

UNIVERSITY OF DURBAN - WESTVILLE

DOCUMENTATION CENTRE

ORAL HISTORY PROJECT

"VOICES OF RESISTANCE"

INTERVIEWEE: JUSTICE THUMBA PILLAY

INTERVIEWER: MUSA NTSODI

DATE: 31 JULY 2002

PLACE: GREENWOOD PARK, DBN.

MN: Good morning. My name is Musa Ntsodi. Today we are talking to Justice Thumba Pillay, another legend in the struggle against apartheid. We are at his Greenwood Park home. Justice Pillay, good morning and welcome.

JP: Thank you. Good morning to you.

MN: And thank you very much for inviting us to your home.

JP: Pleasure.

MN: For starters will you please just tell us about where and when were you born?

JP: Well I was born on the 4th of April 1936. I was born in Durban and lived all my life in a place called Clairwood, which is a suburb of Durban, and stayed there from the time I was born until 1961 - I think it was - and then moved out of Durban after the Group

Areas Act, which resulted in many Indians leaving Clairwood and settling elsewhere.

MN: What can you tell us about your parents; where were they born?

JP: Well, both my parents were born in - I think my Dad was born in a place called Greytown. My mother was born in Durban. Both were South Africans and my father was a Policeman, and interestingly enough at the time that he died - when he died - he was the highest-ranking Policeman in the South African Police Force - ranking Policeman of colour. In those days you couldn't go beyond a certain rank, and he had achieved the highest rank when he retired from the Police Force after 35 years' service.

MN: Can you remember his rank?

JP: Yes, he was a Senior Detective Sergeant. That was the highest rank achieved by a Policeman in those days.

MN: What can you tell us about your parents' education; how were they educated?

JP: My Dad - they weren't really, as far as I recall; my Mum could not have received an education, if I had to say, standard 3 or 4, because in those days receiving any kind of education was quite a privilege.

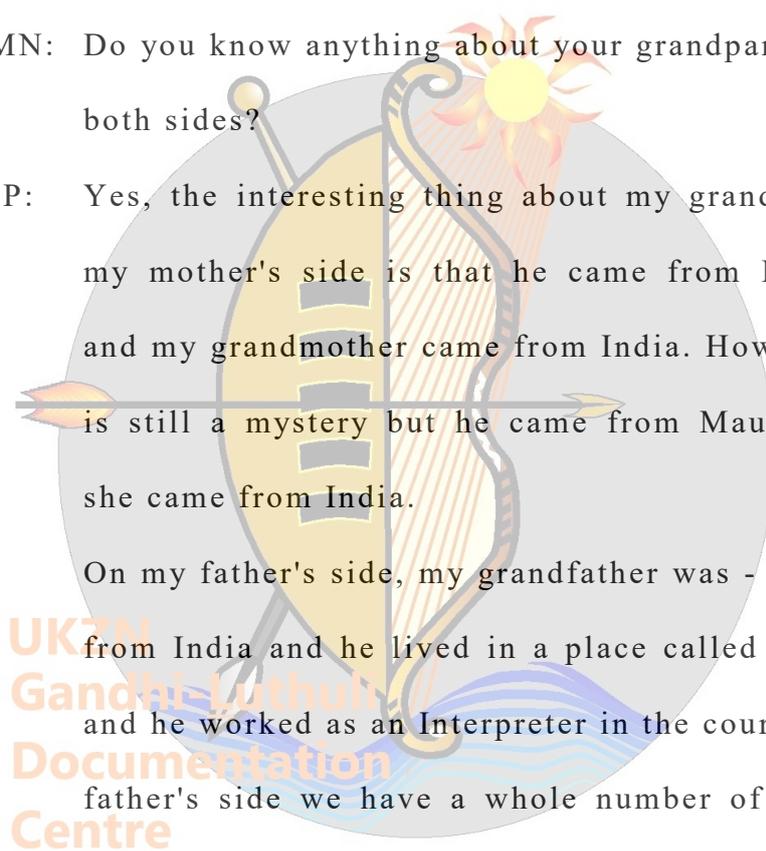
My Dad too, I never quite enquired what education he received, but he was - I would assume that he would have at least gone above the standard that my mother had reached - but he was very fluent in English, he wrote very well. He came from a family which spoke English very well; and we were widely-read people, oddly enough.

MN: Do you know anything about your grandparents from both sides?

JP: Yes, the interesting thing about my grandfather on my mother's side is that he came from Mauritius, and my grandmother came from India. How they met is still a mystery but he came from Mauritius and she came from India.

On my father's side, my grandfather was - also came from India and he lived in a place called Greytown and he worked as an Interpreter in the courts. On my father's side we have a whole number of men who were serving in the Civil Service as Interpreters in courts and so on. They were fairly good at languages.

MN: What can you tell us about your siblings; how many were you, and where and what position do you have in the line? Are you the first-born and so forth?



JP: No, I had an elder brother who has now died. He was a musician and a very good one at that. I have another brother who emigrated. He's a Canadian citizen. He's been away for 30 years, and I also have another sister who is also in Canada. She's been away for the last 15 years or so. I am the only one left in South Africa. So there were four siblings here.

MN: Are you the youngest?

JP: No I am the third.

MN: The third?

JP: Yes.

MN: What can you tell us, please Justice, will you please tell us your history; your school history?

JP: Yes I was - my early schooling was in Clairwood.

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Well I started school rather late because in those days getting into school was very very difficult indeed. I think I started school when I was almost

10-years old, and it was a platoon-system and it was as a result of doing well at school that - what I, what in those days were called "double promotion", for instance you got from standard 2 to standard 4 and so on, and that is how I managed to get to matric by the time I was 18.

MN: Can you explain the platoon-system a bit?

JP: The platoon-system was a system which was very prevalent, it was used especially to accommodate the Indian children who couldn't be accommodated in the normal school-system which, you know, started from say seven to two o'clock or whatever. The platoon-system is a system that started - you had two shifts - the second shift would start at two o'clock and go on to four o'clock and so on. By those means schools were able to take a far greater intake of students that they would normally take.

MN: What can you tell us, what's your memory, what memory do you have when you were in primary school? If you can go through it a bit.

JP: It was an extremely exciting school time. I must say that, you know, whenever I meet people who were in school with me in those days, we simply enjoy and go into ecstasy about talking of those schooldays.

Not so long ago I had a reunion of people who were together in Standard 6 almost more than 50 years ago, and it was quite an exciting evening spending time with people who you were at school with when you were, you know, in your teens and meeting them now, when they're grandparents and so on.

So, they were very exciting times, I mean, despite all the disadvantages and the type of schooling and

so on. I think we didn't know any better in those days, but we enjoyed whatever we had. And then Clairwood itself was a fantastic community. I think it was one of the most vibrant communities that ever existed. Despite all the setbacks you had people coming out of Clairwood who achieved considerable, who went to great heights, despite the very deprived background, if one can call it that.

MN: And from Clairwood - where did you go for your High School or your Secondary Schooling?

JP: Oh yes, that is also interesting. The only High School, in my time when I was ready for High School, in Durban was Sastri College.

A little later came, as I said the Sastri College was the only High School and there was a High School

in - I think there was one in - Stanger and there was one in Newcastle. And there was also a High School in Umzinto. So if you were in Durban and its

surrounding areas, Sastri College was the only College that you could go to, in my time that is.

And Sastri College would take into Standard 6, they'd have from standard 6. They've also had a Teacher's College, that went to Sastri College at the time. It would only take, say 120 students, the top

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students for the whole Province would compete to get into Sastri College.

