the Legal Resources Centre, were they people from the Pretoria office?

LdP Yes, yes.

Int Ok, so some of them would be...?

LdP Well, I think Durkje Gilfillan, because Durkje and her husband were involved in Black Sash and so we also attended their meetings. Yes, I knew Durkje; at that stage I didn't know Nic de Villiers who opened an office here in Pretoria. So it was Durkje (Gilfillan).

- Int And then...by this time apartheid had ended and...what had you been doing after articles?
- LdP No, immediately when I stayed on for a few months with Mike van den Bergh, and then I had started with the LRC.
- Int Ok, so it was almost immediate. At the LRC itself, you said you had an offer at Lawyers for Human Rights but it was really the same kind of work at the Legal Resources Centre...I'm just wondering in terms of public interest law work, what kinds of interest did you have in particular?
- LdP Well, that's the funny thing, I was just generally doing human rights work, and then Durkje's (Gilfillan's) position was open and she did land reform, and when I started at the LRC I promised her...I didn't know the difference between a estate occupier and labour tenants. I actually didn't know a lot about it. I was aware of the land reform program and so on, inaudible, so I just started to do it and got into land, mainly into land.
- Int Ok, so your work's been predominantly land issues?
- LdP Land. A bit of gender, and then the gender a bit of specialised into customary law issues and so on. It linked very well with the land issues. And what else...a little bit of environmental, a little bit, not a lot. Ya, but mainly land.
- Int Ok, and I'm wondering in terms of land issues....any particular cases that were very either challenging and unsuccessful or really very rewarding in any way?
- LdP Well, you know, the thing about land is, I still have almost all those cases that I started with how many years ago, because that's the way...they're still here in the office. But I think the case is...the one case that was very nice for me to do was the Kraanspoort matter. And that was the first land matter that was referred for oral evidence. So that was just in the sense of doing that and being involved in a new process, and also my mother's family...my grandmother, lived on Kraanspoort at some stage. So I had that personal link to Kraanspoort as well. And it was extremely interesting and a moving case. You know, the evidence in court. And I always think that it's such a shame that that evidence is just going to basically go nowhere, that nobody is going to do something with it.
- Int Is that because the Land Commission is no longer...?
- LdP No, no, I mean, just the oral history that was given in the matter was extremely, extremely moving and interesting. Ya, so I think Kraanspoort and then of course inaudible that I'm still working on.

Int Could you talk about that?

LdP **inaudible** is also a land claim but it was the first referral, direct referral to the Land Claims Court. So first is always good, you know, because it's all those little struggles of doing this first and (laughs), not the first, but just trying to figure out how to do it and so on is nice. And...agh, it's just like...it was interesting issues and challenging issues and we were successful with the first two trials, so I must do the third one and the final one now. And then of course the Shibi matter and that went to the Constitutional Court where black women got the right to inherit property. Ya that was definitely a highlight. And that's actually funny because that's a case that LRC referred to me while I was doing my articles, because in the end it turned out ten years after that matter, it ended up in the Constitutional Court giving black women...so I took it back to LRC (laughs) when I finished my articles and I'm really slow on cases. I finish it but I don't...I'm extremely slow.

Int But I think land work is slow by its own in nature...

LdP No, it is, but added to that I'm like extremely slow. But that is the opportunity the LRC gives you, you know, to work and really to go into detail. It's not something that every person...what do you call it...it's like a privileged position to be in.

Int So you worked at the Pretoria office until what stage? Did you work for the full ten years at the Pretoria, until it closed?

LdP Yes, yes.

Int I'm wondering if you could talk about the Pretoria office, because I hear different things about the way it was run...what were the difficulties, the challenges, and I wondered whether you could talk a bit about that?

LdP Well, I think, the Pretoria office, I still think, and I will maintain it is definitely the office that did some of the most amazing work. And you can go and look at the case now, that's how it...and also the, I think, the volume of work that came out of there. but that was mainly to do with the way that Nic de Villiers was thinking around things and how he planned things and so on. But obviously if it was only that it would have been a great office, but part of Nic's personality was then also there were problems. I mean, we had a very bad relationship for a long period of time. But I think, you know, his personality...he's a wonderful, wonderful lawyer, he's really good and especially he's an amazing public interest lawyer, but, you know, he's got all these personality clashes with everyone so that caused huge problems in the office.

Int I'm wondering whether there were gender issues in particular?

LdP No, of course there was gender issues. I think that was mainly the problem, was the gender issues in the office. And it started off with...I mean, the whole clash in the Pretoria office came from a workshop relating to gender issues.

Int How did that...I wonder whether you could talk about that, when did that happen?

