

Daphne Chili

LRC Oral History Project

29th July 2008

Int This is an interview with Daphne Chili and it's the 29th of July 2008. Daphne, on behalf of SALS Foundation Washington DC, we'd really like to thank you for agreeing to participate in the LRC Oral History Project.

DC It is a pleasure.

Int I wondered whether we could start the interview, if you could talk about your early childhood memories, what was it like growing up in South Africa under apartheid, where your sense of social justice and injustice developed, and what were some of the formative influences that may have led you into the legal profession?

DC It's actually quite interesting that formative years were not what led me to the legal profession. I grew up in the countryside, on the KwaZulu-Natal north coast, and it was a fairly quiet and small village. And I went to a Roman Catholic school, and it was more of a community type of school, fairly protected and we didn't have nasty experiences, it wasn't like growing up in a big township and going to town and being confronted with a whole lot of experiences. But I must say that I grew up in a very conservative little town that's close to the village, because it was a small town.

Int What was it called?

DC It was called Gingindlovu. It's on the Natal north coast, it's close to Mtunzini, it was a very...the immediate community there is the farms. We had absolutely no contact with them. we saw them as a group of privileged people and we saw ourselves as black people who are not like them. And that was the way I grew up. And then from there I went to a high school at Inanda Seminary. I chose the high school because I saw some of my cousins who had been to the school, it was a very good school, a private school for black girls in KwaZulu-Natal. The education was really very good. Most of our teachers were from the States because it was a missionary type...

Int So...you had American teachers?

DC From the US, yes. And then of course we had our own teachers. Local teachers teaching in Zululand. And we have very fond memories of the school. In fact the school only took on people who had a first class pass at say grade five or grade seven, and nothing less. So it was a highly competitive environment, and really the decision to study law was motivated by a decision to excel in life. And we met some of the parents who came to school who were lawyers, one who comes to memory is an old SC, Mr Poswa...the first SC, I think, in Durban. And his child used to go to school with us. And a whole lot of other parents, like your **Cancas** and you know, you were really motivated by the way they brought up their children and when they came to school you talked to them and...you know...law to me was about justice and the desire to dispense justice and it was very interesting that I sort of ended up doing law,

I don't know if by chance, because initially I had always known that it's a subject I like because of the intellectual stimulation that it gives you, but somehow when I passed my matric and got good grades for maths I decided to do pharmacy, which was quite strange. But again, you know, it didn't work out and I went back to law and studied at the University of Zululand my junior degree and then went on to complete my LLB degree at the University of Natal, Pietermaritzburg. It was a fabulous experience and I could see the difference between the two institutions. It was just unreal. I mean, the one subject that I recall was lectured differently, where I was able to pick up that there is a difference between the two institutions was...

Int One was black and one was white historically?

DC One was black, yes, there was the University of KwaZulu-Natal, Zululand University, that was what it was called, in choosing...was a black university, you know, what is called a 'bush college'. And then the University of Natal, Pietermaritzburg, where I completed my LLB degree, was a white university. And I was fascinated by the way they taught Administrative Law, the law of natural justice and all these principles of administrative justice. And it was so different from the way it was taught at the University of KwaZulu-Natal. The University of Zululand we were taught by an Afrikaans speaking lady, and it was interesting that I didn't enjoy it at that stage because it was more of a regurgitation of what was already there. Anyway I went to the University of Natal Pietermaritzburg, it was also different, it was stimulating. You understood the principle of natural justice, rule of law, a bit better, and it made a lot of sense, especially at the times when we left; at that stage then I had this awareness of what was actually going on in the country, you know, the inequities that were there, the discrimination, you realised because you looked at all the same cases and what was going on around you. I didn't mention that of course before going to the University of KwaZulu-Natal, I had a brief stint at Rhodes University.

Int Is this when you did pharmacy?

DC Yes, it was in your early years, like '83/'84. That was at the time of the State of Emergency. That's when the action was there. The police detained the people. That's when we would go to the township to have...to go party and we were told we actually couldn't go back to campus, we had to wait until 3am because of the curfews.

Int This is in the Eastern Cape?

DC That's in the Eastern Cape. That was the time when again we were told of the assassination of Matthew Goniwe, so everything was now happening. Then the awareness came once again when I went to KwaZulu-Natal. Then I went to University of Natal, Pietermaritzburg where I started Administrative Law, so it all came together, and it became a very interesting time for me, and I could relate to what was happening, and coincidentally our lecturer was Justice (John) Hlophe for Administrative Law. He was a very good lecturer.