So if you did very well in your Standard 6 you would get into Sastri College. And that's how Sastri College managed to produce the cream-of-the-crop. If you look, from people 50 years ago, all the people who are playing - people of my generation - who played a major part in the political struggle, in education, in medicine, in whatever field, they would have their roots in Sastri College and lots of the people from Clairwood went to Sastri College.

MN: From your High School, can you mention names for us of people with whom you were at the school, if you can still remember?

JP: Yea well, you know yes, well look, from - George Sewpersadh, for instance came from Sastri College. Oh, nearly every political activist that you can think of the seventies will have come from Sastri College.

My memory is a bit -I'm trying to think of names now. Anyway, whenever they come to me I'll mention them to you.

MN: Okay. And the teachers; your favourite teachers at the school, or the teachers who were popular at your school at that time?

JP: Are you talking about Primary School?

MN: Primary School - [interruption]

JP: Well of course I had quite a few favourite teachers. One of them was a man called BG Reddy whom I believe is still alive today. There was a Mr RG Pillay who eventually, who lived in Clairwood and eventually became Inspector of Education. There was a Mr CG Pillay; there was a Mr Chinappen. There was - at High School - there were the Narsoo brothers; the Lawrences; the Josephs; the Thumbadoos - they were brothers, the whole range of them there. The Nair brothers; Vasi Nair was one of them; Dhama Nair was another one of them. Pat Samuels - I'll say also a contemporary of mine - who was also a teacher. Incidentally there's a neighbour of mine who is well into his 80's now, Mr SS Chetty, who was a teacher at Sastri College. There was Mr Subahn Khan.

These are all very famous names. People who were teachers, who eventually held high positions in the Education Department itself. There were lots of others, but as I said I can't just quite remember their names at the moment.

MN: What can you tell us about the community that you were born and raised in. What kind of a community...?

[interruption]

JP: As I said, you know, Clairwood was a very vibrant community. You just - in every endeavour that you could think of, in education, in sports, in politics, in everything you had people who achieved, and lots of them became teachers. Lots of them became doctors and so on, despite - as I said - it was a Cinderella suburb, you know, where we still, at the time, we didn't have a sewerage system, we had a bucket system. Poor roads; poor lighting; generally poor development. I mean, you know somehow, how these suburbs were neglected during Apartheid, then. But what was important about Clairwood is that it wasn't just an Indian suburb. There were lots of Africans who lived there, there were lots of Coloureds who lived there and there were a sprinkling of whites who lived there; and there was never ever a problem.

The relationship between people was just absolutely wonderful. I can remember a whole number of coloured people who were our neighbours and we grew up as children together; and we went to each other's homes together; you know, and we were treated like children. Clairwood was unique in that sense. Clairwood was unique in that sense.

MN: Was there then in your community, what about - were there any politics, I mean what sort of a community?

JP: Yes, it had a very active Ratepayers' Association; it had a lot of people who were activists and members of the Natal Indian Congress; and there were also, in those days, what was called the Natal Indian Organisation.

There were women from Clairwood who volunteered into the Passive Resistance Campaign. One of them that I can remember off-hand now is Mrs Sarthamba Pillay. She was one of the first Indian women, the batch of women that went to Prison during the Passive Resistance Campaign. So there was a whole lot of activism in Clairwood.

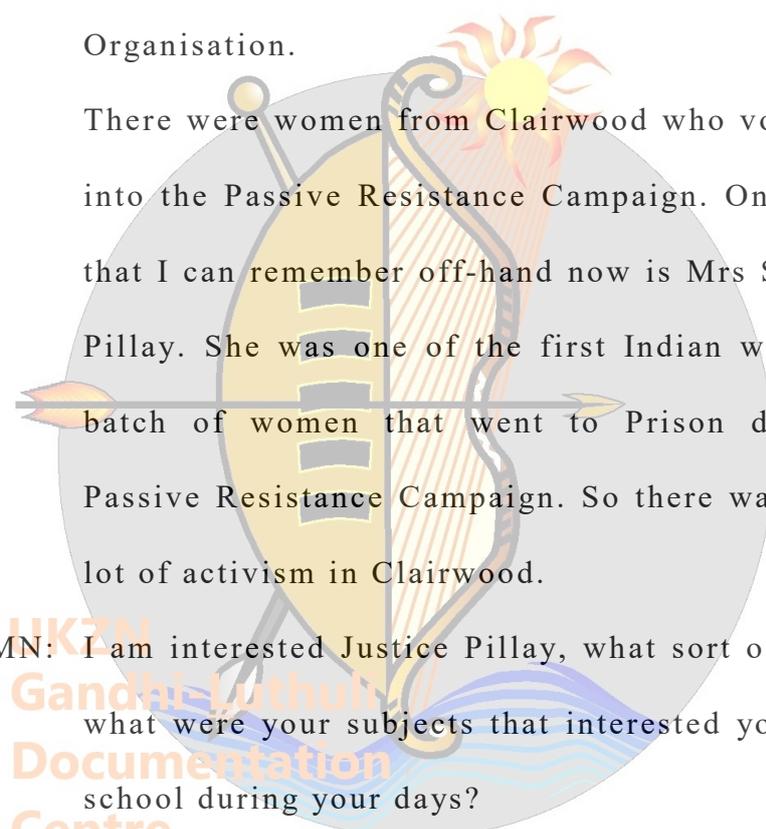
MN: I am interested Justice Pillay, what sort of, I mean what were your subjects that interested you most at school during your days?

JP: History.

MN: History?

JP: Without doubt, yes. I also did it as a major in my degree as well.

MN: So you - that was the only subject you were interested in?



JP: Yes, yes. Well I think I was reasonably good at it, yes.

MN: When did you graduate at Sastri?

JP: 1954. At least I completed my matric in that year and went into the University of Natal in 1955, and the University of Natal in those days was for Black people at, not at the University itself where it is now at Howard College, but it was and the classes were held - it was called the Non-European Section. Classes were held at Sastri College and later at a place called - in Lancers Road called City Building.

MN: What sort of books did you read, I mean besides what was being read at school at the time?

JP: You know, I just read about everything that I could lay my hands on. I can't say anything in particular, but just about anything that I could lay my hands on. We had in those days - there were no library facilities in Clairwood. Eventually sometime when I was in standard 6 or so, what we had was a mobile library that was run by the municipality, that used to come into Clairwood and we used to be members of that library and borrow books and so on, and I remember my very first book was something by Kipling I think, but then later on I just read

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anything that I came across, political books, books on politics and so on.

So, nothing in particular. I can't say that I had any particular favourites.

MN: When did you start at the Natal University again?

JP: I started at Natal University 1955.

MN: And what were you studying?

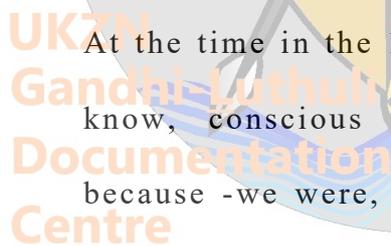
JP: Well, let me put it this way. When I went to Natal University I had in mind becoming a teacher, and it was when I got into Natal, well I don't think I became politically aware but even before that I had become - I would say that I became political.

Let me tell you about an incident to which I would try to think back what really made - started my - when I became politically aware.

At the time in the 1950's I don't think we were, you know, conscious of the discrimination as kids because - we were, as I said, you know - Clairwood

was a vibrant society and as kids we were just happy, we didn't know much better and so on.

When, strangely enough, India gained its independence - I think it was 1947 - and suddenly as kids and our parents we could identify with that country simply because we knew that's where we came from and we - you follow?