LdP I can't remember, it's a few years ago. That must be four or five years before the office closed, there was a workshop and that was done by **Ilse Olckers**, a well-known gender lawyer. It was facilitated by her. And I don't know whether...Nic (de Villiers) just stormed out and threw a tantrum and then from there on the relationship in the office just fell apart, especially because I was the gender person, regarded as the gender lawyer. I just think he had his own gender difficulties and personal issues around women and so on, so that led to some of the problems in the office. But you can't take away the fact that he's really a good lawyer. And he did very nice cases, very good cases. And also, I think, the office was managed very well, if I compare it with...I know what's going on in some of the other offices. You know, in a sense that it was just difficult just to deal with, but despite that there was also good work coming from the office, because I think the other thing is that it was really an office that was run...we were very focused on taking on certain issues. At some stage all the little crappy cases were closed. And also the people in the office, well me, and Ellen (Nicol) and Nic (de Villiers) were there for a very long time and we were quite specialised.

Int Sorry, Ellen who?

LdP Ellen Nicol, who did the environmental law. So, you know, we were very specialised on the work that we've done, and the younger people that came in could then be supported and...so...

Int So you focused on land, gender, environment...?

LdP And social welfare. Ya, Nic (de Villiers) did the social welfare cases. And then if a younger lawyer could come in, you know, after that if they came in there was...not always very successful but we kind of tried to support him and so on. So I think, you know, the Pretoria office actually the way they took on cases, the way that they managed their cases, is one of the better offices. You know, if I hear what the other offices were doing, some of the cases that I did, we were just laughing about it most of the time.

Int So did you experience in Pretoria some of the tension between the fact that of course there's a specialisation and need to have focus areas, but then there's also the everyday public interest work, the ordinary person who walks off the street with an issue? Did you find that that's something the LRC could turn away and where did you turn it away to?

LdP You know what we've done in the Pretoria office, we never turned anyone away. We had a screening process and we were always trying to improve that screening process. Then we did this, then we did that, then we had the lawyers in, the attorneys there to be part of it. Then we tried to get a paralegal only to do that and...but what we've done is we put up the...there was a directory that was compiled by Mandla Skosana, who was a paralegal in the office, to say where do you refer people to with any problem, it was like a thick...he worked on it for very long...so we had a very good resource mail kind of thing to say, ok, fine...we never told people just to go away. But what we've done is we...you know, it is amazing how anybody from the street...some of the most amazing cases came from people from the street. I mean, there was good relationship with NGOs and so on, but you could actually pick up good public interest impact cases if you have a proper screening process. But the thing about this, because it's a new Constitution, it was new law, it's also easy to get an issue out of any case almost, because there was always this field open to you to go and do some nice work. No, we never turned away people. I mean, I was always in favour of...because at some stage I wanted the LRC wanted us to close the screening...

Int This is the National Office?

LdP Yes. Well, at the AGMs there was always discussions that we try not see people from the street anymore that referrals must come from NGOs or paralegals or advice offices or whatever. **Inaudible** that is also part of LRC, I **inaudible** can allow that.

Int But that's changed in a sense that...or that hasn't changed maybe because what's happened is people still come off the street, so did it ever resolve itself, this kind of tension?

LdP No...I don't think in the Pretoria office there was any, but it wasn't a huge tension. I think that maybe because of the other tension in the office I wasn't so aware of this tension and I would have just ignored it if the national office told us that you cannot see people from the street. Especially because, you know, the Pretoria office, I mean, like all the other offices, but it covered such a wide area out from KwaNdebele, through all the Soshanguwe, Garankuwe, and so...so I can't see that you can turn away people. But I mean, still here we see a lot of people.

Int Off the street?

LdP Well, people that have been referred, most of them LHR, or now and then off the street, ya. That's aware that we are here now, so...of people that's coming back from LRC. I think sometimes they just phone to say, I just want your new number so that I just know where you are so that if there's a problem (laughs), people that I did small cases for that still is keeping in touch. There's definitely a huge need, there's no doubt. I don't know what people do if they have a legal problem now. Because LHR doesn't cope with it. There's COB.

Int What is COB?

LdP The Citizen Advice Bureau and advice office.

Int But they're not lawyers are they?

LdP No, it's old women, like...I say with all respect...who are doing wonderful work, but...anyway, you see, **inaudible** but it was me and Nic (de Villiers) and Ellen (Nicol). But then there was Beulah Rollnick that was the old woman in the office, the paralegal, who only did social welfare work. I mean, she didn't get impact litigation but then when Paula Howell joined the Pretoria office, Paula (Howell) started to get those issues out of the social welfare cases, so it was a very good team. And Paula (Howell), so it was very, that's why I say, even those people that really specialised, and I think also that's the success of the LRC is the fact that there are people who specialised in certain areas.

Int Was Hanif Vally, Charles Pillai, were they ever part of the staff at some point?

LdP Hanif (Vally), I've met Hanif (Vally) before I joined the LRC, but when I joined then he'd already left. And then Charles (Pillai), we appointed Charles (Pillai)...ya.

Int And how did that work in terms of national...did Nic (de Villiers) continue to be National Director?

