

**This interview transcript has been both substantively and substantially edited by the interviewee and there are some portions of the interview that have been placed under embargo.**

Int ...This is an interview with Fayeeza Kathree and its Friday December 7<sup>th</sup> (2007). Fayeeza, thank you very much for agreeing to be part of the LRC Oral History Project, we really appreciate it.

FK Pleasure.

Int I wonder whether we could start the interview by...talking about your formative experiences, living in South Africa under apartheid and what influences there were in your life that led you to enter the legal profession...?

FK Ok. I think I really entered the legal profession by default, you know, I never intended to become a lawyer, it was never part of my plans as a young high school learner. Yet, everybody always told me, even at school, I think, because of my involvement in the debating teams, and speech contests, and all of that, that I ought to become a lawyer, but it never bothered me then. I think I was just very involved in drama at the time, and all of those things, and really thought I was going to take that route. And basically started up, you know, at university, doing a drama degree, you know, English majors, Drama majors, and did Political Science and Sociology and Industrial Sociology, and all the things that we did in those days, you know, because, you kind of, had that sort of social and political leaning, and were interested in those aspects. And, of course, I was a political activist, you know. At high school already I belonged to, not to the ANC, but to the Black Consciousness Movement and was very involved, as a young high school student in...and I'm talking about standard six to Matric, basically, and the theatre wing of AZAPO at the time, you know...ya, and Strini Moodley, and other BC activists and...So, it was, ya, it was...I mean, you grew up in South Africa, you were a black person in South Africa, we...you know, Group Areas, we lived in an area that was Indian, went to a public school...you know, I was not a private school

learner, I went to a public school. High school was also a public school, and ya, I mean, I think I was, you know, I was a product of the 1980s boycott, you know, suspended from school for many months. And then, obviously, we were all re-accepted.. So, I think, all of that influenced my thinking, you know, my social and political thinking. And ya, I got to university...and also, I mean, you know, well, in the theatre group, I mean, we'd do...you know...I remember participating in, you know, sort of, poetry evenings and...it was all Black Consciousness poetry at the time, and at that time we put on a production...I think it was one of the anniversaries of the death of Steve Biko, and I used to belong to Komunikon, which was run in those days by the late Ketan Lakhani, he was also involved in political theatre. And we put up this production at Komunikon through the BC Movement, and it was "Requiem to Malcolm X...Brother X", you know, and I was basically...I was...must have been what...fourteen...fourteen years old, and I portrayed the part of a seventeen year old African American teenager, you know? And, I mean, those were just all eye openers for me, you know, it was just...and I knew exactly where I was going and what I was going to do and...well, I think, in terms of my political consciousness, you know, I knew I wanted to make some contribution to change in society. ...And whether it was through theatre or otherwise I knew I had to put forward some kind of message of change and to try, you know, as an individual, to become part of a better world and a world that was more just, and a world that was more equitable and, you know, from both a race and a gender perspective. And I think, gender also, from a very early age, played a very important role, and I think, you know, although I was at public school, and people have said to me: ah, you were never at a public school you sound like a real private school product...you know, but I'm very much a public school product and, it's funny but I just only this year, met about three or four people from my matric group. They're holding a twenty-fifth anniversary next year, of my Matric year. We were a very strong group and if you look at where everybody is now, they're all, kind of, doing something very important and making a big contribution, you know? So, it was a very strong class and I think a very, very strong group of women, in high school and I think, we all had a very strong kind of gender and race consciousness...it wasn't always just race. Ya, and then I went to university and I remember...having just studied sciences in Matric and high school, you kind of get forced to study the sciences at university – but all I wanted to do then is study drama. I went to Natal University, and at Natal University ...I got

involved with the Labour Movement, the student wing of the Labour Movement, which was part of the South African National Student Congress...

Int SANSCO?

FK So, I really belonged to the more radical part of that student...of that student body, and we basically just called ourselves the Labour Committee, but we were a full-blown organisation, you know, with its own executive and all of that. It was basically one way of appearing to be part of that Student Organisation but really organising quite separately, and really organising with the various unions and organising the staff at the university, you know? So, ya, I got very involved in that, and to some extent we clashed a lot with the university. And I think just ...from being involved there...and I think that's how I got, sort of, got very interested in Industrial Sociology, you know? And then I finished my law degree and of course, you know, I don't know...I don't know whether I enjoyed my experience in Natal University in terms of my drama degree itself, I'm not sure that I actually...for me it was all just too...oh no, it was interesting, it was very interesting, but I'm just not sure that I got out of it what I thought I would get out of it, you know? And I think my interest, kind of, started to wane, and I think also because I suddenly realised that as a black woman, there were very little opportunities...and an Indian woman, so you're not African, you're not White but you're this very in-between group. I mean, television in those days the SABC, you know, that was all you had and, you had to either be white or black...you had to be one or the other and an in-between group was not attractive to anybody, you know? And I think...and I just thought, you know, do I want to go into television, do I want to go into radio what am I going to do with this drama degree now, do I really want to carry on? And I remember I was accepted to do an Honours, and I just thought...I don't know, I don't know, you know, I don't know whether this is what I should actually do? And there are going to be very, very few opportunities for me and I think my...just having majored in Industrial Sociology and stuff, and I thought, you know, maybe just...I became very involved in...through Industrial Sociology and the Labour Movement, with Labour Law, you know, and I thought: well, I think Labour Law is where I really want to go and that's where everything's happening and, you know...that is...and basically studied law because of my interest in Labour Law (Laughs).

Int Interesting, right.

FK And I hated it, when I began studying law, because I'd never done any law subjects before, it meant, you know, beginning from the beginning, you know, where...

Int You had to do a bachelors degree...?

FK No, no! Instead of doing the post graduate LLB over two years I did it over three years and did stupid subjects like Afrikaans and Latin and...

Int Oh, goodness.

FK ...you know, Latin, which I probably did it for one semester and decided I'm not going to...you know, I'm just not going to do this. I never want to practise law, I'm really only interested in Labour Law, and I'm going to end up going in the unions or something, so it's just not going to, you know...I don't really need Latin to practise (Laughs). I remember doing Latin for six months and then just thought: I can't do the second half, I mean, it's ridiculous in this day and age to be doing Latin and Afrikaans. Because, you know, you all had a negative perspective of Afrikaans and...I did it, but, you know, because I had to do it. And then ya, I finished the first year, and in the second year, I was debating whether to quit law or carry on, I just wasn't enjoying it. And then, in my second year, the Centre for Social Legal Studies, which was the equivalent of the Centre for Applied Legal Studies at Wits, and, at that time somebody called Mike Robertson, was heading it up, Professor Mike Robertson, was putting together the SA Human Rights Journal and he asked me if I can assist with the editing of the Journal, you know, and that's how I kind of got involved, you know, from a more kind of human rights perspective and...so, I finished working with him on that project, for I think, for two years.

Int Did you suspend your studies?

FK No, no, no. I worked with him, but continued to study. And when I say I was assisting with editing, he was the real editor, I was doing all the groundwork, you know,

checking the citations, you know, checking to see paragraphs...you know, that kind of, you know, student editing and stuff. But, it actually, you know, it just took me into a whole different area and I suddenly began to meet different people...then I...started working for somebody in the Labour Unit, a guy called Inthiran Moodley, who came from the Chemical Workers for a while, and Food & Allied Workers Union, and then he went off to England and studied and came back and, you know, worked at the Centre and he was studying...he was doing a Law Degree, a very bright chap, he is also an advocate now, I think he's still practising but, you know, he was very involved with IMSSA and labour mediations and all of that stuff, and I worked with him for a while. But, this is all while I'm studying. But what I'm saying is this is where I started to become interested in law because I saw, I suddenly saw that I'm going to now use law as a vehicle for change. Ya, so I think that is where my real interest started to set in. And then finished...well, I think there was still another year before finishing University, and I was still involved in the political and student movement and everything else, and my, you know, local ANC. But, remember, now it was '89, '90, you know, all of the change has happened and well...unbanning of the ANC, and release of our leaders, and all of that, so I was still very involved in my community and the ANC, and the ANC Women's League and, you know, all of that stuff and...very involved at that time with...There were, you know...because I was in Natal there were lots of...because of the violence in the rural areas of Natal, you had people coming in from the rural areas into, you know, into the residential...well, they'd come into an Indian area, they'd come to where we were all, you know, and...as refugees basically, and as a community member, you'd get involved. So, there was also that, you know, for a while...I mean it's still political, but I mean, just more from, kind of, a social angle you were assisting in those communities. So, it was all of that happening and I...and...ya, I think, while at university I, knew about the LRC...having read about the achievements of the LRC, and in those years there were major achievements, you know, with all the separate amenities legislation and all of the important winnings that the LRC had at that time, and I suppose, you know, as a young student at university, you, kind of, see yourself working in an organisation like the LRC. And, ya, and I wanted to be at the LRC, and basically when I finished my law degree, I applied to the LRC to work on its Fellowship Programme. I worked as a Fellow at the LRC for just under two years.