And India had - when I was in standard 6 - India had its Independence-day Celebration. Ja, and then we, as kids, thought no we had to celebrate that day as well because this country had won its freedom. I am not sure to what extent we were aware of the fact that, you know, we didn't have the same freedom, but anyway, we wanted to celebrate India's freedom and we wanted a day off from school. You follow?

MN: You said school should close for the day for celebrations?

JP: To celebrate. Now I mean, if you think about it today, it was really a hare-brained thing. Why must we get a day off here to celebrate on some other country's independence? But that was it, you see.

And I think that might have been at the back of my mind, here was a country which had, you know, fought off the shackles of oppression and colonialism and so on. I'm sure that must have been,

I can't remember now, but I'm sure that must have been something which motivated us to say, "well, we want to celebrate".

MN: But what - [interruption]

JP: India's Independence Day. So, what we did, and that was the first act of defiance on my part that I can

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think of, is that we decided to boycott classes. You follow?

MN: Yes.

JP: And a few of us, I'm not sure whether I lead the boycott but I mean a couple of my friends I can remember who were part of it and one of them is now a Canadian citizen. Anyway, we stayed away from school.

MN: For the day?

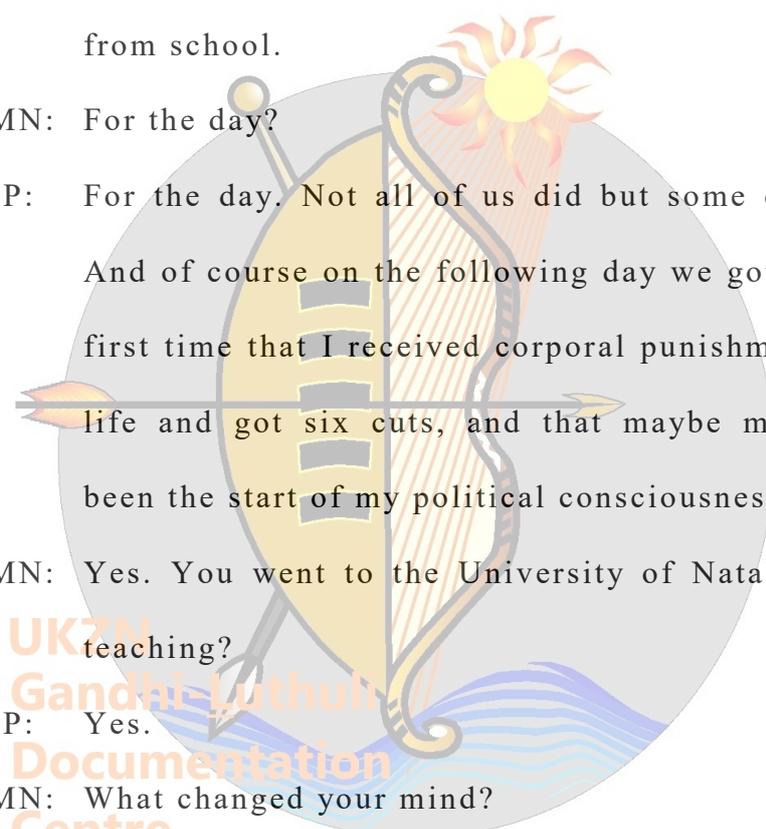
JP: For the day. Not all of us did but some of us did. And of course on the following day we got - it's the first time that I received corporal punishment in my life and got six cuts, and that maybe might have been the start of my political consciousness.

MN: Yes. You went to the University of Natal to study teaching?

JP: Yes.

MN: What changed your mind?

JP: Yes. Now what changed - once I got in, I realised the inequities of the system, you follow, that here we were going to a University studying after hours but not being admitted to the University itself. Not sharing the facilities and the classes where whites were tutored; not going to Howard College, you know the campus and so on. We were being taught



in warehouses and borrowing accommodation to be taught when there was still, when there was ample accommodation elsewhere to accommodate us and to be taught with other people who were being, who were enjoying, you know, much better facilities. And then I realised that "look, if you are going to be a teacher, you are just not going to be able to fight this system." I mean it was so discriminatory and teachers were just not - wouldn't dare enter into politics in those days.

The political activism of teachers today is just a far cry from what it used to be. We never talked - teachers never spoke politics, they were never organised to - well they were, they did have a teachers' society but nothing of, you know, of the kind of activism and the outspokenness of those that we see today. And I realised that if I were to become a teacher that I was not going to last there very long, I'd be kicked out. Kicked out of the profession.

So after two years studying English and history and so on I decided that I must do law.

MN: Who were your contemporaries at the University?

JP: Oh, that's interesting. Well, Mewa Ramgobin was at University; he came after me you know. Ela

Ramgobin [Gandhi]; George Sewpersadh, Louis Skweyiya; Vuka Shabalala; Galaki Sello who was in Lesotho; there was a chap called Ernest Gallo who died - he was a political activist - who died. There's Mac Maharaj; MD Naidoo; Mac Maharaj's former wife Tim; Phyllis Naidoo; Selby Baqwa; Don Kali - the names I can remember.

Oh, there was Dr Herbert Oshevokunzi who was at the Medical School, but we were on the SRC together. But I think my whole activism started when I got into Natal University.

We had what was called at the time a Students' Representative Council; it was called the Non-European Students Representative Council. And we had our own SRC, separatist SRC; and within a year of my getting into University I became Secretary, and then I became Treasurer, and then I became Vice-President and the last year when I finished University in 1961 I was President of the SRC.

And then we - there were, what was then - we were very actively engaged in the protest against the separate Universities Act - well it wasn't called that, it was called the Extension of the University Education Act, some kind of a misnomer like that, and which resulted in the establishment of all the

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separate Universities, starting with the University, the Salisbury Island one became the University of Durban Westville; Turfloop; and Zululand; and so on, all the, what we called the Bush Colleges in those days.

MN: Your father was a Policeman?

JP: Yes.

MN: What was his name again?

JP: My father, his name was Vasa Pillay, he was well-known as Vasa Pillay. But let me tell you something about my father, which would be interesting in how it conflicted with my political activism.

In the sixties, you know that Umkhonto we Sizwe was launched and then the sabotage and the bombings and so on that took place, and so on, and lots of those people who were in Umkhonto were people who were members of the Natal Indian Congress of which I became a member.

Incidentally in 1961 I was elected on - my political activism escalated, you know, just quite unbelievably soon after I got into University. The kind of people I met, Mac Maharaj, Galaki Sello, and you know, these people were all political, very, very politically-minded people and in a very short time I got involved and in 1961 I was - I think I

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might have been the youngest person ever to have been elected onto the Natal Indian Congress Executive, and Dr Monty Naicker was its President. Now, going back to my father, my father was a member of the Police Force.

MN: Yes.

JP: And of course, there was an inevitable problem then because Policemen in those days often had to do the work of what was soon, later established as a Special Branch but also do Special Branch work. In other words they had to watch out and, you know, be vigilant against political activists and so on and when the Sabotage Campaign started, you understand there was serious problems about the fact that my father was a Policeman. And in fact it was - it took quite a while before I was accepted into the ranks of the Natal Indian Congress in its Executive.

As a member there was no problem but into the Executive there were a lot of people who were worried about my - the fact that my father was a Policeman.

MN: The reason why I was asking Justice Pillay, I wanted to know what was his or the family's reaction when you changed?

JP: Precisely, ja. I must tell you that my father was very supportive. He was worried. He was worried because - and there were a lot of embarrassing moments - because whenever a bomb went off anywhere in Durban, within minutes the Police would arrive home to see if I was at home or whether I was out there setting off bombs and so on, and my father would be at home and he would be extremely upset that other Policemen would come raiding our home, you follow. And it was embarrassing for him as well, but he never ever, never ever, said to me that I should stop. Never.