LdP No, he was never National, he was Office Director...

Int Regional...?

LdP Ya, Regional Director. Then we appointed Charles (Pillai) specifically for the director position.

Int Oh, I see, ok, and how did that work in terms of...what were the difficulties with that?

LdP There was no difficulties for us, because we could do what we wanted to do. Charles (Pillai) was there, you know, in the office...

(Interruption ...interview resumes after a brief interlude)...

what we've done, when Charles (Pillai) was there, the office was run...I'm not dead sure that Charles (Pillai) ever...I must try to avoid this...I don't think...I'm not certain if Charles (Pillai) ever had such a good understanding of the kind of work we did. But again it wasn't a problem because me, Nic (de Villiers) and Ellen (Nicol), could continue, or didn't need that kind of management on our case law. So Charles was there to manage the office and the admin staff and do things like that. And just

leave us alone with our work. Because that's what I think all three of us preferred to do...

Int But what was the reason appointing someone who didn't really have a good grasp or did you not know that really at the outset?

LdP Oh, no, of course I think his heart's in the right place, but **inaudible**. I don't know we always had this...in the office we always had a bit of a debate about must an office be managed by a lawyer? Why must it be? Are you not wasting resources by using a lawyer to manage an office? Why don't you just get an office manager to come and do it? Because a lawyer's time must be spent on cases. So it didn't really matter so much that Charles (Pillai) maybe didn't have such a good grasp of...but I think, I mean, obviously he felt passionate about the work.

Int So how did that end in terms of the office closing down, because it closed down quite abruptly from what I can gather?

LdP Ya. Well the office...well, I must say there's a new Director who came in, we had to cut the budget. There was obviously tension immediately between the new Director and Nic de Villiers. I mean, he's a very complicated and difficult person to deal with. And so I don't think it was a too difficult choice to do that.

Int Who was this National Director?

LdP Janet Love was the National Director.

Int Okay and so there were difficulties ?

LdP Yes. And of course, I mean, there was always a debate about must there be two offices in Gauteng? So...and ya...

Int You worked there for ten years, that's a long period of time, I wondered how you felt, because you'd developed obviously, despite the difficulties, you did really interesting and important work, and I'm wondering how you felt about that?

LdP Well, I think there's a few issues. The one was that I felt that it's absolutely ridiculous to close that office because of the quality of work that came out of the office. I also felt that what's going to happen with all these people? Because I see the people coming in every day, I knew that that whole structure that one had, that one...you know, the structure and the relationship we had with the advice offices, you know, that's the whole of the Transvaal. For those reasons I thought you cannot close the office. But I think I was in a privileged position that Janet (Love) gave me this opportunity to continue with my work in my own practice, and then also Ellen (Nicol) continued with her work in Prince Albert where she moved too. So it was basically

the work of Nic (de Villiers) that...but it's important work, I think, it's such nice work that **inaudible**...LRC doesn't have...well, there's some other people who touch on some of the issues but he also specialised in that...

Int You mean the social welfare?

LdP In the social welfare work. Ya, and of course I felt for Nic (de Villiers) it must have been terrible because he opened that office years ago and now it's closed.

Int So when in 2006 when it closed, was it an almost immediate offer from Janet (Love) for you to take on that work?

LdP Actually what I did is I resigned beforehand and then she asked me to stay on just to see to the close of the office and so then I've done that, and then she made this offer, well don't I want to continue with my practice? And also LRC also of course needed a correspondent office here because of the state departments and so on, it's a lot of litigation is taking place in the Pretoria High Court. You know, it's actually a financial decision for them, it's a good relationship that we can be their correspondents as well. And also, you know, if they need anything, if they come and work or they're litigating at the court, they know they've got a computer here and they've got all the resources and they can come and...so if they want they can do that as well. And Paula (Howell) sat here with us during the week and work until her contract was terminated.

Int Paula Howell?

LdP Ya.

Int And so she's been here until recently?

LdP Well, she's going to continue with some of the work but just from here on her own. And Durkje Gilfillan is also here with us as well, two days a week, three days with LRC. So we still have a very close...

Int It seems like you have continued in many ways.

LdP Yes, no definitely. And also in the LRC is...my partner here, Adrian Vorster is also doing work for them. He's taken over Ellen's (Nicol's) cases now that she left. So...ya, our relationship with the LRC is very strong. And it's actually it's perfect. It's...you know, it's perfect for me, I don't have to deal with all those NGO politics, but I can continue to do the work, so it's...what more do you want (laughs)

Int It's worked out for the best....?