Int Really?

FK Ya, it meant I could never practise law. But for me, it suited me fine, because I thought: oh well, I'll just go into...you know, I'll spend time at the LRC and, you know, because at the LRC they would take you in as a Fellow, so I basically was part of that, being a Fellow at the LRC for two years.

Int What period was this?

FK This must have been 1991 and 1992. I was one of the last Fellows at the LRC before they converted to the candidate attorney system. So basically if you were a Fellow at the LRC was similar to being a research Fellow.

Int Ok.

FK Ok. And, the time that I spent at the LRC as a Fellow wasn't credited towards you serving Articles through the Law Society, because they just thought that it was too human rights orientated and has nothing to do with real law and commercial. So, basically that's what happened, you know. I spent just under two years at the LRC. Nobody else did a Fellowship for more than one year, but then at the end of my first year I won a Fullbright scholarship, so it meant that I was going to have to leave in July or August to go to the US. And Richard Lyster, who was my Director at the time, said: Listen, you know, we could do...we need you here, don't go and find a job for six months, because, you know, we'd like to keep you on here, and then you can just go off to America once you're done. So then I spent about a year and seven months with the LRC. I mean, that year for me was just...was just one of the...you know, it's a year that I really enjoyed. I mean, I, kind of, got involved with working with the landless communities, you know, and the whole thing about doing Labour Law just went by the wayside...it just...you know, it just didn't feature any more because there were all these other things that...and housing and landlessness and violence in KwaZulu-Natal, you know, I got very involved working with the people from IDASA in the rural areas in Natal. I mean, this is now...those areas past...Izingolweni, past Port Shepstone and, you know, just spending weeks out there, doing...interviewing people, you know, collating all the information, putting it into reports for the

Goldstone Commission. And then, I just got very involved with landless communities where, basically, you know, you were...it was crisis intervention, and it was just trying to ensure that Government doesn't evict communities from informal settlements, you know? Because, I mean, with the refugees coming in, you know, to the urban areas, and there were just squatter camps coming up everywhere, and they would come up everywhere. The City comes in, they demolish, they just take people's possessions away. So, I was involved at that time in some important cases where, you know, there were...winnings, in the sense that, even if the City was entitled to demolish shacks, they were not allowed to confiscate people's possessions, you know, people had to be given a chance to firstly remove their possessions. Other cases where...you know, where, previously the City could just basically demolish shacks and not even bother about where people were going to be relocated to, where, you know, they had to start giving consideration to relocating people. This was still in the old days of the Prevention of the Illegal Squatting Act, and...which was a horrible, horrible draconian piece of legislation. But...and...and I think, you know, a lot of those experiences of an eighteen year old...not eighteen year old, I was a lot older than that, because I'd already...probably twenty four, twenty five or something, you know, obviously impacted on what I was going to do later on in, you know, in terms of my career path, I suppose. And then I also assisted Richard Lyster who was bringing out a Public Interest Manual for Public Interest Lawyers, and I, you know, I wrote the Labour Law chapter in the book, and I think they probably brought out two or three editions of the book, which was used at universities across the country. And, I think, you know, a lot of it is outdated now, but I still see it on people's shelves and people still make reference to it, because it was the only book that you had, on Public Interest Law in South Africa. Well, I mean there were chapters on various things, Labour Law's one chapter, Group Areas, separate amenities, you know, setting up a non-profit organisation...you know, just all things that are important to anybody who wants to practise Public Interest Law. So, it was quite an important book. And I also, while being a Fellow at the LRC, lectured to the students at Natal University on aspects of Public Interest Law, landlessness etc. So, ya that was how my interest in Public Interest Law materialised. At the same time, I was very involved with a group called Agenda, which published a feminist journal. I was part of the editorial collective of Agenda, so...you know. They basically brought out a...it was an accredited journal called Agenda, and we were very involved in editing it together

with a group of Natal University Academics. I then managed to bring in other LRC people onto that editorial collective, such as Asha Moodley who currently still works at the Durban LRC. She is still part of Agenda now, you know, it's no longer an editorial collective, it's now a Board, which I was invited to sit on in 1995. I sat on the Editorial board of Agenda for about two and a half years and just recently resigned.

Int So, after you left the LRC you went off to the United States?

FK Ya, then I went off to the US and then I studied...for a Masters Degree at Georgetown University Law School, and there I studied Constitutional Law...because it was important, but Constitutional Law that we learnt here was just, not constitutional at all, you know? And, ya, so it was basically studying Constitutional Law over there, and I also studied International Human Rights Law and Litigation and Homelessness Law, Sexual Orientation and the Law, International Rights of women and the Law etc. That was an interesting year it was, at Georgetown, I mean, as it was very important for my development. And when I finished studying at Georgetown, I then went off to co-lecture at Maryland University and I basically spent about eight to nine months on their Women and the Law Programme. So basically, you know, I assisted with lecturing in one of those courses. And I was part of the Public Interest department there, because they had a very strong Public Interest department. Ya, and then came back to South Africa and...what did I do? Oh, and then I realised, you know, I'm never going to be able to practise law now, because I still don't have Latin, I still need Latin, you know, so I'm just going to go off and, you know, work at a university or something. So when I came back to SA, I chose to go to Cape Town, and applied to the UWC Community Law Centre that was set up by Dullah Omar and Nico Steytler at the University because of its strong human rights focus. I wanted to be part of that project and I applied and was accepted. And while I was there, I then headed up the Gender Project, which was previously headed up by Brigitte Mabandla, and then I started teaching Human Rights Law and Constitutional Law as Kader Asmal had just left because he had become a minister in the new government and that position became open. I was there for just over a year.

Int Is this '94, '95?



FK Ya, this is '94. Well, at the beginning of '94...I'd just got back from America and that's when I got involved with the Independent Electoral Commission as well, it was for about a two or three month period before I started working at UWC. It was an interesting time, I'm not sure that I enjoyed Cape Town (laughs). I like Cape Town, to go up there for holidays, and stuff, I'm not sure if I can actually live there, and I think...and I just felt, everything happens too slowly, you know. And then the Constitutional Court was set up in 1995, and I came over to work at the Constitutional Courts, that's how I got to Jo'burg, and then in '95 worked at the Constitutional Court.

Int What was your role there?

FK Researcher. You know, there were twelve researchers working for judges and I was one of them. So, we were the first group of researchers that worked at the Court.

Int You worked with Arthur (Chaskalson)?

FK I worked with Yvonne Mokgoro.

Int Right,

FK Ya. Well, Arthur (Chaskalson) was there...you get attached to one judge, you know?

Int Okay.

FK But you interacted with everybody. In fact I had accepted the job with Yvonne Mokgoro and then the very next or that same evening, I think, Ismail Mohamed, the erstwhile Chief Justice called me to ask if I could work with him? And I said: I've already accepted with Yvonne Mokgoro and can't say 'no' to her now. And she was still learning at that time, it was all very new for her, you know. But, I mean, it was interesting just interacting with everybody including the other experienced judges. It was a very interesting time and I think, I think, I mean, now of course it was, you know, post '94, you didn't need ...Afrikaans and Latin to practise law, and...I just...I

suppose being at the Constitutional Court and watching these advocates arguing every day, you know, just plying their trade and I think that's how, I just thought, you know, I'm sure I can do this. And ya, that's how I decided to then go to the Bar, but it was difficult at that time to go the Bar, because you needed money...you know, and I didn't have family living here, it meant that I can't go to the Bar because I'm going to have no income and, you know. So I then approached the LRC, and I said: listen, you know, could I work for you ...and you pay for my pupillage on the understanding that I will come back and work for you, after I've become an advocate. So that's what happened. They then agreed, so George Bizos and Wim Trengrove were at the LRC at that time, and I worked with them. It was an important time because that was when the certification of the Constitution took place and we were very, very involved in that, you know.

Int So, 1996?

FK It's 1996

Int You did your pupillage?

FK Finished my pupillage with Gilbert Marcus at the Bar and then basically worked at the LRC, you know? And we were based in Johannesburg in the Constitutional Litigation Unit. And then I decided, I think, after about eighteen months or two years to go to the Bar. You know what was happening to me at the LRC - I was getting too bogged down with administrative work, and it was taking me away from proper practise of the law. And I just thought, you know: I'm too young to get bogged down in all this administrative stuff such as attending EXCO meetings and fund-raising meetings etc. it was just all of those things that were coming in the way of being able to practise law. And the LRC was going through its own shifts and difficulties, so I decided it was time to go to the Bar. And other people said to me: listen, I think you should go to the Bar, now, you know?

Int So how long were you in total at the LRC?

FK For a year, and about seven months previously during 1991-1992, and about two years after that during 1996-1997.