My mother - understandably - was very worried about what might happen to me. She knew that I was politically active and she was always worried and so was my father, but never ever have they said to me that "we think that you should stop this business of being associated with politicians and so on."

It was the source of embarrassment for me, it was the source of difficulty for me, because I could always sense until people really got to know me, that there were some fears about what they could discuss in my presence. But this all disappeared in a very short time.

MN: If we can go back a little bit, to your family. Did all your siblings go to school? I mean in those days financially the family...

[...interruption]

JP: My brother - my younger brother became a teacher and he emigrated; he went to Zimbabwe. He went and taught in Zambia and then, because opportunities were better there and so on and eventually he settled in Canada.

My sister didn't go beyond standard 6. Apart from my younger brother who became a teacher, I was the only one who really went to university and furthered my studies.

MN: Reasons for not continuing - your sister - was it financial or was it out of choice?

JP: No I think it was out of choice. I think if they wanted to, I'm sure my parents would have battled somehow. It was a bit of a struggle too so I don't think they minded too much that she actually didn't want to go to university.

MN: Your father was the highest rank that is mentioned in history.

JP: Ja.

MN: Is it in, do you know whether it's in record books now?

JP: You know if you look at Drum magazine around the sixties; after he retired, Drum carried a whole series of articles on his exploits as a detective. And now, I would even like to get my hands on that publication and I always wanted to get to the archives somehow and find it. They ran a series, a serial on some of these.

He was involved largely in criminal detection work, and I believe, at the time, that he was a very good detective and he was known throughout the country.

MN: Going back to your tertiary education. What was their reaction, did they encourage you when you changed?

JP: Very much so. Now, you see my father and the family were always involved in some way in the law itself, and so, you know, for his son to now want to become a lawyer was a great thing for him. And unfortunately, he retired just when I had qualified, just after I had qualified and my greatest regret, insofar as my mother is concerned, is that she died very young, and she battled to put me through university and so on, and she never got to see me qualify. She died in the very year that I qualified. And of course, the other unfortunate thing is that

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my father never lived to see me become a Judge. So he would have been very proud.

MN: What occasions can you remember during your student days at the University of Natal. I mean what - as you have already mentioned that you've always been involved in the struggle. What events?

JP: Well, let me tell you about the protest against the Separate Universities Act. We had many protest meetings. We had a march on Parliament in Cape Town, a torchlight procession through the streets of Cape Town. We were arrested in Cape Town, put on the train in Cape Town and sent back to Durban.

This, I can just highlight, this is one of those incidents at the time. There were very many protest meetings and petitions against separate universities and all sorts of protest action at the time.

MN: The setting in the classrooms. How was it? I mean you said it was the Non-European section...

JP: Yes.

MN: ...of the University?

JP: Yes.

MN: How was it, was it in the setting was it Indians, Africans?

JP: No no. No. That is very interesting because, you know at the time, what always surprised me. Let me,

let me start - what always surprises me is that when we talk of - I've read about friction between Indian and African students at the UDW and so on and some of the universities.

It always surprised me, because at the University of Natal in the 60's, and maybe even the early 70's, there was absolutely no friction between African - well no discernable friction between African and Indian students or Coloured students whatsoever.

We had a semblance of Pan Africanism at the time, but not espoused with any degree of hostility, do you follow, or bitterness. When it came to the crunch we stood together. And as I said when you talk of some of my - if you have some of my contemporaries that I mentioned to you, Vuka Shabalala, Louis Skweyiya and all of them, there was never a problem.

MN: Any female contemporaries that can you remember?

JP: Yes, there's Zubie Seedat, who is an attorney and is very prominent in the Law Commission at the moment, then I've mentioned Ela Gandhi, let me see. I've mentioned Phyllis Naidoo.

There were a whole host, and Radhi Singh, who was at the university. She became a lawyer, one of the first Indian women lawyers, if I can remember. She

left the country after her husband JN Singh, who was a very prominent activist and member of the Natal Indian Congress, after he died she left to settle with her daughters in Canada or America.

There was Ansuya Singh. She was not at university, but she was quite active. There were a whole lot of others as well.

MN: You also...[interruption]

JP: Fatima Meer.

MN: You also mentioned that there were two different student bodies at the university.

JP: Yes a white and a black, and the Blacks would have been all Indians, Coloureds, and Africans.

MN: How did they react?

JP: Well, you know, you had a liberal element at the University of Natal, and there was interaction with them, you follow? We had, what was called,

towards the end, or just before I left university, what was called a Joint Board of SRCs, which meant a combination of the SRCs, because there was another SRC in Pietermaritzburg, because there were two campuses. There was one in Pietermaritzburg. There was one in Durban and then there was one at - which was called the Non-European section.

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So you had a Joint Board of SRCs, and a friend of mine who had passed away and who was also a political activist and whose name I forgot to mention and I ought to have mentioned, because he was a great friend of mine, was MJ Naidoo, and there was also Paul David who were at university together and these names will come to me as I go on. MJ Naidoo and I were elected as the first people of colour, as President and Secretary of the Joint Board of SRCs and I think that must have been about 1958.

MN: You said that you started, you became politicised when India got its independence.

JP: Ja, I think it might have been that year.

MN: Your political conscience appeared?

JP: Yes, I think it might have been then, yes. You know, it could have also been - I think this is also interesting; it might interest you. When I was quite small - yes, I think this is very interesting - my father joined the army when World War 2 broke out. You'll probably know that there were quite a number of Indians who volunteered to join the South African Defence Force, and I think it must have been - I was very young at the time, because I was born in 1936, war broke out in 1939 and I think it

was 1941, so I could have been no more than about six-years old when my father joined the army. Now, it is quite remarkable how much I remember of that period and a lot of things that happened afterward, that I can just vaguely remember.

In fact, I can't even remember too many names that you were asking me. But that period of my life I remember extremely well. Now it is possible that my interest in history and my interest in politics started then, because I'll tell you why.

My father left, incidentally, some of my other relatives also joined the Army and I can think of two other people from my family. One was a man called Seaman Chetty, who was also famous for having been the Empire Bantam-weight Champion, boxing champion.

MN: South African?

JP: South African Indian, yes. He was a Sergeant-Major in the Army and another cousin of mine - who has also died - called Manikum Moodley, so there were three people on my father's side who joined the army, and my father went to Palestine, he went to Ethiopia, Egypt, and so on during the war - North Africa. And as a six-year-old kid I remember listening to the radio and we used to get BBC -

rather we had those very old sets and you could get this crackling news from the BBC - and I was extremely interested in what was happening in the war.

I would listen to Churchill's speeches all because my father was there and every time we were wondering where he is; whether he's alive or whether he's dead. So I remember the war very, very well. So my interest could have also started then.

MN: When did you, where can you say your serious political involvement in politics was?

JP: University of Natal.

MN: University of Natal. And when did you?

JP: Let me tell you, the first incident that I remember with great clarity, is in 1955, Congress of the People, Kliptown.

I just got into university, and people like Mac Maharaj were there and so on, and we were all organising for the Congress of the People and we used to go out and collect all the petitions from people you know. People had to say what kind of new South Africa they wanted, and we were all the people who went from house to house and did that kind of work. And the day before the Congress of the People, there were two or three busloads of us

that wanted to go to Kliptown, and a lot of us from the University of Natal, and I could remember at the time - in that particular bus that I went in - there was Billy Nair, I remember very, very distinctly.

We went, and we were stopped by the Police in Newcastle because we didn't have permits. The busses didn't have permits.