LdP For me definitely. Oh, the other important, the other factor that I was very worried about is of course what's going to happen with the staff. Because although I screamed and thought they were quite useless most of the time, you know, it's still people that we worked with for very long. So Sarah is here, and she's also on part time doing work for the LRC if they need something to be done. And we managed to get positions for everyone else. Except for Mandla (Skosana), the paralegal, but he was on his way to be fired as well so it was...so in the end I think it worked out. Maybe it is also, you know, the admin staff was there for so long, I think it's actually a good thing for all of them to make a change because there they got so stuck in the ways, with all the tension around the admin staff. That's always the issue in the LRC. I think this...they confuse this equality thing...it influences proper working relationship with regard to the admin staff.

Int You mean...centre wide or just Pretoria in particular?

LdP No, I think definitely everyone.

Int Really? So there's this confusion? In what way?

LdP Ya, I think there's a confusion in the sense of people don't always understand what their positions are, and who must do what, because LRC tries to be...whilst very long, very lenient, because of just being a public interest firm, and they try to build in this equality. Everyone got confused and just played out the people don't work properly. That's more or less in a nutshell, I think. But that was definitely a bit of an issue in the Pretoria offices all along.

Int Was it an issue in the National Office?

LdP Well, from what I could see, yes.

Int Do you ever go now to Johannesburg to...?

LdP Mmm.

Int ...because now that it's consolidated, and I'm wondering what your sense is of how it works?

LdP Well, I think it was...I think...I'm not dead sure about the Jo'burg office, what's going on there, I get the feel that there's not a lot happening, but there's a lot of tension between the national office and the Jo'burg office with some people, and I get the feel there's a lot of tension between everyone there. And there's a lot of backstabbing happening. Don't really play this to them as well, because this might be a bit of a problem. No, but I really think so...I try to be a bit impartial and

just...because it's like I say, I'm out of that and I'm very happy. So I talk with a lot of people and there's a lot of complaining coming and going between all those people. I've got the feeling there's not a lot of trust going on anymore. So at old LRC where people really worked there very closely and so on and trusted each other and had very good relationships, but I don't get that same feeling anymore. And that might be because of insecurity and the financial pressure that's on everyone, and...but I think the one good thing that happened is that a lot of people that were dead wood were retrenched. That is definitely a good thing, you know.

Int Are you talking about admin or...?

LdP Admin and legal staff maybe also, ya. So I think that's amazing, but I feel that there's obviously a lot of pressure on everyone at this stage, ya.

Int What do you attribute.... just your sense....what do you attribute the lack of trust to really? You say...an old LRC, so there obviously is an old LRC?

LdP Ya. Well, I think the one...like I say, I think the privilege of working at LRC and the strong point has always that people had...it was very specialised in the areas and it was this extremely good support between the lawyers. When I started off at LRC the land lawyers met four times a year. And that was amazing, I mean, without that I couldn't do this work. I mean, without the support from people like Henk Smith, and Kobus (Pienaar) and...we would fight a lot or a bit but at least I would never...without that kind of support and knowledge that they had. And also they were wonderful people being part of that little team, but definitely there was a lot of support for...what do you call it...in a sense of just sharing and discussing issues and getting people from the outside in to come to the workshops and so on. And I think that's why LRC was so strong in land, have done such wonderful work in land. But obviously that there is not the financial resources to do that anymore. I don't get a...there's definitely not like when a few years ago, when we started off at the LRC.

Int So it's changed in terms of the kind of sharing, the kind of communal...so coming together around the land issues, how did it change?

LdP No, it's definitely changed, but I think that's just straight forward because there's not money to do it anymore. I mean, we were privileged...

Int Right, so it's funding?

LdP It's funding ya. I mean, really we met four times a year. And because we were in such a new area it was absolutely necessary to do that. You couldn't do it in another way. But just the whole thing of sharing experiences and your cases and talking about it and the informal discussions that took place and we would go to Cape Town. We would go to Cape Town for two or three days and go and sit on Robben Island for a week. I mean, it's nice to have the discussions that we had and people who came in

from the outside but that informal discussions that took place, there was actually where you could talk to somebody about this problem you had on this case that was extremely valuable. And that doesn't happen anymore. So now you're much more on your own and with the tension, the present tension of whatever, and so that must have the impact on the quality of work. Because what's going to happen, especially with the junior people that come in, that must be...how can you ever, if you're very junior, come in and do the same kind of impact law if you don't have that support? I don't think it's...and then you're going to fall back and just do human rights work. And that we all can do. You can all go to court and do a domestic violence case or go to court and do an Eskom matter or whatever, but if you wanted to do impact litigation you need much, much more support.

Int In terms of land impact litigation...the idea of giving a junior lawyer just a very demanding and complicated case, is highly problematic when there are very few senior lawyers in charge.

LdP Definitely, ya.

Int I'm wondering what your sense is of that, because that seems to me to be the environment that the LRC is functioning where it's unable to attract very good quality senior lawyers?