Int So it was nearly four?

FK Ya, but you must remember, I had a relationship with them for many years after that...you know.

Int Before.

FK No afterwards. Once I left the LRC to go to the Bar, I basically maintained links with the LRC throughout that time, because I would still do their...you know, they would still brief me to work on their cases, so, there was always that link with the LRC. You know, I can walk into the LRC today and I'll feel completely at home....

Int So then you were at the Bar, and then, what was your experience?

FK Ya, then I was at the Bar for about eleven years, I think.

Int Eleven?

FK Ya.

Int Right.

FK Well, probably ten years because, you know, about nine and a half years, because of the eighteen months, that I spent at the LRC. But I was still a member of the Bar while I was working at the LRC, ya. So, I mean, I've been an advocate now for about twelve years.

Int And then, when did you start here at Werksmans?

FK Just last year in September (2006).

Int Oh...

FK Ya, ya...I've never worked in the corporate world, and I know nothing about the corporate world, and, you know, working in a law firm for me was just completely new...and it was something that I never ever thought about. But I got involved in...broadcasting law through...somebody called Jules Browde an advocate at the Bar...he's probably one of the oldest advocates at the Bar. Jules (Browde) was the Chairman of the Broadcasting Monitoring and Complaints Committee, which is part of ICASA, and he got me involved in that body and I became the Deputy Chairperson of that body. So I got very involved in Broadcasting Law and this firm, Werksmans, has a big media Communications Department which briefed us on Communications and Broadcasting Law matters, from time to time. They subsequently made me an offer that I couldn't say no to, I mean, it was just, you know, it was just a very good offer, and I think I was also getting a bit tired politically, at the Bar. Change was taking too long there to set in, and I just felt, you know what the hell, even if I leave for a year or two, I'm still an advocate, you know. It's unusual, what I'm doing here is very unusual, because advocates never work in law firms.

Int Really?

FK Mmm, advocates don't work in firms of attorneys. So, what this firm's done, is they've created a separate company for me, Werksmans Legal and Advisory Services, and I'm Director of that, you know because as an advocate you can't be a Director of a firm of attorneys. But there are all these rules about advocates being separate from attorneys and stuff, so by creating a separate company means that I don't breach any of the rules that relate to advocates, and those that relate to attorneys. So, basically, I'm the only advocate that works in a firm of attorneys.

Int Interesting...

FK Ya, but it's been real interesting stuff, I'm doing, you know, at the moment I'm doing very different stuff than I did, at the Bar...you know, at the Bar I did a hell of a lot...I can say forty percent of my work was still Public Interest Law, and it wasn't...the forty percent wasn't all of that came from the LRC, it was, I'd say, twenty percent

work from the LRC, but the other twenty percent was from other NGOs, whether they were Aids-related NGOs, or land-related NGOs, or the Women's Centre in Cape Town. So forty percent of my practice at the Bar was Public Interest Law, and I think that helped me to maintain my sanity, you know. But the other sixty percent was Constitutional and Administrative Law that did not necessarily have any Public Interest leaning; it could have been in a commercial area. Ya, so, I mean, at the Bar you have to straddle Public Interest Law with commercial work because, you know, you otherwise you can't survive financially. Because any Public Interest work you do is either for no pay, or at a highly reduced rate, you know. And then when I got here, I said to them that I'll come, but you know, there's a whole part of me that I'm going to miss, because I can't do any Public Interest work here. He said: sorry, we don't think you can do it, and it's going to be very hard and...but we'll talk about it when you get here. And I've now, just about a month ago, I managed to get Public Interest Law introduced at Werksmans.

Int Good for you!

FK We've now set up, me and another director, we're basically co-ordinating this whole pro bono project, and I'm already doing about five or six Public Interest matters, you know. The good thing about it is that, basically, I work with other junior people, so when I'm working on a matter, I bring a junior person in with me, and we then...that junior person gets credited for that matter as if it was a billable matter. So it's not like, you know, you're working on a Public Interest matter and there's less value attached to the work that you're doing because it's Public Interest work. It's given the same value as billable work...so that was a big win. You know, one of the Director's had said to me: you'll never get Public Interest Law, introduced here at Werksmans, this is a firm that only worries about profits But now I've done it, I'm very pleased about it.

Int Wonderful.

FK Ya, ya, ya. And, you know, I still see myself heading up a Public Interest Law organisation some day. This is just a kind of...a way of exploring, and developing my expertise in other areas of the law, you know. And I think it was important for me to

just see how it is on the other side, you know? How do these big corporates work? And you know, what happens there, and what happens when you're representing these big corporate clients, you know? And I think I just needed to know...because I had never, when I left university, gone into the corporate world and worked, like all my friends and colleagues, you know in the big corporate law firms. So when they (Werksmans) made me that offer, I was reluctant, but I eventually accepted because there was that element of curiosity, you know. So, as well as doing billable work, I also do pro bono work at Werksmans. We are currently acting for the Winnie Mandela Community, which is a squatter community. I'm also doing a gender equality labour matter and another constitutional matter, so the work is varied, but it's all Public Interest oriented.

Int Ok. I'm going to take you right back, Fayeeza. I'm wondering, in terms of political consciousness, as a young person, before you even got to university, was that because of family leanings or was that just because of your own sense that things weren't as they ought to be?

FK I didn't come from a family that was highly political, I mean, I think they were like any other family, you know. I think they were, you know...I think it was so hard in the days that they were young, in the sense that, you know, my father had basically finished school and started to work without going to university and same with my mother, you know...but, they've always been people that stand for equality and justice, but I don't think they articulated it in any concrete way, you know, I think they were so caught up in the Indian community, what was happening and, you know. But I think, as we grew up I grew up in a Muslim family and Muslim families are generally conservative and I didn't grow up in a conservative Muslim family. Because my parents were not conservative. My dad's brother, who was very involved in the community, also influenced my thinking and my community involvement.

Int Politically?

FK Hey?

Int ...Politically?

FK Not politically, but in the community, you know?

Int Ok.

FK In the community, in assisting people that may have been having difficulties, you know, like, just poorer people in the community. Because I think, you know, they had a business and you know, we were a fairly large family, well known family, you know, and so I think they got involved in the community and...in just assisting the more down-trodden, and I think all of that had an impact on me. Must have had some impact on me, you know. But, I mean, they were not involved politically. But, then when I became involved politically and my brother became involved politically, there was no objection to it, they encouraged us. Ya, of course there were concerns, you know, about our safety, and all that, but they were very, very supportive of whatever we did. And the other important thing is that, although you grew up in an Indian community, there wasn't...there wasn't...there weren't those lines drawn between, you are Muslim and you are Hindu and you are Christian, I mean, we basically all lived in each other's homes and ate in each other's homes and if it was Diwali, I was at my friends home and it was Eid she was at my home and, so we grew up in this community that, kind of, interacted at all different levels and for me, religion meant nothing and religion still doesn't mean anything, you know? My parents, over time, have now become more religious, but are still broad-minded, do you know what I'm saying. And that's basically, how I grew up, and I think to a large extent with my dad and his brother, and their involvement in community affairs, had made a huge impact upon me.

Int You mentioned as well that you had found expression through theatre and arts...and I'm wondering, at that point, you said you were politically involved, but I wasn't quite sure exactly...

FK Ya, I mean, I don't know how it happened, but it was in your community, you were also involved politically you know, it wasn't like you were a member of the ANC, nobody spoke about it as if you were a member of a political organisation...but you certainly were a member of this concerned group of people in your community, you

know? And you went to meetings, and you spoke about what's happening, and you spoke about apartheid, and you spoke about the Group Areas and...and as the years went on you were talking about...political issues and other, issues in the community, and you were, you know, you were part of the groups that organised those meetings. And...so...so when I talk about being political, I never belonged to any group, until I joined the AZAPO the theatre group, called Theatre Project One. In fact when I joined Theatre Project One, I didn't even know it was a BC group, it was only when I joined and I realised...and then I understood what Black Consciousness meant and...you know, it was all...and this was just...1980/1981/1982, so, you must know, I just came out of the school, you know, that 1980 boycott...having been suspended from school and...And, of course, you know, at school we were involved in all the little groups that were, you know, that were organising politically, you know, I mean, it was all those issues that related to that 1980 boycott, you know. The whole education system, the whole language...you know...the English, Afrikaans...

Int So you boycotted..., were you ever detained during that period?

FK I was never detained, I was never detained. I suppose I wasn't in the forefront, you know, but the student leaders of that time would have been...you know...they would...we were always kind of younger than them ...

Int So you got to university and in your narrative you mention that there were tensions within the student body, I was wondering...was it with NUSAS?

FK It was NUSAS, it was NUSAS and SANSCO..

Int Was it **SANSCO**?

FK **SANSCO** ya.

Int Right...