This was part of the harassment to prevent us from getting to Kliptown. And they actually turned the busses around and sent us back to Durban.

MN: Excuse me Justice, can we...?

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MN: Welcome back.

JP: Alright, let me just. We were talking about the incident where a whole - three busloads of us were turned back from Newcastle by the Police. This is in sheer harassment to prevent us from going there.

They used the excuse of the bus permit to turn us back.

So the whole three busloads of people from Natal never got to Kliptown, and I was amongst that lot, and I'll never forget the incident because they made us get out and they took us to the Police Station in

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Newcastle, took all our names down and asked us to walk back to Durban.

So the buses drove off and we started walking out of Newcastle, but the buses came back and as we were just walking out of Newcastle the buses came back, picked us up and we came back to Durban. But that is one instance of Police harassment to thwart the success of the Congress of the People.

Billy Nair eventually got to the Congress of the People somehow but there were a whole lot of us - I remember it was a bitter, bitter July - and we never got there.

So that was it, you know, that incident stands out in my mind, and you know when you are talking about - if I can just go back - the impact of the Group Areas Act on, if you take Clairwood. Now, you know, it destroyed the very fabric of that society. It was a well-knit, cohesive community, hell-bent on getting a good education.

Sports, you know, let me give you a concrete example. Soccer was such a big thing in Clairwood, where Africans and Indians and all played together. There was some extremely good Indian footballers and I - to this day I think it could only be the Group

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Areas that destroyed that, the sporting spirit of the Indian community.

When I look at the sports teams, the soccer teams of today and I wonder what happened to a community, which produced such great soccerites.

You know, when I was a little boy - you cannot manage to find one who can make the national team today, you follow? And it is this Group Areas Act, it is this insidious effect that the Group Areas Act had on the life of people and after that, with the Indian community - with the Group Areas impacting as it did on all aspects of life - I think what they did - the really only thing that they clung onto was education, education, education, and sports went by the wayside.

MN: You - earlier on - you had mentioned that the Clairwood community was sort of a multi-racial Indian, African...

JP: Yes, yes.

MN: ...does it mean after the Group Areas Act it all...

JP: Oh yes, everybody went their own way, you know, everybody went their own way. Large sections of the community - the Clairwood people went to live in Chatsworth. Lots of them went to live in Isipingo

and some of us landed up in Isipingo, and then eventually here in Greenwood Park.

MN: When did you get your first political home? You joined...[interruption]

JP: Well there was no question about it. I went to university and it was straight into the Natal Indian Congress.

MN: When was it, what year was it again?

JP: It was 1954, 55.

MN: You also mentioned that there were no problem with your membership but the Executive, it was when...
[interruption]

JP: It is not that, there was never a problem with my membership as long - I was a member of the Durban Central Branch of the Natal Indian Congress because I'd moved to, you know from the university I automatically became just friends with people who were from the Durban Central Branch and became a member of the Durban Central Branch. I was its Secretary, there were times there were periods when I was its Secretary, I was also its Treasurer, the branch itself, and then I rose quickly, rapidly into the Executive. That's when - there was some uneasiness from - there was some uneasiness, particularly from Dr Naicker; but Dr Naicker and I

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eventually became so close, you know, that I think he just eventually accepted me as a bona fide member and that he could really trust me.

MN: When did you become the secretary?

JP: Of the Durban Central Branch?

MN: The Durban Central Branch.

JP: That is just a Central Branch. Well that must have been in the 50's, between 58 and 61, 62, thereabouts.

MN: From there whereon after you...?

JP: Then, rather, very rapidly in 63, January 1963, I got my first Banning Orders you follow? And that was, and I think it was more related to my activism as a student protesting against Separate Universities Act, even protest against the Ninety-Day, the introduction of the Ninety-Days detentions, the laws and so on. Detention Without Trial, that resulted in me on New Year's Day 1963 being served with banning orders.

It was served and then I was banned for the period of five years, then in 1968 it was renewed again for another five years so I served ten years out of, virtually out of politics, officially out of politics. But that didn't deter me from doing some kind of work.

MN: When did you graduate from the university?

JP: 61.

MN: 61.

JP: So I qualified in 61, admitted as an attorney in 1962.

MN: So the banning came after you've graduated?

JP: Yes. When I qualified, I went to practice in Port Shepstone with George Sewpersadh. George Sewpersadh and I qualified just about the same time; finished our Articles; and we started off a practice in Port Shepstone; the first people of colour to start a practice in Port Shepstone.

Now we had a very hard time in Port Shepstone from the Magistrates who were there. They were all white of course, in those days. They despised us, they gave us - they were rude to us, we reached a stage where people we defended had little or no chance of acquittal because these Magistrates were so prejudiced against George Sewpersadh and I, who happen to have links - political links - and links especially with a person called Roley Arenstein, who was then a lawyer, who was a very prominent lawyer at the time.

I'm sure you would have heard of him, a member of the South African Communist Party, who died not so

long ago, and one of the most prominent lawyers of the time, and one of the most committed lawyers of the time, insofar that the Struggle is concerned, and when you talk of commitment of a lawyer during the Struggle, people like Roley Arenstein, in my mind, will stand out amongst all the others who came later on.

MN: So your banning...? [interruption]

JP: I worked with Roley Arenstein for a while and I know the kind of person he is. George Sewpersadh and I - just to go back - we went to Port Shepstone - we started a practice there but we had an extremely hard time. We were made most unwelcome by the magistrates in that area. We practised for six months and then I had news coming, well there, via the grapevine, that Government was going to serve me with a Banning Order because there were Special Branch policemen, you know, making enquiries of my activities, where I go to and where, you know, in my house, my telephone number, my date of birth. That was a sure sign that they were going to serve you with a Banning Order. I might even have a copy of that here that you can have a look at, sometime. And, so George Sewpersadh and I decided that, "well look, if I am going to be banned and if -

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chances are that he was also active and he might also be banned, that we were not going to be banned in a place, Port Shepstone, so far away from Durban.”

So we sold our practice and moved to Durban. When I moved to Durban the first arrest took place under the Sabotage Act. Billy Nair; Kurnick Ndhlovu; Ebrahim Ismail; there were 16 in all charged under the Sabotage Act; and then I got involved in that Trial. Now, that was my first big Trial in which I was involved through Roley Arenstein.

MN: What impact did the political banning of the 60's have in your political life, you know?

JP: Well, you know, the Police in those days were extremely vigilant and there's very little scope for you, even clandestinely, to work because I mean they watched you.

They sat in their cars looking right in your home, whenever you were at home, you understand, you had to report to the Police Station and so on. But despite that, you follow, we found ways and means of communicating with each other.

RECORDING STOPPED - ON RESUMPTION

MN: Welcome back. Justice Pillay, can you tell us about the - as you were telling us about the impact of the banning that it had on your political activism.

JP: Allright. Okay, as I said, the Security Police were a particularly vigilant lot at that time, and they were of course, far more brutal than the fellows who were less sophisticated than the Police of the 80's and the 90's, and so on.

They would keep an eye on you virtually, you know, on a regular basis; but they would tap your phones as you know that they have done right up to the advent of democracy, but despite all that, despite their vigilance and despite the harassment and so on, we found ways and means of communicating with other and keeping in contact with each other.

That does not mean to say that of course, there were not occasions when we were caught out as well. I can think of at least two incidents that come to mind now, that where we were actually caught breaking our Banning Orders. And one of them was - there was a member of the a Secretary of the Natal Indian Congress, at the time, and now a member of Parliament, Kay Moonsamy, and a member of the Communist Party.