LdP Ya. No, definitely, I mean, if you come here as...in the first place not all people have an interest in land. And the other thing is, especially black lawyers, never want to get involved in land. I could never understand it. Maybe it is...I think it's more around issues that I do not understand. In a sense of mainly with communities, certain communities, and whatever. But...if you are junior you come in, if you don't have a background of good land work, if you don't have support then you're not going to manage to do this well. I'm not talking about straight forward in estate cases, just trying to prevent an eviction or whatever, but like if you take on a proper land matter. Maybe if you work...many of these restitution claims are referred to court, maybe if there's a link between a junior and the counsel, like Alan Dodson or Rudolph Jansen or so, people like that who's done a lot of land, that may have been another way to do it, where it can be taught, go and get the aerial photograph, or go and **inaudible**. Whether you travel a lot. And that was the one thing that LRC, it never had a lot of empathy with this land travelling issues, you know, there was always like a...and it seems to be happening now again. You can only have fifteen rand for lunch. Oh god! If you travel I must give you a thousand rand a day, that's what I think. All the risk all the time, because poor Durkje (Gilfillan) was...last week there was people in the...clerks in the LRC **inaudible** here who made an accident. You take risks all the time, you're away, you get extremely tired. You know when I started off at LRC that first year, I promise you I travelled every weekend. Because that's the land work, you always work a lot over the weekends and so on. But I was really, and every weekend I had to meet the communities to try to solve, to work myself into the issues and so on. And initially I worked for two months with Durkje (Gilfillan), so the difference is **inaudible** at least a face **inaudible**. Because that's...that's the fault of the land, it's the complicated issues. You work with a lot of history so you must have...must really sit down and do a lot of research. And then you work with all these community

problems. So you work with a mass of people. You must try to manage that and to make sure your clients know what's going on, and the tension between the committees and the communities and the chiefs and, you know, the gender issues. So no, it's...you must be kind of mad like Durkje Gilfillan (laughs) or me to really...No, ask her. Definitely land is interesting. I think it's mainly that's why I'm not...where I was interested really. But if you come in as a junior lawyer you must go and do it on your own. No, there's no ways that you can do it.

Int The other person that I interviewed twice in fact, is Moray Hathorn, and he's extremely passionate about land issues and the work he did. Did you get to work with him?

LdP No, I've...yes, I did. Also in that...in the sense of the meetings and workshops and because he was in Jo'burg it was easier for me to have a close relationship with him. And, you know, ya, I've done...I didn't work with him on cases but...I worked, you know, just generally discussions and so on. He's done a lot of labour tenants work in a certain area. (laughs) I've also done some work there so...

Int Was that Phola Park?

LdP No, it's there near Ermelo, Daggaskraal, Wakkerstroom, Piet Retief. So in that area he's done. Because I've done a huge labour tenant matter there. I love labour tenant cases. I love labour tenants. It's amazing, interesting people.

Int Speaking of which, Moray (Hathorn) also spoke about the close relationships that developed when he worked in, for example, Driefontein. And I'm wondering...in terms of your work and you said, you love labour tenants, I'm wondering what sort of close relationships were between you and clients in terms of all the cases, so whether it was labour tenants or other things?

LdP Ya, well, just because of the length of time that you spent on cases, you definitely built up very good relationships. But with that there's also...you know, things that happened that's not nice, where clients leave you for whatever reasons. Things like that. But there's a number of good relationships that I do have.

Int A case, for example, like Richtersveld which you've worked on for many, many years, and that can go seriously wrong in the end in terms of relationships.

LdP Yes. I always feel sorry for Henk (Smith) because of what happened to him. And the funny thing is that officially I am the lawyer for Richtersveld now because of the work that I'm doing at Lawyers for Human Rights. Not that I've done anything yet because the case is basically...but I'm supposed to go to Richtersveld for the first time in the next two weeks. So I was going to phone Henk (Smith) and say I'm the lawyer...no, I'm just joking (laughs)...but no, that happened to me more than once. But the funny thing is of all those, something like that happened, almost everyone is

back again. There were clients who came back to us now where we are helping them. They got their land ten years ago. At that stage you still had to go to the court to get an order, you couldn't do it through what they call 42D. There was this one case, Bultfontein, it was a land title adjustment matter, and what happened there was that...it's a long history, Durkje (Gilfillan) started off with it and I finished it but then I always insisted that there must be women on the committee. And the moment they appointed that women, they fired me (laughs), the committee of eleven, that was really bad because we put in a lot of resources in that. It's a very interesting case.

Int What was it called?

LdP Bultfontein. But they came back. There's...who else was there...there's...like, the only case that didn't come back...they came back at some stage, was Putfontein. That was one of the very big settlements as well, and there's also a lot of work that went into that and...they didn't want to accept my advice, really like the day before they signed the settlement agreement. Because I insisted that there must be provision for a planning process, it must have...but because of the political pressure and, agh, there's pressure from the community and so on, so I withdrew a day before we settled the matter. And I was also involved in that case for very long. And it's a mess. Exactly what we predicted, it happened. It's an absolute mess what's going on.

Int And they've come back?