FK And that was the time...it was in those years that basically, NUSAS started really talking to the black student bodies, you know, I think. Ya.



Int So in terms of your ideology, you mentioned...the BC movement, being part of that, did you subscribe to the ideology that...

FK No, I think...I think I was very impressionable in my high school days when I was part of the Theatre Project One, but by the time I got to the university I became a complete congress person, and, you know, ANC...and became an ANC member at university and in my community. So I think it was those impressionable years, and like I said, when I joined Theatre Project One, I didn't understand Black Consciousness at the time. until I joined that...until I joined the theatre group and I kind of got sucked in, you know, being a young impressionable person, you get sucked in, you know. But it gave me a different understanding. But, as soon as I had completed high school, and went to university, you know, that fell away completely, you know, I became...then became an ANC member.

Int You also had, it seems to me, a long association with the LRC because you came and then you went and you came and went, and you also started in different offices...?

FK Ya, it was Durban.

Int ...the Durban office. I wonder whether you could tell me the type of work you did in the Durban office? What type of work were they doing during that period...?

FK Ya, it was a lot of...like I was saying...they were doing...they were basically assisting in putting together all of the representations that would be...that would ultimately go to the Goldstone Commission.

Int So this is the late eighties or...?

FK This is the late eighties, early nineties, ya. And so there was that aspect, ok? And I probably came in at the tail end of that. Then they were doing...they were doing labour work...Richard Lyster was doing labour work which I worked with him on, but then they...there was a time where they basically felt they couldn't take on all of these individual labour claims, and they needed to work towards more, you know,

obviously if they're working with big union matters and stuff, they'll do it, but not individual claims. But there were still, you know, the sort of, odd individual cases that they worked on. And I remember those early days...when people were getting fired for just being HIV positive, and I remember, you know, I remember working on cases with Richard Lyster at that time, that were basically, on the doorstep of getting to court, and we managed to settle it, you know. But it was those early cases dealing with HIV. And then it was...it was a lot of this land stuff, there was a lot of these evictions in KwaZulu-Natal at the time, because as I said, there was this exodus of people from the rural areas into the urban areas, they were settling basically in, you know, areas like Claire Estate, Isipingo or Cato Manor, and pieces of land neighbouring on white areas. There were large-scale evictions by the Natal Provincial Land Department at the time.

Int So these squatters were settling on private land.

FK Ya, ya. So basically we were then doing crisis intervention, you know, bringing urgent applications in court, trying to stop these evictions. On the one leg you were doing that on, the other you were basically negotiating, on behalf of communities, with the council, to relocate them. So, if you look at, like, Cato Manor, you know, ...remember Cato Manor was basically occupied by Indian families for many, many years and then with Group Areas, of course, you know, these families were forcibly displaced or dispossessed of the land, similar to what happened in District Six.

Int This is forced removals.

FK Forced removals, and then ultimately that land was left vacant. So these informal black communities settled on it ...and all of these squatter settlements emerged. So, I mean, there must have been about ten, twenty thousand people that we were acting for in those days, and it was, you know, it was all of these urgent applications, trying to stop these evictions. And sometimes, you know, where they were already evicted, you then brought a case to basically get the government to compensate them, you know, for their possessions that were damaged during the evictions, and...you know. So,...acting for the landless...for landless people formed a major part of the work,

which I did at the LRC during 1991-1992. I worked on these matters with Nzo Mdladhla.

Int Mdladhla.

FK Mdladhla, ya.

Int He's a LRC person...

FK Is he still there?

Int No.

FK Ya, I think he's ill or something?

Int Yes, exactly.

FK Yes, and Nzo (Mdladhla) was doing a lot of that work, so I worked a lot with him there. Peter...Peter Rutsch, I worked with at the time as well. And then JP (Purshotam), you know, a lot of that litigation stuff was with Purshotam, JP.

Int Ok...

FK So, ya, but I...towards the end of my time there I, kind of, became fully, fully involved in the land stuff, so when you go home, you're just so tense because you don't know whether your clients are going to be evicted the next morning. And then, of course, when I was an advocate at the LRC, I then started to get involved in the constitutional work with Wim Trengove and George Bizos.

Int Now this is in the Johannesburg office?

FK This is in the Johannesburg office...

Int Ok, so you went away to the United States, you came back, you joined the Bar and then...?

FK No, no, I came back, I came back, I did pupillage at the Bar...

Int Yes, exactly.

FK ...while at the LRC

Int Right... I wonder whether you could talk about your time in the Johannesburg office?

FK It was interesting. It was interesting in the sense that it wasn't the LRC that I had known from before.

Int In what way?

FK It changed, there were a whole lot of new people, and new faces and...

Int There were different offices as well?

FK There were also different offices, I suppose.

Int Right, ya.

FK I suppose the Arthur Chaskalsons and the Mohammed Navsas were no longer there, you know. So I think those were the people that I'd known from before, and...so, in a sense, those heavyweights were not there any more but, I mean, it was still...I mean, if you had a Wim Trengove, you can't get any heavier than Wim Trengove, you know, and George Bizos, was lovely, it was very nice working with George Bizos. It was a pleasant time....I just felt something changed at the LRC, it's...

Int What was your...what's your sense about what happened?

FK I don't know, I just felt like the people that were there...and it's not all the people that were there, I mean, there were people like Moray Hathorn that, even though he was there for ten years, and he was suffering from burnout, there was always a need for him and a role for him within the LRC. But I think there were other people that may have been doing matters like, you know, if you bring hundreds of applications against the police, damages applications, people that were...this was kind of, practised...I'm not going to mention names, but, you know, but all these claims against the South African Police, or whatever, you know. And there was like, a time where you didn't have to do all those things and that's all that you knew, you know, and you...so you were sitting there, you were deadweight but you were there because you were...

Int ...that's what they were doing?

FK ...that's the only thing they could do and it was...you know, I kept raising this thing about...the LRC not being sufficiently competitive, the people here are not equipping themselves to do anything more, you know, and even if you're a Public Interest lawyer you have to...you've got to constantly be ahead of yourself, and ahead of the times you know? And I just felt that, that that wasn't happening, at the LRC.

**The following excerpt of 8 lines is been placed under embargo at the interviewee's request.**

The LRC was just not able to keep new people which it employed, something happened, even though new people came in, it was like, you didn't value the new people that came in, you know, and yet they came in with new ideas and they came in...you know, and they were eager and they were interested and...but...something happened in that organisation, and I don't know if it's recovered from that...but, something...something happened in that organisation, it was as if the life was sucked out of it, you know.

Int Is your sense that maybe it had something to do with management style or leadership?

FK Well, ya, I mean, I think...you know...you know when I was there for that short while, I mean, it was Geoff Budlender that was heading it. He was neither here or there when I was there, I think, you know, I mean, and then he went off to Land Affairs and then he came back for a short while, er, no sorry, he was there for a short while and then he went off to Land Affairs, sorry. No, when he came back to the LRC I was already gone, I had already left at that point. So he was there for that short while, and then Bongani Majola came in and, I think...a lot of people say that that's where the problem began. But that's unfair as you couldn't expect...you could never expect Bongani Majola to be an Arthur Chaskalson, you know, firstly, he was not even a practising lawyer. So that was a problem, because I think people didn't respect him because he was not a practising lawyer, they said: oh, some university academic, what does he know about, you know, law, and who is he to tell us what to do? And I think, you know, I think when you have...when you approach your Director with that kind of attitude, then your Director's also going to, you know, behave in a manner that's just not in the interest of the organisation, in a sense. And I don't say he did anything that was not in the interests of the LRC...but I'm saying is that...that I think he went...from being very eager and committed, to almost losing interest in the organisation. And then the LRC had people that were there now for fifteen, twenty years, Cape Town, Durban, who believed that they ran the ship. So what they did was, basically to try and control Bongani Majola, so he really made no decisions on his own, you know. The decisions were made in Cape Town, and he then had to follow what Cape Town was saying, you know. And I think there was a lot of that interference where...and he felt, well, listen, I'm powerless here. You know, so and I...it was just horrible, it was a horrible time and it was...this wasn't even happening when I was there, this is when I had already left, but I would...I would...you know, people would call me up, and come chat to me about it, and how do we deal with it? You know, people were not comfortable with what was happening. And it was, I don't know, it was just a horrible time that...and then...what happened? Bongani (Majola) left, and then Vincent Saldanha came and, I mean, even under Vincent (Saldanha)'s time, you know, we thought: ah, Vincent (Saldanha), he's really the man for the people, a real leader, he's this...this...you know? I mean, this organisation really needs Vincent (Saldanha) as the leader, because as a Director of the Cape Town

office, or as a...just an ordinary lawyer, and that, you know, he was...loud voice...and people respected him and the black members of the LRC respected him. And...you must remember, you know, Vincent (Saldanha) sat on the executive committee of the Law Society and, you know, was a respected member of the Cape community and all of those things, and everybody said: Ah, this is great...and Vincent (Saldanha)'s going to really rescue this organisation but I am not sure that he succeeded in doing that.