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We had a meeting with him - and he was banned at the time - in a cigar factory in Clairwood and I think Ebrahim Ismail was also at that meeting. It was late at night and the Police somehow got wind of it and surrounded this factory and arrested all of us. There was a case as a result of that and so on.

There was another occasion after I had qualified and become a lawyer. We were defending MD Naidoo; he was charged with Sabotage and eventually went to Robben Island and he - I had three partners at the time, the late Ebrahim Goga; Hassim Seedat who was also detained at the time, and myself - and since I couldn't communicate with MD Naidoo, because we were both banned, my partner Ebrahim Goga was the one who handled the defence when he was charged; and incidentally our Late Chief Justice, Ismail Mohamed, was the counsel in the case.

And I was communicating with MD illegally, at the time, and then the Police burst in and caught us breaking our Banning Orders.

Those are two incidents to just give you an example of how vigilant they were, how they used to spy on us. But despite all that, you follow, unless you wanted to really use that as an excuse for not

participating in politics, and you found if you were sufficiently dedicated, you found ways and means of breaking your Banning Orders so that you still kept in contact with mainstream-thinking at the time. But it was very disruptive on family life. Now, three years after I was banned,

I got married in 1965, and I had to get permission to have a wedding and so they allowed me a fixed number of guests for my wedding. I think it was about a hundred, and I had to give them a list of all the people I invited and they were present. Police were present at my wedding, and they allowed me one hour at my wedding and they refused me permission to attend my own reception, and my wife had to attend the wedding reception on her own. It was destructive, insofar as family life also is concerned in that, you know, you couldn't go out with your children and do the things that people normally do with their children, with the result that I spent a lot of time at my home.

But of course the positive spin-off was that I learned things like carpentry and painting and woodwork and building and so on, and it was things that kept me occupied for the ten years.

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MN: Justice can you tell us about your wife and your children, their names?

JP: Yes, my wife was a teacher and she was extremely supportive during this time. She was not involved in politics but when she married me she realised that this was going to be a new world altogether, and then the Banning came which made things extremely difficult, but she coped very well. And my children also, well they were very young, and they realised what this was all about so they became politically conscious and in their studies they did extremely well and they are all very independent people today.

MN: Have you ever been detained?

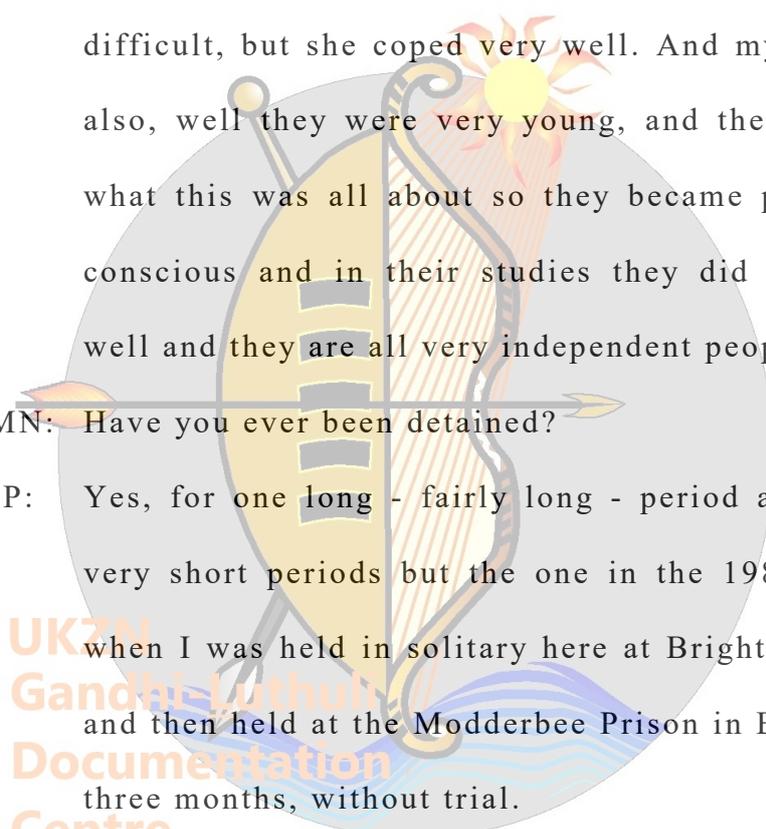
JP: Yes, for one long - fairly long - period and others very short periods but the one in the 1980's that's when I was held in solitary here at Brighton Beach, and then held at the Modderbee Prison in Benoni for three months, without trial.

MN: Without trial?

JP: Yes.

MN: Can you tell us about the experience, I mean, if you were tortured. Were you tortured?

JP: No, I wasn't. I think by that time, that I gained sufficiently in stature as a lawyer who was fairly well-known in the community and in the country,



and I think that gave me some protection that I wasn't tortured although I was asked to make statements and so on which I refused to make.

Of course the solitary confinement is torture in itself, but I was never physically abused although I was sworn at and so on, but never physically abused.

MN: And when did you...[interruption]

JP: Unlike some of the other people who were detained with me, at the time, and before.

MN: When did your banning end?

JP: 1973.

MN: Did you - went back to political activity?

JP: Yes, not long after that.

MN: Immediately?

JP: Yes, but not long after.

MN: Not long after.

JP: Yes. We - at that time soon after my Banning

Order's expired - then I think came the tricameral system and then I got involved in the protests against the tricameral system. About 1976 I got my passport back; I applied and I got my passport. In 79 - or is it now in 79? - yes, I went to London and we had a meeting in London with Dr Dadoo and amongst those who were present at that meeting was

Mac Maharaj, Aziz Pahad, Dr Dadoo. Did I mention Mac Maharaj?

MN: Yes.

JP: Praveen Gordhan, Roy Padayachee, well now, yes I think, I think that was about it. We discussed the tricameral system and whether it was a question of participation or non-participation in the system and we debated it and eventually Dr Dadoo said to us, "well, you chaps are on the scene".

We had different points of view about going in, you follow, and making it not work and they had a boycott, that was the other view of complete boycott and so on. I took a boycott stand and eventually Dr Dadoo's views were that "well you chaps are on the scene, you are best able to make the decision and you make the decision. Whatever it is, we'll stand by you."

MN: And when did you return to the country?

JP: No, it was just a short visit, it was just a clandestine visit. It wasn't a - it was a Top Secret Mission and nobody was supposed to know about it, maybe it is the first time it is being made public.

MN: And what did you do when you came back?

JP: We probably got involved in the boycott of the tricameral and then the whole Boycott movement

started and then of course you know the results of that, about only I think 10% of the Indians voted in that.

It was an extremely successful boycott of the tricameral. It was well organised and so on, and soon after came the UDF.

MN: And did you get involved in the formation of the UDF?

JP: Very much so, yes. Let me tell you something of how the UDF started.

MN: Can we pause?

RECORDING STOPPED - ON RESUMPTION

MN: Welcome back. Justice Pillay, let's backtrack at that and go back to the '60's when the political organisations were banned.

JP: Yes.

MN: What impact did it have on the political scenario in the country?

JP: Yes. Why let me tell you, insofar as Natal is concerned, maybe it also applies to the Transvaal. Soon after the banning of the ANC, it's a view that I hold and I may be wrong, but I think the flags of the ANC were kept flying in this province at least by the Natal Indian Congress. And there were very few African Activists that I knew - after the banning of

the ANC - who actually continued to play an active part except via MK and so on which was - which came into existence about that time, but the ANC, the flag, the policies and all their aspirations were articulated by the Natal Indian Congress, and I think I can say that without fear of contradiction. With the likes of MD Naidoo, Phyllis Naidoo, MJ Naidoo, Paul David, me, Farouk [Meer], JN Singh - he was banned at the time - a whole group of people and you would also find that a large number of Indian Activists went into the MK and I think in that lot there were quite - I can think of at least seven of that, seven or eight, of that original 16 from Natal who were the first group of people charged under the Sabotage Act in 1964, seven or eight of that 16 were Indian. And, yes maybe you want to know whether I joined the underground at that time, the MK.