LdP They came back while the LRC Pretoria office was still open. But I'm waiting for them...(laughs). So who else is there? So it's not...you know what...one mustn't underestimate. like in Richtersveld, I mean, we're talking about a lot of money. And at some stage we still forget all the politics in the communities. And that's what's happened in Richtersveld as well. It's like, you know, people, new powers...you know, there's new people that are appointed on committees and so on, and they want other lawyers. It's part of the land reform, it's not strange. It will go back to Henk (Smith) Twist their arm. It's just the way that it works. Ya, but that is something, and also in the frustration from communities dealing with a claim, you know, they start to blame the lawyers, and like I say, I am slow, so you must think **inaudible** problem (laugh). But the frustration of a very long...so if a new committee comes in power, the chances that they will fire a lawyer is very...but it's also complicated in the sense of the community...you know, that's why it's always so important to make very sure that the committee, the land claims committee, the CPA committee, will have a proper report back process to the community. That you make sure that the community is well aware of what the **inaudible**, because many times we do that. I think the case that I feel very bad about is **inaudible**. Because Ellen (Nicol) and I, we did that land claims together and that was part of the Blydepoort Canyon claims, and we had a very good relationship with the chief, although he's a bit of a drunkard, he had a bit of a problem, but...and that was just straight forward because of political pressure, they terminated their relationship with LRC.

Int When you say 'political pressure', was it government?

LdP Yes. And he's **inaudible** and had a very good position there and there was terrible problems around this claim. And the minister stepped in she actually split up the other community and I'm still acting for the one part and...

Int You mean split up, as in evicted?

LdP No, no, no, I mean, split up, and caused such conflict in the community. But that was just the way of the minister to try to get, I think, the community to throw out LRC, and she was successful with Mashagani. Because I think the chief was just...

Int Who was the land minister?

LdP That was Thoko Didiza. **inaudible**, I don't want to go into the whole story, but it's a long...it's all about **inaudible** privatisation, **inaudible** with the land claim and we got an interdict to stop that unless there's an agreement with the community and we managed to...you know, after, I can't tell you how much trouble, we managed to put together quite a good deal with the assistance of Richard Rosenthal, and so on. And then the minister just came and told the community, but how can you get one rand a year lease money (laughs). And of course when you...despite our best efforts, meeting with communities, the committee was not aware of what the deal entailed, but public enterprise, everyone already signed the agreement, so it was just the minister of land affairs. And up to now they lost that land. In the sense of **inaudible** was privatised, **inaudible** deal on that land. So, I mean, even the lawyers **inaudible**, everyone advised her to take...because we went back to court about that, and everyone advised the minister to sign the agreement, so there must be something funny. And she also went to see the community itself. And the deal was not one rand a year, the deal was much more, but...but that caused serious conflict in the Moletele community, so serious that our clients alleged that they're going to get killed, the **inaudible** NGO that we worked with, that guy feared for his life. The Mashigani chief fired us. But anyway...

Int Has that changed with the new Minister?

LdP I've never dealt with her.

Int I think one of the things that's interesting speaking to people who work on land within the LRC is the need to kind of develop a very good relationship with the organ of State, be that the land ministry or whatever it is, Land Affairs for example, and I'm wondering within your work whether that's something that's been difficult to do...

LdP That's always been a problem over the years. Is what is our rela...it's impossible to have a good relationship with each person. And the fact of the matter is there's such incompetence from the side of the Commission. I mean, if you look at this Moletele claim, we are sitting for months now just trying to correct a gazette. That's a simple thing, we haven't even got to the referral, it's such a mess you cannot believe it. An

although it seems simple, it's not so simple because the land owners are opposing this and they are taking all these little technical issues now. So no, it's definitely...you manage to have good relationships with some people and then with others not, that's just the...and I don't think it's making such a big difference. And I also believe that, you know, many cases, anyway must just go to court and then start to negotiate, I don't try to negotiate inaudible. Because many times that's the only weapon that the communities will have is that fact that they know they can go to court at any stage or they can put the case on the roll.

Int Under new laws can you take...for example, the Land Affairs, can you take them to court?

LdP Yes. We do. You know, if I think about it, in the Mamelodi claim, another big claim that I'm dealing with, there we took the Commission to court because I just couldn't deal with what was there. I had to get a court order against them to basically tell them they don't know what they're doing. But **inaudible** had a huge effect on my client, on the claim as a community, because he definitely he was furious about that order. But I mean, the Commissioner has been fired now because he stole money so they also come and goes, I'm not too worried about...I'm never too worried about relationship. If there's a good relationship, wonderful, if not...it's also, I mean, part of the trouble about the Commissioners is the huge turnover of people. Today you work with this one, tomorrow work with that one.

Int That in itself is very difficult because you're unable to develop a long term relationship, you're unable to invest in concerns of the community?