**The following excerpt of two pages is placed under embargo at the interviewee's request.**

Int I'm just trying to unpack what you've just said...I'm wondering what is your sense of what is happening....because it seems to me that you arrived back and you started at the Johannesburg office and you had a sense that something had changed?

FK Something had...something...something...it was like the air was taken out of...the life was taken out of the LRC...



Int Yes you said that...

FK It was still better...it was still better then, but...when you...and I said this, you know...Janet Love is now the Director, but they interviewed me for that position and they were very keen on me...ya. But of course it also meant, you know, that I'm not going to be able to do as much law as I want to do, and all of that stuff, and anyway, she's now the Director. But, I mean, I went through that whole process where they courted me for that job, you know, as Director of the LRC and...and at the interview...it was Mahomed Navsa, Achmed (Mayet), it was Jody Kollapen...I don't know what...five or six people, can't remember who else...six, seven people there. It was a very interesting interview because...and just speaking to Mahomed Navsa subsequently, you know, and I think he agreed with me when I...I you know, I said to him: you know, Mahomed (Navsa), it's just...you walk into the LRC now in the Jo'burg office, it used to be an office that was vibrant and lively and young people running around, and working on cases, and sitting in groups, and, you know, debating strategy and cases, and seminars being run regularly, and interacting with other NGOs and, you know, a waiting room that was always full of people and, I mean, there were times where you were worked off your feet, and that's, you know, that's...and it was just...you know? If you walked into the Jo'burg office, the Jo'burg office was just alive, you know, it was just...it was like the centre of the LRC. In the old days there was no Constitution Litigation Unit, it was the Jo'burg office, and the Jo'burg office was basically the biggest office in the country. And if I walk in...and then I said to him, you know: and I...you know, this was about two years ago, the interview, and I said to him: now when I go into the Jo'burg...it's like there's nothing happening, there's an empty waiting room, there are attorneys...well firstly there are about two attorneys when you had about ten attorneys, you know, you have a few...one or two paralegals. But it just doesn't have the vibrancy and the energy that it had, and when you talk to the lawyers now, they just don't have the energy that the lawyers had, and that commitment, you know. It's almost...they're there because there's nothing else for them, you know. Maybe that is also unfair because maybe this is what they're committed to, but it's like, you can't...it's like...they don't have the power to kind of create...be creative in the way that they were in the past, you know? Or, maybe it's the times that they're in, maybe there isn't, you know, there isn't that much work. But

I don't think that I'm right in that respect, because if you look at the stuff that's coming from the NGOs, there's still very, very interesting challenges and they're...you know, every day they're in the Constitutional Court, the LRC maybe one, out of ten matters that are in that court, you know, every six months or something, so...I don't know, you know.

Int So, when you were courted for this job, what was...you said something...changed, you were talking to Mahomed (Navsa) about it and he said...

FK I was talking to him about...about, you know...I mean he...they were asking me how would I change things in the LRC and, you know, and I was talking to him about basically, firstly, that whole Jo'burg office has to be changed. Either you need to shut it down, you know, and only run a Constitution Litigation Unit, and basically staff it with two or three people that are completely committed to that, and have the expertise, you know? And...and I mean, there's all this deadwood in the Jo'burg office now, that are there, there are ten staff members...admin staff, that are doing nothing, you know, that...so, I mean...basically, he was just saying: what do you think needs to change in this LRC, what is your sense of the past and your sense now? Because, you must remember, I was still working at the LRC, I used to still go there to consult with clients, I was...you know, and in those months before they interviewed me for that position...

Int This is two years ago?

FK This was...ya...it was just about...ya, this is two years ago...

Int So, 2007?

FK Because I'm already here now for a year...a year and a few months. Ya, and I remember at that time, they had accepted a few researchers from the Constitutional Court, lawyers who from the Constitutional Court thought the LRC was a great place to work at, in the same way that I must have thought this as a student, you know, and then, these young kids got to the LRC...And I used to get these, like, 'phone calls,

help me, I don't know, I'm sitting with this huge matter, I have no idea how to run it, the Director in charge is not giving me the assistance, you know.

Int Gosh...

FK I mean, this young girl is saddled with a huge eviction in Marlborough, or something, like three or four warehouses of squatters. She doesn't even know where to start! Now, you know, in our days you were trained, you went through training sessions, you were part of strategy meetings, you were...you know? There was all of this education that was taking...taking place while you...you know...together with you basically running a practice or assisting somebody run a practice. And there was...there was no...and this...the one girl left within three months of being there, the other one left within six months, left there...one girl left within six weeks of being there. And these are...these are very, very bright, young university graduates, because, you must remember, the Constitutional Court would only take you on if you were very good, you know?

Int Yes absolutely...

FK So, what has happened? Where do those people land up? They land up in Webber Wentzel Bowens, Bowman Gilfillan, you know?

Int Right...

FK You know, the LRC started to work in focus areas...if you were working on a housing matter, Steve Kahanovitz was in charge of that matter, if you were working on an environmental matter, Angela Andrews was...

Int So, focus areas?

FK So, there were these focus areas, so basically this young little Article Clerk or Associate, or whatever they call them now at the LRC, Candidate Attorney, you know, had to...if a matter pertaining to the environment would fall into her lap, I mean there was no introduction between her and the attorney responsible for such

matters in Cape Town. If there...like these housing matters, the Marlborough thing, I said: where is the attorney responsible for this focus area? He should be assisting this young girl on the matter, not 'phoning me, who's somebody external to the LRC, you know? So, what I'm saying is, I'm not sure that the LRC is doing enough in respect to training its young lawyers, and forget about salary, you know, I don't think all of us worry about the pay, and especially when you're that young, you know, unless you come from real dire circumstances. But, I mean, these were kids that weren't, you know, that were not so poverty stricken that...that, you know, what the LRC was paying them wasn't enough, that they had to go and work in a commercial firm. They were there because they wanted to pursue a career, but now the LRC has lost them, Public Interest Law has lost them for good, you know? I just feel like the LRC is doing nothing to equip these young people. I mean, of course there are one or two strong people that can, kind of, cut through all of this rubbish and...and, you know, I mean, I keep getting calls: don't you know of young attorneys that want to come and work for us and, you know, it's very hard, I mean, to say: yes, I'll talk to my friends about coming to work for you, or, you know, because I'm interacting with attorneys all the time, it's...because you know they're going to go there and it's going to be a dead end, you know, they're not going to get anywhere, they're going to leave within a few months, and...So, I'm sorry that it's just, you know,...I don't know now, I mean I spoke to Achmed (Mayet) the other day, and he said to me, you know: maybe things are going to change here because Arthur (Chaskalson) is there, and, you know. But I'm told that Arthur (Chaskalson) is there, but nobody even goes to him for assistance, you know, because they're all too shy to approach him. You know, Arthur (Chaskalson) is so unapproachable. **The following excerpt of eight lines is placed under embargo at the interviewee's request.**

Int I think it's very important to hear them actually, because that's what makes the Oral History so authentic in that way. You know, I'm just trying to unpack it in...even more...in...how would you...what would you attribute this kind of...it seems almost like a waning almost, of the LRC?

FK I don't know, I don't want to put it in these terms, but this is what an advocate who came to the Bar felt...I don't know if she's still at the Bar now, but certainly when I left the Bar, she had just finished pupillage and was going to practise at the Bar, and she came from the Pretoria office. And I happened to mention to her that the LRC approached me to, to interview for the director's position...and she said: you know what, that organisation is rotten to the core, that you will never be able to rescue it. Now, you know, I said: but isn't that a bit harsh? You know, I mean, certainly it's got a role to play and it's played it and, you know, it's...had its difficulties, but it does great work. And she said: you know, I was there for ten years and I don't think that it will change. **The following excerpt of 13 lines is placed under embargo at the interviewee's request.**

Int When you were there, did you...was...was there a gender dynamic organisationally and was there racial dynamics?

FK There was...certainly there was...there was that...there was the whole complaint at that time about the racial dynamics...and I suppose the racial dynamic thing goes right back to when I was there, in the early nineties...

Int In the Durban office?

FK Ya. No, not in the Durban office, that office didn't have issues with race,...I remember all of those...all of those issues about race used to come from the Jo'burg office. The African people in the Jo'burg office were feeling like they were not sufficiently respected or valued, you know. **The following excerpt of 5 lines is placed under embargo at the interviewee's request.**

So there was that sense, that people were treated differently because of race – this was a gripe of Ellem Francis who now sits as a Judge in the Labour Court. I am not sure where this came from because I did not sense race discrimination in the organisation. **The following excerpt of 10 lines is placed under embargo at the interviewee's request.**

Int Was the discrimination in relation to pay?