MN: Yes.

JP: No, I didn't. I didn't even know of its existence. I know there was talk about it. I didn't know that it had - it had any - been formalised in any way, and the only time that I came to know that it was... I know there was talk about it, I know there was talk

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about the armed struggle. When Mandela - oh yes, this is interesting.

When Mandela was being very much sought after, you remember at the time that he was called "The Black Pimpernel." He had been to Africa, and I think he had been to Algeria, he had seen - was it - Bomedian, he had seen a whole lot of African leaders and he slipped into the country. I am not sure, whether it was 1961 or 1962 he was arrested. It was August '62.

When he came into the country he came to Natal, and we met him in safe houses. I think one of the meetings we had - was it Reservoir Hills - where he sat and he spoke to a whole lot of NIC activists about his trip to Africa, about the armed struggle, etc. etc. And there was a debate going on with the

NIC, within the NIC, whether the armed struggle was something which, which was something

feasible, which should be supported and so on, and my recollection is that Dr Monty Naicker took a very neutral stand on the thing, you follow, that he wouldn't support it, but if there were people who took part in the arms-struggle he would understand it. You follow?

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Then there were a whole series of arrests and detention and being a lawyer at the time who was a NIC man, and so on, I got involved in the thing. And then, it was only then that I realised that there were people who were working with me and were active with me in the NIC, who were also members of Umkhonto. You follow?

And I was never recruited into - I was spoken to at some stage by someone who came from - I can't remember the name of the man who came from London to speak to me about the armed struggle - his name escapes my mind.

I was spoken to about it but I never joined and I could understand in a way that a lot of us who were lawyers and professionals and so on were kept out of the Umkhonto. And you'll find that the people who actually joined Umkhonto, who actually were involved in sabotage at the time, were lots of chaps who were could I, can I say just "working class chaps" - and they were involved, students and so on. Like Ebrahim Ismail, Dorasamy, there was Sonny Singh, and a whole lot of others, and I would imagine that they might have deliberately kept out certain high-profiled people out of Umkhonto. But when they were all arrested and so on, you know, of

course, we all came into the picture at that time and that's when it - the reality of its existence struck us.

MN: You also said that the NIC or the Executive of it felt that it was on individual basis.

JP: That's right, yes. It never decried the armed struggle. It understood the armed struggle but it never actively supported it.

MN: What was your personal opinion on the armed struggle?

JP: Well had I been approached I would have supported it, I think.

MN: But what was your - I mean you said your colleagues...

JP: Yes.

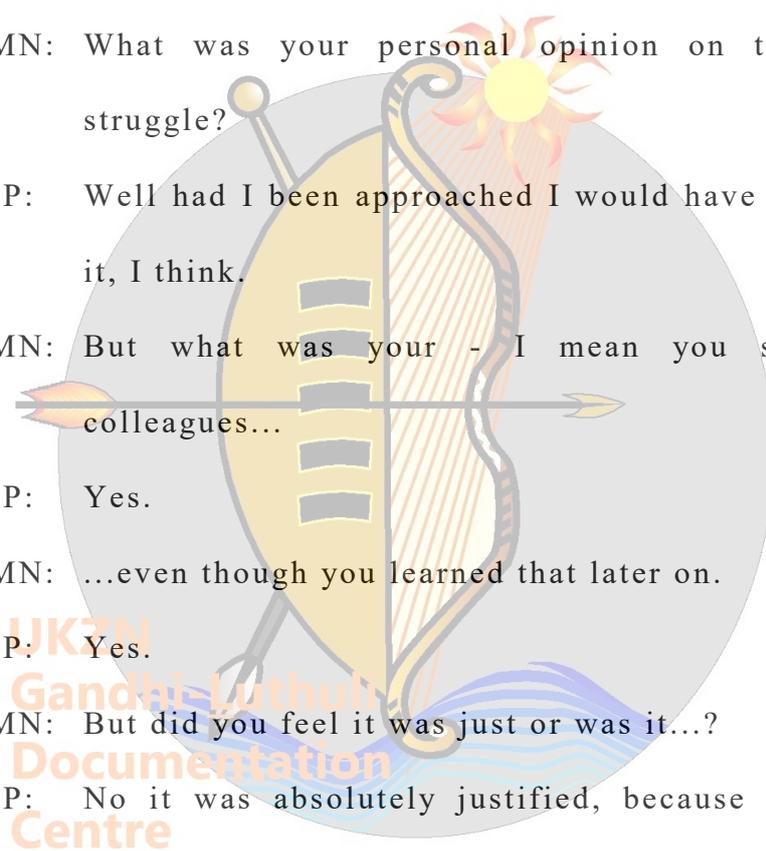
MN: ...even though you learned that later on.

JP: Yes.

MN: But did you feel it was just or was it...?

JP: No it was absolutely justified, because I mean, I mean what else, I mean everything was tried at the time, it was fully justified as far as I am concerned but whether it was - you know whether it was going to get us anywhere was another matter.

MN: Tell me, what is your opinion at that time, the relations between the NIC and the ANC. Would you



say the NIC was some sort of a sub-branch of the ANC?

JP: Absolutely, that's how I would perceive it. Everything that the ANC did at the time although it was banned it was done through the NIC.

MN: And what about the relationship between the NIC and the PAC because the PAC branched out of the ANC?

JP: Yes, but there were never any interaction between the PAC and the NIC.

MN: So it was only the NIC and ANC?

JP: It was only the NIC and ANC.

MN: What can you tell us about the Rivonia Trial?

JP: Well, what is it you want to know? Let me see.

Well it took place in Johannesburg; it was removed from us. But oh yes, let me tell you this for it is

related to the Rivonia Trial. In 61, when Nelson Mandela came to Durban, I was asked to do a

certain mission, perform a certain mission which

was top secret and you know at the time that

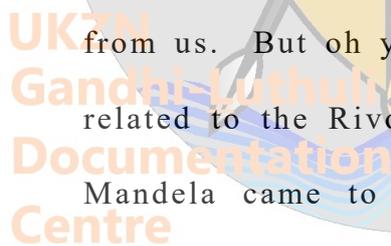
Mandela was really sought after throughout the

country and I wasn't told what it was, and my

friend, MJ Naidoo who was President of the NIC,

and I were told that there is something that we have

to do and we weren't told what we were going to do,



and we were approached by a man called MP Naicker. Now MP Naicker was a member of Umkhonto who became an exile, he left shortly after the breakthrough with the arrests of MK. There were a police breakthrough and he left the country and he was the man who approached MJ and I to go to a place in Clare Road in Clare Estate; wait at the garage - if I remember correctly it was a Mobil garage - wait at the garage in your car sit there and just wait; and somebody will approach you and you do what he asks you to do.

We went and we sat outside this garage in the car, I was driving, MJ was my companion, and lo and behold it was Nelson Mandela who approached the car, you follow? And we then drove him to Stanger

to see Chief Luthuli and I believe that at the time that he was going to speak to Chief Luthuli about the armed struggle. We drove Nelson Mandela to

Stanger; we left him in Stanger and somebody else - we left him at the home of a Dr Somasundaram, and I believe he might have arranged to have Nelson Mandela taken to Groutville to see Chief Luthuli.