LdP No, definitely. But that's...you know, at least, when you're in court, the process is also in your hands, you're not under the Commissioner anymore. But maybe it's also because of the kind of work that I do. I mean, I don't think the LRC really has the resources that you spend a lot of time on...I know people **inaudible** whether I'm more interested in planning and so on, but my kind of work is more litigation, trying to litigate around certain issues. Like planning, I don't believe you must go and sit with the community and do the planning. I don't think it's LRC's work. But I do believe it's LRC's work to make sure that process take place. So that's why we litigate in **inaudible** case.

Int Who would do the planning do you think? Who should be...?

LdP That's what the **inaudible** case is all about that. What we say is **inaudible** case that must be put down now, is we say we've got experts and they gave us expert advice, and we say that we need sixty-eight million rand to do the planning. And we're going to tell the court that and we're going to make, ask for **inaudible** are they going to oppose it, are they going to be honest and say land reform is only about redistribution and not about sustainable development? Or are they going to say, yes, no, no, no, there must be planning but we think that subsidies are enough, and then we...so let's just be honest about this, let's...and this case will force their hand, because, you know, the biggest failure of this land reform is the fact that there's no proper support

afterwards and no...you know, so like for example maybe Kobus (Pienaar) will go and try to sit with planners and spend all his time on one case and do...I believe, no, go to court and get an order so that all the communities can from now on get sixty-eight million rand to do the plan. If government can't afford it then they must say that. Let's not...you know...but I say this now very simple, I accept there can be private partnerships and businesses and everyone who's got a bit of a responsibility to come in and to support that, but on the end it is government's duty to do that. So, that's it...ya, to come back, so my work is more going to court to try to get those orders so that I don't have to do the planning because I'm not skilled.

Int In terms of the Constitutional Court, has it been a help or hindrance to the work you do?

LdP No, definitely a help, ya. **inaudible** Shibi and the **inaudible** case went well, so...I can't see that it's not...

Int ...Coming to South Africa now, I read about the attacks on judges and...what are some of your concerns as a lawyer who is working in public interest law and who really needs the...probably the Constitutional Court?

LdP Well, my biggest concern is because of the race card and the race issues.

Int Is it because of a particular individual?

LdP No, I think it's just a general problem. I don't know if you read over the weekend, the Law Society of the Northern Province has also now split up again because of a race issue. So there is actually no Law Society as we sit here.

Int In Johannesburg?

LdP In Pretoria. So the biggest concern I think, it must be the biggest concern relating to law, like many other issues, is the race issue. Not that...it's just that the race issue is there. That it's been planned or not planned, that we're aware of it all the time, it's got such an influence, sometimes I wish I can live in a country I don't have to think about race at all. We are doing cases, this urgent case now, it's going to be an amazing...if it plays out it's going to be a very nice case, it's an eviction. There are two issues. The one issue is about...ok, let me start with the easy issue. So the easier issue is that **inaudible** council is moving...they've got what they call Adelaide Tambo emergency camp next to a huge sewerage water plant. So there's a terrible smell. So they move the people there. So **inaudible** want to **inaudible** that the issue is also dignity, that they're not allowed to do that, not even the environmental and health issues. Because Jo'burg council is busy with their own little game that they're playing at Lanseria area. Because there's lots of development that's going to that's going to take place. The second issue turned out to be that these clients' **inaudible** long-term occupiers never gave any...never told their lawyer to settle the matter. And the lawyers just

went ahead and settled the matter in court. And said they want to move to Adelaide Tambo, put very strong **inaudible** so if somebody wants to **inaudible** if they want to they must pay money. That's what I will negotiate. Buy other land. But the law is quite proper instruction **inaudible** separate matter.

Int Are they private lawyers?

LdP That's the thing, it's a private lawyer and **inaudible** taking long to get to the race but I'm on my way there. Part of the problem is that somebody commissioned **inaudible** now as a lawyer, the client must sit in front of you when you commission. What many lawyers do and we all do it, he signed the affidavit and then the clients were supposed to sign afterwards. Now that's not allowed. He's done it this guy, and the client's never signed and his friend the other lawyer went and filed it. Now the problem is when I got the case I was very **inaudible**, I said I don't know about these kind of programs but I just know that it was absolutely ridiculous that long time occupiers must just move off the land. And then you got the papers and you saw all these problems and we consulted the whole of yesterday and we figured out that they never ever told these...they actually made it very clear that they don't want to move. So the second issue is, now the second nice issue is this whole thing of legal representation and so, because these lawyers are being funded by Land Affairs. Land Affairs are appointing their chommies to go and do this kind of work and then they just say, no, they're going to get a fee, what does it matter? I'm saying this whole legal representation issue is also now an issue that will come out of this case. But unfortunately both the Commission and the other lawyer are black. Now, you know, the first thing is...I was so stressed out over the weekend because of that issue. Because now I think, oh god, this is a white lawyer, I'm going to take this on and...I just don't want be involved in such a race issue, but you're so aware of it. And the other unfortunate thing, I know the Commissioner and I really like him a lot (laughs), so it's just causing a huge moral problem for me. But I think the race issue is definitely THE issue at this stage, just that the race issue is present is causing such a lot of problems in the law.