- Int Was this at the University of Zululand?
- DC No, the University of Natal, Pietermaritzburg. He lectured your final year LLB students in Administrative Law.
- Int Right, and you said he was a very good lecturer.
- DC Ya, a good lecturer, he's unbelievable. That's when I got a good understanding of the law.
- Int At what point did you...you've told me that you went to Inanda Seminary, which I've heard is a very good school, has produced leaders, etc, and you said that the decision to do law was really motivated by the decision to excel. But you really interestingly chose pharmacy and then you went back to law, how do you understand that?
- DC That was just a naughty decision, you know, when you think, ok, maybe I can...I thought, maybe pharmacy is better than law, you know, that kind of thing. And I've got good grades, and as I said, being there you always thought you had to excel. So you were forever thinking of something that is better than the others. So at that stage I thought, maybe pharmacy is much better, you know, I'd be close to being a doctor or something. And I've got the good grades. And in fact I do like dispensing, I don't know, it sounds like it could have been a false decision, hence I ended up with law. And indeed I didn't struggle, I didn't repeat anything, and I finished on time, and then I came here to Johannesburg, because I still wanted a place where there's a lot of activity, where everything is happening. Obviously Johannesburg is the economic hub. Then I got a job here.
- Int How did you hear about the LRC? And what period did you finish your LLB?
- DC 1990. Because I graduated in 1991. And I came here in Johannesburg, I was just looking for a job, and then somebody told me about the LRC and the fact that they were looking for someone, so I came here.
- Int So did you do a fellowship or did you do an Article Clerk?
- DC I was a fellow. In fact I started with...we were in the same group with Imraan Haffejee, and Wendy Roskin and Webster, I think...
- Int Sekwati.
- DC Sekwati. Or he subsequently joined us, I can't recall. So we were fellows.
- Int Tell me about your experiences at the Legal Resources Centre.

DC I must say that I had a fantastic experience and I didn't realise that it was so good until now, you know, when I venture out to other companies to see what they're doing. But I've always known that the Legal Resources Centre offered the best in everything. We had the privilege of working with senior counsel from that...at that level, which just doesn't happen elsewhere. You know, you still have to be a junior, and you must be...you know how much hierarchical, and the legal profession can be, but here we were exposed to the best legal practitioners in the country, highly regarded. And you know you were also stimulated to produce the best and it was just absolutely wonderful. And I do recall instances where you would get involved in working with counsel on test cases, where we'd do some research. I worked with Mahomed (Navsa) on a number of interesting things and I learned so much. It was just interesting to see how brilliant the human mind can be and you could realise that you yourself can excel. And they inspire so much confidence and we learnt a lot.

Int You worked closely with Mahomed (Navsa), now Mahomed Navsa has the reputation for being a great lawyer...

DC Yes.

Int ...he also has the reputation for being very hard, especially on the black fellows, I wonder whether you could talk a bit about that?

DC Yes. I know. Because he used to tell us, he was up front, he said...in fact I remember each time when I think of him, he used to say, I'm going to be very, very hard on you, especially as black people, because if you don't perform it is a disservice to the black nation. That's what he used to say from time to time, and I remember those words, they still echo. And I...you know, obviously, when someone is hard, you're sort of, oh, it's too much, you know, but I realised at a later stage that he was doing it for our own good. And also, you know, you don't take offence to somebody when you know they've got good intentions. Irrespective of how it comes across. Because I knew that he did not hate us, and he told us exactly why he was doing what he was doing. And it was great, it was really great. I mean, I learnt the confidence of...you know, I became confident in researching stuff because I worked with him, and when he approved of what I'd done, I knew because he was a brilliant man, that obviously I was on the right track. It was a good experience.

Int What were some of the cases, you mentioned test cases and I wondered whether you could talk about what were some of the cases that you undertook?

DC There was one AIDS case, I did not work on it personally, but I knew it was going on because we worked as a team. And the first case where the Transvaal Provincial Administration refused to give AIDS drugs to somebody. And they came up with some flimsy excuse, I don't know whether they said the drug was too expensive and we went and argued that on legal principle the drug had to be dispensed.

Int Now when you arrived, who was the National Director at the time?