FK What was that?

Int the discrimination...

FK That's...I mean, there were all of these complaints related to race but, I don't know if there was any substance to these complaints..

Int Sure...and then you said you remember...?

FK And then I remember that...when...this was before I went to America, they called the...they brought in some consultant to do a survey on race relations at the LRC.

Int Really?

FK Ya, they spent a huge amount of money. This was basically in 1991, 1992. Because I remember even at that AGM, this issue was discussed. But I never felt that there was any race discrimination at the LRC.

Int Really?

FK I didn't...I really didn't...

Int What did you think was going on both before your time and then during your time. If you didn't feel it, I'm wondering what...?

FK You know, I always understood it in the sense that...and I mean, people like Geoff Budlender, had a lot of power, you know, and I think is a very strong person and...I mean, these guys are very committed, they have...they...their agendas in so far as Public Interest Law is concerned...you can't question that, you know, they're very committed to it...well, certainly when he was at the LRC, and, you know, they did everything in the interest of the LRC, but I think what the problem is, that they always just saw themselves, as being the creators and founders of the LRC, you know. It was Arthur (Chaskalson), it was Geoff Budlender, it was Felicia Kentridge, it was...I mean, there were a whole...few...whole lot of other, sort of, NUSAS people that came and went and came and went and came and went, but for a long time it was a lot of NUSAS people coming and going, and then there were the black members coming in as paralegals and working their way up, and then as the Public Interest Law became more attractive, then you got, you know, black attorneys joining as well and...But, so, I think there was always a sense that this organisation was controlled by the old NUSAS boys' club, in a sense, you know, I think there was always that feeling. And,

you know, in as much as Arthur (Chaskalson) was a great lawyer I don't think he was a great Director, I think people saw him as being great because he was a great lawyer. I personally didn't think that he was a great Director, but I think he was just such a great lawyer and his winnings were so far reaching – he just achieved so much in all of those important cases, so...so there was...kind of, everybody respected him. But I don't think that the staff relations were great...you know, his relationship with the staff was not great. When Geoff (Budlender) then took over, and although there was respect for Geoff (Budlender), it wasn't Arthur (Chaskalson) any more, it was Geoff (Budlender). Geoff (Budlender) was more of a human being, you know, also very clever, you know, but he was more of a human being. And then after Geoff (Budlender) you got (Bongani) Majola coming in, who was more of a human being now, you know, and black and...So what I'm saying is that Arthur (Chaskalson) was a great leader in the sense of being a great lawyer, but I don't think he was a good boss, or a, you know, in the sense of directing the LRC, he directed the LRC in terms of work that he took on, and stuff, but not in any other way. So...and then the point I'm making is that...so even if you had a Geoff (Budlender) there, and where Geoff (Budlender) would have done things in the interest of the LRC, they often didn't consider the manner in which they treated people that were working under them. So, for instance, there's stories about Geoff (Budlender)...and I don't think he ever treated me in that way...there's stories about how Geoff (Budlender) would...if he's working with women, he would kind of just dismiss their view point, or if he's working with black people, he'd not get them sufficiently involved, you know, and if you don't involve people in the matter that they are working on, you know, then obviously they're going to...they're going to feel very disempowered, you know, and as a black person you feel, oh, he doesn't value my contribution because I'm black, it may be for some other reason, you know?

Int Right, absolutely.

FK So what I'm saying is over the years, there was that kind of thing, and I know this happens because it happened at the Bar...it happens at the Bar...more senior people are working with junior people, you know, there's a sense that: oh well, you're too junior to assist me or make any contribution here, so I'll just go ahead and do it on my own, you know? Or even the Wim Trengove's behave in that way...although Wim



(Trengove) was at the LRC, Wim (Trengove) is no great mentor, he doesn't teach young people anything, you work with him on a matter and you can...you're just basically working on your own, and he's working on his own, you know? And you have to be strong to work in that way. But now, other people believe that they have to be mentors or something more, you know, and I think...So a lot of those complaints actually come from that kind of relationship where...it may not be a black/white thing, it may just be: this is how that individual operates, you know? And they don't even see themselves as discriminating against you or...I don't think they're doing anything to disempower you; it's just they...that's how they work. They don't know how to delegate, you know? Arthur (Chaskalson) works like that, you know. So what I'm saying is that some of these tensions actually arise from those kinds of situations.

Int I...

FK But I don't know...you know, I never really got involved in that...I didn't...for the times that I was there, I never, never got involved in the whole race debate.

Int Why was that...?

FK No, it wasn't...because it never affected me directly. Firstly, we were in the Constitution Litigation Unit, we were seen to be a group that was...which is also wrong...we were seen to be a group that was really quite separate to what was happening in the Jo'burg office, or the Durban office, or the Cape Town office, and in a sense there was always that: oh, well, you guys think you're better than we are, you know? We never felt that way, but...so, and there were just too few of us for us to have any problems, you know? And there...there were these big offices with, you know, support staff, and whatever, and they were having all these problems, and they were...and attorneys were coming in and leaving, and you know, I don't know, there were just too many things that were happening.

**The following excerpt of 2 pages is placed under embargo at the interviewee's request.**



Int Of course, of course, it's important. Fayeza, do you think that you...you said something very interesting in...just now in your narrative, you said: it may well be race but it may well be other things. And I'm wondering whether that's how you approached your own time at the LRC by then not getting involved in racial issues?

FK Ya, you know, I try not to get involved in racial issues, I don't like things to be black and white, you know, I...and I don't feel that people, I don't know...I'm not...I...at the Bar maybe I felt I was treated differently because I was a woman, but certainly not because I was black, you know? And so, you know, and all the young people that I work with, and I work with young...with junior people at the firm, and I say: you've got to stop seeing things in black and white, that you are black and somebody else is white and they are treating you in a particular way because you're black, you know? It's not as simple as that, there are always other factors that are, you know, you may be lazy, you may not be giving your best you know, there are lots of other things. And to a large extent, I think that...that, if you're brought in to work on a matter and if you are not doing your part...you're not producing you're going to obviously be sidelined. Once you discover that somebody is not pulling their weight, you're going to immediately sideline him or her...I would do that when I'm working with somebody, whether you're black or white. Except I may be more direct and I'll say: listen, guys, buck up or else you're out of this matter, I'll bring in somebody else. But, maybe it's not as easy for a white person to say that to a black person. This doesn't therefore make one evil or racist. **The following excerpt of 3 lines is placed under embargo at the interviewee's request.**

Int No, of course not.

FK And they did not do anything deliberately, but what I'm saying is that firstly they're people of very high stature and...and I mean, you know, Arthur (Chaskalson) will intimidate anybody, he doesn't do it deliberately, that is the way he is. He has just got

this very distant, unapproachable manner, you know. But somebody else may view that as racism. So what I'm saying is that over the years, people that may have been sidelined perceive that to be race discrimination, but then those people also do nothing to salvage the situation...you know, they're really just sitting there as dead wood, you know? And for me, when I talk about people that have been at the LRC for so long, they shouldn't even be there...I don't know if they're still there now, they've probably all left by now...but...but I mean, this was my gripe, that there are people here that shouldn't be here, you know, they've spent their sixteen years or seventeen years at the LRC, and now there's no role for them to play here, you know, because by them being here they're not giving somebody else that chance to be there. But even if somebody else young comes in they do not provide the new person with an opportunity to grow. So if you've got no space for growth, you're going to leave and go some place else, you know? And that is a complaint that I've heard while I was there as well.

Int It then presents a real dilemma because what you have in the past during the 1980s and, I'd like your assessment of this...is a very high tier of original members and then you have the middle tier of lawyers who can actually provide the training, as well as the interface between the higher tier and the...the incoming young people. So what happens then, to the young people that cannot have...do not have that middle tier to give them the training and support. What's your sense of that?

FK Well I gave you some examples of this.

Int Sure...

FK ...why I think the LRC needs to introduce that kind of training. The one...either they're not training, alternatively they don't have the ability to train...

Int ...you mean, good quality, middle tier lawyers?

FK Good quality, middle tier lawyers, you know, and for me that's a real problem. You know, so, but then, it's also hard...you know, because, you know...I don't know what salaries the LRC pays and stuff, I really don't, you know? I know what they were

going to pay me if I came in as a Director, which is a very comfortable salary, but I'm not sure that that matches salaries that the rank and file would earn...

Int I hear different things about this....and I'm wondering what...the argument also is that the LRC cannot attract and sustain good quality lawyers, be they black or...regardless of race, because they cannot pay salaries that's comparable to a company like this...to a firm like this?