Int And I agree with you. I'm also...acutely aware of the fact that irrespective of race, the work you do really affects black communities, poor black communities, and so the LRC has a tradition as white lawyers going in there, of taking on these things?

LdP Yes. And that's been an issue many times. I mean, there was...and also especially after Thoko Didiza got appointed at Land Affairs, she got rid of all the liberal white lawyers who had done a lot of work there in the Department. Durkje (Gilfillan) as well. I mean, she was an excellent Commissioner. You can still see it in the cases that's going to court, it's many cases that Durkje (Gilfillan) started off, and so...and there was other kinds of allegations against LRC about the fact that most of their land lawyers are white lawyers. But that I can deal with, I mean, I don't worry what the politicians say or what Land Affairs will say.

Int Clients don't seem to complain?

- LdP No, I've never seen a client that complained about it. But, I mean, you must be aware of the fact that you work...I think it's more a custom, you must be aware of the custom of the community. I'm not talking about the customary law side, **inaudible** people **inaudible** in a community, the chief, the chief issues of course, because I think LRC lawyers, **inaudible** and Durkje (Gilfillan) as well, is that we don't always have a good relationship with chiefs. Especially now the Clara matter is going to cause huge problems in a sense that I think it's also seen as these white liberal lawyers who are taking on something that they don't understand in the sense of the chieftaincy issue and the custom around that and so on. It's like if you go to really poor conservative communities where women still sit on the ground and are not allowed to talk and so on. But...I mean, I've got good relationships with some chiefs and others not. Ya, I mean, I'm not in favour of the system, it's just because if you see what's happening in communities, **inaudible** communities themselves who are not too happy with their chiefs. Because they misuse their position and **inaudible**.
- Int I'm wondering as well, Louise, from how you've outlined it, this work is extremely complex and fraught with difficulty and with tension that you've really enjoyed and continued to do...
- LdP You know what's nice for me, that's what I always say, people who are friends of mine, **inaudible** always think, it's like you are the...you do this because you want to help poor communities, and I don't do it to help poor people. The main reason and this is what, there's no other organisation except LRC, not even, I think, Lawyers for Human Rights, can give you these opportunities just to have this challenge of developing new law or being involved in new law. You know, I can take up a matter, obviously it's not an LRC case because they were involved previously so I took it over to Lawyers for Human Rights. I can take up a smelly issue, I try to go to the Constitutional Court because of something that stinks. Where else can I just do this kind...where else do you have the privilege to spend time. And on the end, you know, it's **inaudible** challenge and to be creative with law, that's what makes LRC so amazing. But on the end if you really go and look at all of these cases it does make a difference. It's amazing how an issue of dignity, how it's on the end you're going to have an impact and if you can prevent two people from not going to stay in stinky land, then that's amazing. But the first place is the nice challenge of being involved in this kind of work. And I think the other thing that I also started to realise in the last year or so, is that dignity is...maybe on the end the most important issue that we must do more cases that's just straight on the point of dignity. And ya, and of course the people that you will really do those cases for is very, very poor people. Ya, so in the LRC that is amazing.
- Int Before I end I just wanted to find out, about the public interest situation we heard is in Pretoria. And in Johannesburg certainly, there are other smaller public interest law organisations that have sprung up, and so where do you think, what's the future of the LRC, are there concerns, how does it then function in this new milieu?
- LdP Ya, like I say, I'm doing work for Lawyers for Human Rights as well. And it's totally a different culture and set up, it's actually really more relaxed. But I've also started **inaudible** such a lot of impact law. Their cases are much more focused on human

rights, but the cases that I do is also **inaudible**. I am very concerned about the LRC and it's exactly about that junior people that I can't get any of the necessary skills to do this kind of work. And also I get the feel that many of those other clerks and so on are very focused on certain areas, and that was always the success of the LRC, is the fact that they were so specialised. So when you get in junior lawyers who's not going to have that support or can't work to that point where they're going to have the same kind of specialised and focused it's not...then LRC is going to fall back and be more and more human rights organisation, and then they're not going to survive. So that's my take on it.

Int ...I've asked you a range of questions, and I was wondering if there was something I've neglected to ask you, which you think ought to be included in your Oral History?

LdP No, I don't think so. I can't think of anything.

Int Louise, I was wondering if there's a particular memory you have, a fond memory, whether it's the LRC or a particular client, etc. that really symbolises the kind of work you do?

LdP Um...let me think...I can't think of anything so quickly...no, I can't think of any specific...

Int Well, you've given me lots of examples anyway. But thank you so much, I appreciate it.

LdP Sorry, I just babble on because I can do that quite well (laughs).

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