DC It was...Mahomed Navsa was the Regional Director, I think.

Int And National?

DC And then National, I think it was...

Int Geoff Budlender or Arthur Chaskalson?

DC I think it was Arthur (Chaskalson).

Int Ok. Did you have much contact with Arthur Chaskalson?

DC Not a lot of contact, but yes, we did work briefly on the Boipatong Commission of Inquiry...ya...in fact it was Goldstone Commission of Inquiry regarding the spate of shootings...

Int ...Boipatong massacre?

DC Ya, the terrible massacre at Boipatong. We got involved with another firm of attorneys that was instructed by the ANC: Nicholls Cambanis & Associates. And then we went out there and interviewed people.

Int And so you did a one year fellowship?

DC I did a one year fellowship.

Int Right. And then what did you do?

DC And then I did Articles, where I finished Articles...

Int ...

DC Here.

Int At the Legal Resources Centre?

DC Yes.

- Int      Interesting. And what was that experience like for you?
- DC      It was...we realised that there was now a bit of a change because it's Articles, you know, you have to comply with the (inaudible) things and (inaudible). But it was also a good experience because we already had been here for a year...
- Int      ...Who was your principal?
- DC      My principal was Moray Hathorn.
- Int      Ok. Could you talk a bit about that experience, working with Moray Hathorn.
- DC      Moray (Hathorn) again, is a hard worker. We did a lot of labour tenancy stuff because I'm sure you are aware that he was interested in the cases of that nature.
- Int      Sure. So it was Driefontein case?
- DC      Driefontein cases. We used to go out there and interview people and assist them with legal representations. They were very poor tenants, labour tenants, who were on farms there facing cruelty and evictions from ruthless farmers, those days. Those are people who absolutely had no rights and had it not been for a company like this, those people would have been in worse off position. I mean, we had guys there who would go to court not even knowing what their rights were, and who just waited for their attorney to say something on their behalf. I do recall in one instance that we were...it was a watching brief, then we went and we saw this accused person, a poor labour tenant, represented by an Afrikaans lawyer. And this lawyer could not understand his client but he was representing them. And the guys were confident that, at least because they had a lawyer they would get minimal sentence, or something. To their dismay it was communicated right at the end of the trial that in fact they had been found guilty and the sentence that was imposed was a maximum sentence. They didn't realise because of the language.
- Int      Gosh. So the LRC took on the case?
- DC      I'm not sure, because we were there to represent somebody else but we just watched it happening. Yes I did say it was a watching brief...now I do recall we were actually representing our own person but we observed this.
- Int      And during your Articles, did you get specialisation in different areas of law?
- DC      Yes, to the extent that the LRC was able to offer, because obviously the LRC is a public...

- Int But did you do, like for example, did you do land work, did you do housing...?
- DC Yes, yes. Because we were rotated. I mean, it's a difference and legal practitioners you wouldn't stay in one department doing one and the same thing. So you do housing, you do labour here, you do...labour tenancy I've mentioned...civil litigation, High Court mainly or Magistrate Court, so you got exposed to a variety of things. And really the decision to leave was the decision to sort of get exposed in the commercial space. That really was the only reason I left the LRC.
- Int Right. So you left in what, '94?
- DC I think it was '94, I can't quite recall. And I wanted to do a bit of tax law. Unfortunately it didn't go as well because I ended up with the Receiver and at the time the Receiver was still your old *verkrampste* government institution where they didn't even realise they had a need for lawyers, and they didn't know what to do with us. They were also terrified of us. They didn't offer us any experience and eventually I left. And I started working for the City as a legal advisor.
- Int And are you still there, at the City?
- DC I was with the City for a very long time. What was interesting with the City was that the City was...when I worked here at the LRC we did a lot of work against the City. Then when I was with the City...in fact they were very happy to have somebody who could...because you know, at the time when I joined them, this was a stage when were now moving towards a first democratic local government. In fact I was the first, I think, black legal advisor in the Metro that was a woman. That was in 1995. So, we did a lot of interesting cases now, and we still had the Legal Resources Centre as the other side. So it was nice. Also exposure, a lot of work is in the administrative law space. Human rights, housing issues, you know, local authority obviously, you know, your rates and taxes, and it was fine, it was ok. But I just couldn't stay on for that long again. And the City didn't have lawyers of the calibre. So wherever I go I sort of measure people against what I know.
- Int At the LRC?
- DC Yes. And it's such a pity sometimes because I...then I feel, I'm not in the right place because I sort of measure everyone against what I know because this was the first experience in working life.
- Int So from the City where did you go?
- DC From the City...I still worked for a property company owned by the City. You know, it's a company established to look after their property portfolio belonging to the City on behalf of the City. That's the Johannesburg Property Company. But that was much more interesting because again this is where the City is also able to achieve its social