FK They will do...they'll never be able to compare, they'll never be able to meet salaries that a firm like this is paying, they'll never be able to do it, but what I'm saying is that, as a Public Interest firm you can pay comfortable salaries, you know, within the funding that you receive. And, you know, maybe now the funding has reduced, but at the time when they interviewed me as a Director, they were sitting with almost thirty million or forty million Rand in reserves, you know, so it's not a poor organisation and it's not...it's an organisation that can sustain itself over the...at least the next four years or so, you know, it's not a poor organisation. But, I find that it's prepared to pay some people at that higher level, but it's not prepared to pay the people that are presently there. So, it kind of filters down: oh, you're prepared to pay the new head of the CLU, you know, seven hundred thousand Rand a month but I'm just an attorney that's sitting here for the last seven years, and I'm only earning two hundred and fifty thousand Rand a month. So, do you know what I'm saying? So, they will...in order to, fill the gap because the CLU's been without a Director for the last seven months, and we can't attract somebody in now, we're going to have to try and, you know, pay a salary that will, kind of, meet what a fourth or fifth year advocate at the Bar is earning, you know? So we'll pay this person and then that person will come in for a year or two, whatever, and leave anyway. But in the meantime this all filters down to the rest of the organisation, you know, somebody's earning seven hundred thousand or five hundred thousand, and I'm here...you know, I'm here for now four years, or something. You must remember the people that are there for twenty-five years, or whatever are earning – but it is the new people that do not earn well.

**The following excerpt of 5 lines is placed under embargo at the interviewee's request.**

Int Absolutely.

FK You know, but you...you've got to find the way...you've got to find a way of keeping this...even if your salary is not high, there's got to be satisfaction in other ways, you know?

Int The other thing... is that the concern is, if you have this argument, that 'we cannot attract and sustain good quality lawyers, especially young, black lawyers, because the opportunities for them are so great', does that then somehow align itself to the argument that perhaps black lawyers aren't as committed to Public Interest Law?

FK You know, I don't know if you can...you know...(*interruption*)  
It's a hard one because, I mean, the socio-economic position of...I mean, I look at a young Article Clerk here, that has done very well at university, you know, produced As and Bs and whatever, got Articles here, spent four or five years here, and within...I mean, four or five years, the firm has really invested in that person...

Int Sure.

FK I mean, I say these firms invest in you from university, so they start paying you while you're a university student to ensure that you get here, you know, and perks are very good. So that's one way of the firm keeping you here, but very often, business attracts them because the returns in business are far greater than...and work for law is very hard, hours are very long, you know, it's very, very hard work. So, what happens is, for three or four thousand rand...and they're getting paid well here...but for three or four thousand Rands they'll go someplace else, you know? And it's because that three or four thousand Rand is important as a take home, you know, as a take home salary, because there is a mother to feed, got five brothers and sisters to support at university and all the extended family to take care of etc., you know, so the average young person is not just taking care of himself, like you and I would, you know, we've lived on our own. They're taking care of more than themselves and I'm not generalising, but I'm saying that that is the case, so I look at a young girl in my department now,

called Tebogo, and as soon as, she heard about the public interest programme at Werksmans she asked: please, please, please, you've got to get me involved, you've got to get me involved, you know? There's another young Indian girl, Omesha who's come from Natal University, also a very bright girl, as soon as she heard I was working on a public interest matter, she's asked to get involved. So there is an interest, and it's the mentor's role to make it sufficiently interesting...and when you bring them into a matter, you've got to keep them interested, and you've got to make them feel like they are...making a sufficient contribution to the matter, you know, for them to then want to get involved in another matter, and another matter.

Int Right...

FK I mean, these girls will probably be, you know...will continue to work in a corporate law firm, but I'm certain when I leave in a year or two, they'll be the ones that are going to carry on with this public interest programme, you know? I'm only here for a short while, but...So what I'm saying is there's a way at the LRC of actually...and I think if I was mentored in that way when I was at the LRC, I would have also probably stayed. You know, I didn't leave because I felt like I was discriminated on the basis of race. I left because I felt that it was important for my development as a lawyer..

Int The other argument is that now, when you want to refer a case as a lawyer to the LRC, it's very difficult to know what the LRC's focus is, what its mandate is, do you have that sense? What do you think is going on?

FK I don't know, I don't know when last they've run a strategy session, you know, I just don't know when last they reviewed their programmes, you know, is there need to be running, you know, a landless programme, or is there need to be running a labour tenants programme, or is there need to be running an environmental programme, you know? I don't know to what extent they review this regularly, as they did in the past. You know there'd always be shifts in an organisation. But, you would think that the organisation is doing that. When I last did research around work that was being done at the LRC there were four or five areas, that they were working on...**The following excerpt of 6 lines is placed under embargo at the interviewee's request.**

Janet Love, the new director of the LRC, may be very good in restructuring the organisation and getting rid of dead wood, and all of that stuff, but I'm not sure that she can give the organisation direction in terms of what, you know, what kind of work it must take on, and I don't know where the organisation gets that direction from....

Int Is that because she's not a lawyer?

FK Well, she's not a lawyer.

Int You think it's important to have a lawyer at the helm?

FK Well, I think it's important and I think you know when Bongani (Majola) was there, the complaint was, he is not a lawyer, he is an academic first...he comes from an academic background, what does he know about practice, what does he know about the direction which this organisation should take in terms of the work, and the work is what makes up the organisation, you know? And as much as the restructuring assists, it is important that an organisation such as the LRC has direction in terms of the cases, which it takes on. **The following excerpt of 7 lines is placed under embargo at the interviewee's request.**

Int The other interesting dimension here, is that within South Africa, it seems that public...there are Public Interest Law organisations cropping up and even within corporate firms there's a social investment or social responsibility centre. Does that then not create problems for the LRC?



FK Well, that's what I'm saying, maybe there isn't a need for the LRC.

Int Do you believe that?

FK (Laughs). I'd like not to believe that, but certainly, maybe the LRC has to question whether there is in fact a need for it, you know. There's all these other units, such as the university research units that are now doing their own litigation, it's the law firms that are now, you know, re-introducing Public Interest departments, it is all these NGOs. But maybe the LRC has not given those organisations the best service, and that's why they're going somewhere else. Or maybe the LRC just doesn't have the capacity and resources to take on all these matters.

Int Yes, absolutely...funding...as you well know, during apartheid, funding was really quite central and there was plenty of it, and then came '94, and then funding has really started becoming an issue, the argument also is that really there ought to be more internal funding, so funding from within the legal fraternity, corporate world as well as the state. What is your sense of that in terms of Public Interest Law?

FK Well, I mean, it's very hard with the Public Interest Law for the State to be funding it, this will result in a loss of independence if the state funds an organisation, the state wants you to do what it wants you to do. This was suggested previously, that maybe the LRC needs to approach the Ministry of Justice for money, but I have a real problem with that. You know, maybe approaching law firms and corporates would be more advisable I'm aware, from when I was at the Bar, that the Bar would give the LRC twenty thousand Rands annually, and I think the big corporates would also assist,...you know, the law firms, certainly in the old days, were providing some funding to the LRC, I don't know about now, I hope they're still doing it. Third one is, I mean, whether you go to...whether you go to corporates within South Africa as opposed to, you know...I mean, we get funding from within South Africa from the big corporates like the Anglo Golds and the Anglo Americans and the De Beers and whoever else, and, you know, I had a chat with some people from Anglo American and Anglo Gold and stuff and they said to me: you know, it's very difficult, Fayeeza...the LRC approaches us for funding and if the Aids Law Project approaches us for funding, or if a local nursery school or hospital or day care centre, we will give

it to those organisations, you know, because we feel what they are doing is far more relevant to what the LRC's doing. Now, you know, there's something to be said about that, and now my argument was: but the LRC is playing an important access to justice role, this is a big problem in South Africa, you know, black people don't have access to justice, the LRC also takes on important Public Interest Law test cases which impact on change in South Africa....you know? But the problem is that...the corporates don't see what the LRC's doing as relevant, you know. They'll give it a donation, maybe ten thousand Rand a year or something, but, they're not...they're certainly not going to give it, hundreds of thousands of rands.

Int It's curious because from the interviews I've done in the United States, certainly, the LRC's regarded as the greatest Public Interest Law organisation in the world, but it seems to me from what you're saying, that level of recognition in South Africa is just not there, and if it's not there, what do you think is the reason for that?

FK I don't know, you know, I said to somebody, I said: the LRC's not in your face anymore, you know, in the old days when the LRC did something it was well publicised, we read about it in the newspaper etc., you know. But now even if the LRC was involved in that matter, the LRC doesn't feature in publicity on the matter, I always get the sense that some other NGO has done that matter. And so, I have often said to the LRC: but, this was your case, why were your own lawyers not interviewed on Carte Blanche?

Int Sure.