responsibility function through its property, you know, like giving away property to a clinic for the purposes of the establishment of a clinic, or giving property...ok, nominal rates, not like we were giving, because we still have to make a little bit of profits, but making property available to a, say, a sports club, for them to, you know, run a sports club. And expose your...especially your disadvantaged communities that have got actually nothing to do, to some kind of sport. Or some social functions, like taking care of the aged and the sick.

Int So, are you still with the Johannesburg Property Company?

DC Johannesburg Property Company, no, I'm not with them again, because I had done a lot of interesting work with them, because I was working in the Inner City. And you know, it was at the time of the regeneration of the city, which was like the mayor's strategy, focus, and we had to start...

Int ...the city?

DC Yes, yes, yes. You know, I got involved in a whole lot of interesting projects like your Nelson Mandela project, that's got a lot of history obviously, the Nelson Mandela Bridge, you know, the City got involved in the erection of the bridge. The Drill Hall, I'm sure you know about it...it's got a lot of interesting history again. Mandela was once imprisoned there. And I think the prison was...oh, and then the property subsequently was raised by fire, so we as...and because it has such interesting memories, we had to take over the property as the City and regenerate it alongside with the Johannesburg Development Agency. And it's what it is today. And...a lot of...and Kliptown also, I was involved in Kliptown, the water system which is going in the property management space. Very interesting stuff. So in the end I said to myself I can't stay on, there's nothing better than what I've done here, that I think I can still do. Then I thought, well again, maybe I've been too much involved in the property space, let me try and go back to legal once again. Then I went to work for Total last year, for a year, as a legal advisor. It didn't work out nicely, the environment is different and unbelievable.

Int Really? Is it very corporate?

DC It is very corporate, which is fine and I don't have a problem with that, but...ya, I realised that the private sector in South Africa has still got a lot of challenges, that I never ever thought existed, especially in this century.

Int Are you talking about racial and gender dynamics?

DC Yes! Much as most of these corporations will tell you that they are committed to eradication of all of those injustices, and you can see evidence of this here and there. But where you're confronted with the real situation you'll be surprised that this thing still exists.



- Int So what are you doing now, after Total?
- DC After Total, then I'm now with the Liberty Life Property Company, I'm working as a senior legal advisor. And it's...
- Int You must be very good at property management?
- DC (laughs) Yes, I've got a lot of experience in the property space now, and I've just started...ok, now I need to do like your real, real commercial property stuff, you know, because Liberty is a big property owner in South Africa and...yes, I'm with them.
- Int Ok, that's interesting. Speaking of gender and racial dynamics, when you were at the LRC what were some of the experiences that you may have had or were exposed to in terms of gender dynamics or racial dynamics?
- DC To be honest at that stage there was nothing that reared its ugly head that is really that could have stuck in my memory. There wasn't.
- Int You do a lot of property work now in terms of the legal sphere, what about public interest law, they say that it's very difficult for the LRC to attract young, black lawyers, especially very good quality black lawyers because the corporate world snaps them up. Do you sense that that might be true?
- DC Yes. and I think it's the remuneration that is offered by the private sector. And not so many people are committed to doing something for the good...for the general good. And most people these days want to get as much money as possible, irrespective of the circumstances. You will find that there are lots of people who work at places that they don't want to work at, but the motivation to stay is really based on remuneration, and that's all. And the corporate sector is able to offer that as opposed to public interest law companies. But, I mean...I think we should all (laughs) at some stage, realise that we need to do work for the general good and for your own growth and inspiration. Difficult as it is.
- Int Sure. The other thing is that when you were at the LRC it was an exciting time because the country was undergoing transition, etc, etc, and Arthur was still there. I'm just wondering what was the atmosphere like in terms of rigour and activity, etc.?
- DC Yes. There was a hive of activity, it was a time when everything was happening, when we were going through a lot of changes in the country, and we felt we were a part, you know, we played a big part in that change in terms of the kind of legal services that we offered to people who would otherwise not have been able to access that, and we also created a lot of awareness in those people. And, yes, we felt we were making

a big contribution and we could feel it. And I don't know when last after the LRC I felt like that.