FK So it's the NGO that is involved in that matter which basically gets the credit. The LRC clearly does not market themselves properly, because if you look at the Women's Law Centre, where it's involved in a matter, you are made to know that. There are press statements, prepared even before the matter goes into court, so that as soon as the matter's finished the press statement immediately handed up to a journalist, or representatives, are, on hand, to give interviews, to the press, where's the LRC? They certainly don't market themselves; do you know what I'm saying? They need to have a press committee within the organisation to do that kind of stuff. This certainly was the case prior to 1994. It doesn't mean that because you're a Public

Interest organisation you don't have to be competitive, you know. Look at the American Public Interest organisations, look at these big law firms that take on Public Interest work in America, even before the matter is won in court, you are made aware of it, through aggressive marketing.

Int This may be an unfair question, but I wonder, if you were at the helm of the LRC, what changes would you institute to make it that once greatest Public Interest Law Organisation? (Laughter). Just off the bat.

FK I don't know...I think that I would basically go out and I'd find ten new lawyers to come in to the organisation.

Int Lawyers?

FK Ya, lawyers.

Int Ok. How would you restructure?

FK I would, I mean, basically, I would have to kind of assess what is relevant for today, and Public Interest Law's still very relevant, I...I, you know, that's something that I maintain, that Public Interest Law will always be relevant. It's not like you can say: there's no need for Public Interest Law, it's still very relevant. But I think there may be areas where they need to focus more, like maybe education and, you know, other socio-economic issues. I mean, like there's this water case now you know, I don't know if that's an LRC matter, if it's an LRC matter, I've not heard that the LRC's involved in it, you know? I've seen people from the NGO being interviewed and I've heard Wim Trengove's name but I've not heard the LRC being mentioned. But what I'm saying is that there are, a whole lot of socio-economic issues, there are a whole lot of education matters that need to be challenged. For me, socio-economic issues are the biggest thing in this country, and unless you start to bridge the gap between the rich and the poor in this country, poor people will always be poor and the rich will always be rich, you know? I mean, look at our education system, it's in tatters. You know, for me an area like education is where you've got to constantly be agitating, you've got to challenge the government? I mean, I was talking to people from

ProBono.org the other day about the facilities at various schools and how in better areas...well, in more...higher socio-economic areas, the schools are better equipped, and then as you go further into the townships and into the rural areas, you know, there's nothing in those schools and those are really empty shelves the teachers that are not equipped to teach etc., you know, and they'd (probono.org) like to put together a challenge but...they can't find an NGO that can actually assist them in co-ordinating that kind of project, you know? Now I ask you, does the LRC have a programme that deals specifically with education? If not, it can go to the Centre of Applied Legal Studies, which has a project that deals with education and say: can we together, you know...you have a link to the NGOs, we don't have a link to the NGOs. I'm just saying that's one example.

Int Of course.

FK But what I'm saying is you have to make a concerted effort to actually liaise with community groupings on these issues. You have to be pro-active. Maybe I'm being unfair to the lawyers at the LRC, I'm not saying that there is no commitment, but what I'm saying is that there needs to be a re-injection of energy and that maybe these lawyers would be even better and more creative. **The following excerpt of 23 lines is placed under embargo at the interviewee's request.**

Int Fayeeza, in terms of rule of law, and you've mentioned education, you've mentioned socio-economic, but in terms of rule of law under an ANC Government, what do you think will be the key issues that Public Interest lawyers and Public Interest Law Organisations like the LRC, will have to contend with in the foreseeable future?

FK Mmmm, (laughs). I mean, the debates that are happening now, pertaining to leadership...are clearly drawn along color and socio-economic lines, you know. It's the poor, you know, it's the working class, they believe that (Jacob) Zuma, with all of his warts and all, you know, can basically change their socio-economic positions. And for me, it's those socio-economic issues, it's housing, you know, it's housing, it's land, the whole land issue, you know this government hasn't, you know, done, one tenth of what it ought to have achieved in terms of it's...it's housing commitments. Housing is a priority for every poor person out there, you know? It's this landlessness, these squatter camps that have to be taken care of. It's education, it's electricity, it's water, it's all of these things that are important to poor people, you know? These are grassroots issues, I mean, that is what dictates who they will vote for at the end of the day, and I think, that's where you have to get your direction from at the end of the day. And there's a case like this water case, I mean, it's wonderful, where the LRC started cases like that, you know, where the whole trickle system of water was introduced, I don't think that that trickle system would have been introduced if it wasn't for the LRC and the commitment of JP (Purshotam) in Durban, you know? You know, Public Interest Law is about achieving a little here and there and taking that forward and achieving more over time

Int I've asked you a range of questions, I'm wondering if there's something I've neglected to ask you, that you'd like to be included in this Oral History interview?

FK You know I can't think of anything else, but I did go off on a tangent.

Int Not quite, no, not quite.

FK I don't know, I just can't think of anything else.

Int What are the stories that remain to be told, Fayeeza?

FK About the LRC? (Laughs)

Int Or the people.

FK Oh dear. I don't know, I don't know, I just can't think of anything right now but I'll think about it.

Int Are there any funny moments in your experiences there with particular people? You worked with George (Bizos), for example?

FK Oh ya, George (Bizos) was funny...you listen to all George (Bizos)'s grandfather stories, him sitting and crying, and then you all become all tearful as well, you know, he tells you all these wonderful stories of when he worked on the political cases or of his arrival in South Africa as a refugee from Greece. As soon as George (Bizos) saw you at the LRC the first thing he'd say after greeting you, is: can you? So basically, can you please do this for me, because as soon as he saw you, he would want you to research some aspect of the law etc. or make him a cup of coffee, which being a woman, I often protested against, but I could never say no to George (Bizos). I also remember George (Bizos) leaving me in the lurch to deal with an appeal on my own, soon after I qualified as an advocate. George (Bizos) was my leader in the matter but then, at the last moment, he informed me that he was not available to argue the matter the next morning. So, you know, I had to argue the appeal on my own, and on short notice, but we still won.

Int Throw you in the deep end...

FK Ya – but it was fun. I enjoyed my time at the LRC. It was important to my development as a lawyer. Throw you in the deep end as well. I mean, there are nice things that we did at the LRC, you know, those Fridays...we used to have a Friday morning tea, which was wonderful and every...one Friday every month...I don't know if somebody brought food along or if the LRC just paid for the food, and all of us were eating lovely curry and rice, or something, you know, in the common room. Those were all nice things and, you know, I think to a large extent, everybody wanted to be friendly with everybody else, and they were nice people there, they were nice people there, but being nice and being right for the organisation is not the same thing.

Int Absolutely. Thank you so much, Fayeeza, I really appreciate your...

FK Pleasure.

Int ...candour and also...your ideas and...

FK Sometimes I'm too candid, I think. (Laughs).

Int There's no such thing. Thank you...

## **Fayeeza Kathree–Name Index**

Andrews, Angela, 27  
Asmal, Kader, 8  
Bizos, George, 10, 19, 20, 46  
Browde, Jules, 12  
Budlender, Geoff, 22, 31, 32  
Chaskalson, Arthur, 9, 20, 22, 28, 31, 32, 33, 35  
Francis, Ellem, 30  
Hathorn, Moray, 21  
Kahanovitz, Steve, 27  
Kentridge, Felicia, 31  
Kollapen, Jody, 25  
Lakhani, Ketan, 2  
Love, Janet, 25, 40  
Lyster, Richard, 6, 7, 17, 18  
Mabandla, Brigitte, 8  
Mdladhla, Nzo, 19  
Majola, Bongani, 22, 32, 40  
Marcus, Gilbert, 10  
Mayet, Achmed, 25, 28  
Mohamed, Ismail, 9  
Mokgoro, Yvonne, 9  
Moodley, Asha, 8  
Moodley, Inthiran, 5  
Moodley, Strini, 1  
Navsa, Mahomed, 20, 25, 26  
Omar, Dullah, 8  
Purshotam, JP, 19, 45  
Robertson, Mike, 4  
Rutsch, Peter, 19  
Saldanha, Vincent, 22  
Steytler, Nico, 8  
Tregrove, Wim, 10, 19, 20, 32-33, 43  
Zuma, Jacob, 45  
**Omesha, 39**  
**Tebogo, 39**

### **Cases:**

Cato Manor, 18  
Constitutional Certification, 10  
Evictions in KwaZulu-Natal, 18  
HIV Cases, 18  
Marlborough Eviction, 27, 28  
Water case, 43  
Winnie Mandela Community (informal squatter community), 14



## **Legal Resources Centre Oral History Project**

### **PUBLISHER:**

*Publisher:- Historical Papers, William Cullen Library, University of the Witwatersrand*

*Location:- Johannesburg*

*©2012*

### **LEGAL NOTICES:**

**Copyright Notice:** All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

**Disclaimer and Terms of Use:** Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. These digital records are digital copies of electronic documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

### **DOCUMENT DETAILS:**

*Document ID:- AG3298-1-070*

*Document Title:- Fayeeza Kathree Interview*

*Author:- Legal Resources Centre South Africa (LRC)*

*Document Date:- 2008*