Int Clearly you miss it.

DC I do, I really do. I tell a lot of people, even my employers, sometimes I think, geez I must try and strike a balance between not making people feel that I think at some stage we had better people (laughs). I did.

Int You were here in 1991 and '92, '93, after you left have you heard much of what the LRC does?

DC Yes, I do hear but not as much. But I still keep in contact with the people.

Int So you hear via people, so you don't read in the newspaper for example?

DC I do, but I don't really see a lot in the newspapers about...for example, if you ask me now what's the biggest project that's going on here, I wouldn't be able to tell you.

Int Right. Why do you think that is?

DC I think things change, you know...and...ya, I think things change. Maybe people these days don't feel that there is so much focus on human rights anymore, I don't know. And people seem to think they are different areas of interest, I don't know.

Int Daphne when you were here, was there a tension between...for example Pinky Madlala was here, I think Mr Zimmerman might have still been here...

DC Mr Zimmerman, yes.

Int When you were here was there tension between the high impact cases and also the person who comes off the street, what was the tension between that?

DC Sorry, tension meaning...?

Int In terms of, was there a need to specialise, to focus on specific areas, or was everyone being seen at that time?

DC I do know that there was...there were a lot of people who were very well versed in what they were doing, specialists in their areas, like you mentioned Pinky Madlala, she was a specialist in your estate agents in your related matters, in pensions matters,

and she made a huge impact in those areas, and you know, she became a specialist in that field.

Int When you were here with the fellows, for example, Imraan Haffejee is now with Lavery Modise, Webster Sekwati is in the Department of Justice, so all these people have gone on to different places...you are at Liberty...do you keep in touch with the other fellows, do you have meetings or social events?

DC We used to. I mean, I still talk to Imraan (Haffejee); the last time I spoke to Imraan (Haffejee) I think must have been three months ago.

Int Right, ok.

DC I still keep in touch with him. It's always very nice. If there's something that I need an opinion on something, I still talk to people like him. Not everyone. Imraan (Haffejee)...Webster (Sekwati) I still see, but I don't talk to him that often. Wendy (Roskin) I used to see but I haven't talked to her in a long time.

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

DC No, not really, I think we've covered enough ground.

Int Ok. Daphne, if you could share a memory you might have had, either with a client, a case or a particular lawyer that you worked with at the LRC, something that you treasure, that stands out in your mind.

DC I do recall the other afternoon on a Friday, I was in Moray's office and you recall that Moray (Hathorn) grew up on a farm, I think in KwaZulu-Natal so he used to speak a lot of Zulu. So he had these many, many clients, you know, labour tenants, from Driefontein, a whole lot of them on a Friday afternoon, when everyone else wanted to be elsewhere, and he was interviewing them, you know, I was with him because he had to take statements, and he also wanted to be sure that we were taking the correct statements and he asked me to interpret Zulu. And I was laughing, you know, thinking in my mind, but Moray (Hathorn) can speak Zulu and he speaks it so well, but clearly, because he's now a city slicker he doesn't trust his own, you know, Zulu speaking ability. So then I interviewed the client and during the...well, he was interviewing the client and then I would do the interpreting. During the course of the interview he said something to me now, in English, because the clients couldn't speak English, which he didn't necessarily want me to interpret and I knew he didn't want to but I just thought to have fun, and he says, Daphne...because he was very soft spoken...*(in a whisper)* Daphne, I want to go and see my wife now. I'm tired. So I said...I still interpret that as well (laughter) in Zulu, Uthi UMoray ufuna. He said, *(in a whisper)* no, Daphne I didn't say you must interpret that. (laughter) Oh, it was so funny, and I knew I was being naughty but I just felt like doing it.

Int That was funny.

DC Yes, and I still meet him at the gym, by the way.

Int Oh really...

DC Yes, and you know, I haven't lost weight and I still go to him and I say, Moray Hathorn I don't know why I don't lose weight? And he says to me, (*whispers*) it's a combination of things. He doesn't say what the things are. (laughter)

Int Thank you so much, Daphne...

DC It was a pleasure.

Int ...and I really appreciate you coming all the way here for the interview.

DC It is a pleasure, I really enjoyed it myself.

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