How that was arranged, I don't know, but that was the mission that we performed and which Madiba remembers very well when I mentioned it to him,

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when we went to Oslo together. And I think it was two days later that he was arrested in Howick.

MN: I would like to believe that in the same Trial members - a certain number of the NIC members were there. Can you mention them?

JP: You mean in the Rivonia?

MN: Yes.

JP: In that Treason Trial, no there was only Ahmed Kathrada from the Transvaal Indian Congress. There was a subsequent trial which was called "Little Rivonia" in which Mac Maharaj was involved, and Wilton Mkwayi and so on, but the main Rivonia Trial, if I remember it was Nelson Mandela; it was Dennis Goldberg; it was Sisulu; it was Govan Mbeki; and Kathrada, if I remember correctly.

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Those were the names but I might have missed out one or two, I am not sure, but none of the NIC members were involved in Rivonia. But there were several of them in the 1956 Defiance Treason Trial.

MN: Yes. And your career? When did it - did it take off as naturally when you - because you mentioned that you were detained?

JP: Yes, but in '64, I got involved in this defence of Billy Nair and Ebrahim Ismail, Kurnick Ndhlovu and all the others in that Sabotage Trial which took

place in Pietermaritzburg. There were Billy Nair and Kurnick Ndhlovu got 20 years each and I think, Ebrahim Ismail got 12 or 16 years; I'm not sure now. That was the one that was my first big political trial.

MN: It didn't lead, I mean as you said that you were - the banning of your political - your banning was over by then, your career was taking off.

JP: No, no, my banning wasn't over then. I was banned at the time that the - oh yes, I was banned at the time that the first Sabotage Trial took place and I was given special permission by the Minister of Justice to travel to Pietermaritzburg for the purposes of this trial, every day. I had to leave Durban, when I left Durban I had to go to the Police Station in Smith Street, sign off that I am leaving for Durban, arrive in Pietermaritzburg, go to a Police Station and say "I have arrived here." You follow? Attend the Trial, when I left Pietermaritzburg I had to go to a Police Station and say "I am leaving for Durban." When I come back to Durban I had to sign - go back to the Police Station and say, "I have arrived."

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So that every day I had to report four times to the Police Station for the purposes of attending the Trial.

MN: Can we pause here?

RECORDING STOPPED - ON RESUMPTION

MN: Yes, welcome back. Justice Pillay, can you tell us about the period after the Treason Trial?

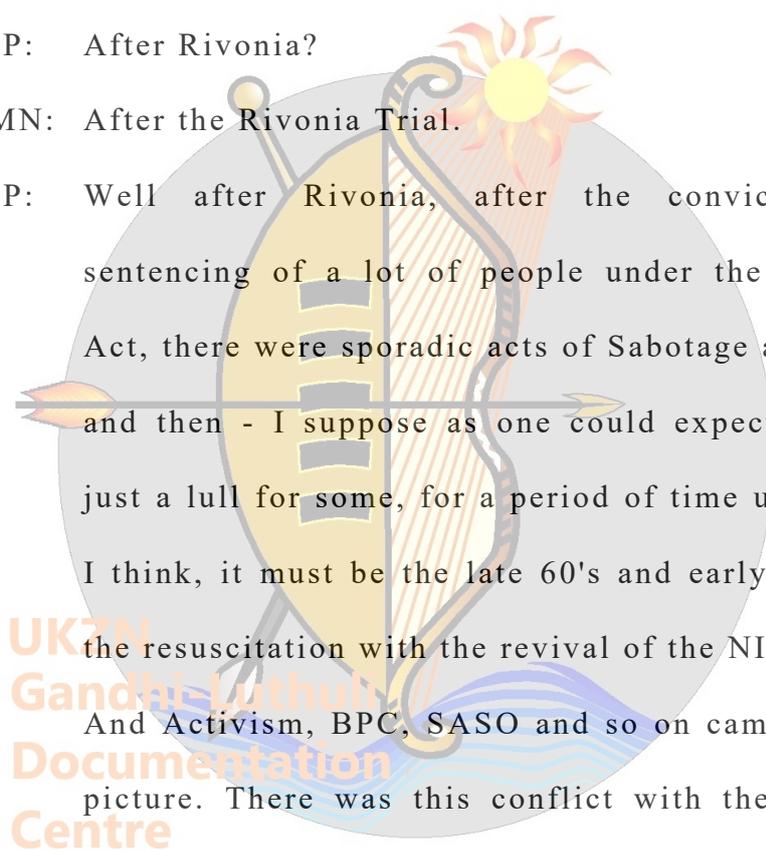
JP: After Rivonia?

MN: After the Rivonia Trial.

JP: Well after Rivonia, after the conviction and sentencing of a lot of people under the Sabotage Act, there were sporadic acts of Sabotage and so on, and then - I suppose as one could expect - it was just a lull for some, for a period of time until again I think, it must be the late 60's and early 70's sees the resuscitation with the revival of the NIC.

And Activism, BPC, SASO and so on came into the picture. There was this conflict with the National Union of South African Students NUSAS and saw the emergence of a whole lot of student activism, trade unionism and so on in the 70's.

Yes, and then the Transvaal Indian Congress had virtually gone out of existence, and it was the early 80's I think, there was a revival of the Transvaal



Indian Congress in which the NIC was quite involved.

MN: Can you tell us about the political activists of those times, because I also understand that it was during those days, it was mostly the younger generation...

JP: Yes.

MN: ...that was taking the baton from the older ones.

JP: Yes.

MN: Can you tell us about the period when they were active and the mode of that time?

JP: Yes I've already - there was quite a lot of interaction between SASO and NIC. There was Saths Cooper in it at the time, there was Strini Moodley, well of course there was Steve Biko and so on, Aubrey Mokoape, Sonny Venkatruthnam, and a whole host of people who were seen to be working together, at the time. I mean they held different ideologies and so on, but that didn't prevent them not working on lots of issues, student issues, trade union issues, education issues, and so on together, at the time. There was a surge of activities in the early 70's and as you went on to '76, and of course then you saw Soweto.

MN: How was the environment, the political environment, I mean from the State to the people at that time?

JP: Well up to - look, from the - I would say there was a lull between say '64 right up to the early '70's and then things took off again. You know, and then there was a lot of activity between '71 and say '76.

MN: I was going to ask about that period up to '76, during the uprising. Can you tell us about that period in politics, up to - since 71 to 76 during the Soweto Uprising? Any significance?

JP: I am trying to remember the significance of it all, I and - I know there was a lot of activity and there was a lot of trade union activity, there were a lot of student activity, but you know, I can't now pinpoint exactly... let's see if I can, let's see if when I'm doing my CV, if I can find my CV, if I can just pick up anything that I can think of which I can pinpoint.

I know that as we got into the 80's that the student protests - there was an escalation of student protests in Durban which lead to my detention and a lot of detention of a lot of other people from the NIC and the one I talked to you about earlier, which would result in us eventually landing up at Modderbee. The details are somewhat vague at the moment.

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MN: Personally to you, to your career, what was happening during that period?

JP: During this, well from my - well of course I was involved with, I was continuously to be involved with the NIC. I was quite active at the time, then soon after my Banning Orders expired, the NIC was revived and I became involved again and I got back into the Executive of the NIC, and I even acted as President at the time when George Sewpersadh was detained for something or the other, so I became quite involved, not only from a political point of view, but also from a legal point of view, we were defending students, getting people out of detention, making application to Court for the release of people and so on. So it was pretty busy on the legal front, as well.

MN: Can you tell us, you've just mentioned you were being detained at Modderbee. Can you tell us a little bit about that?

JP: Yes. There were a lot of student protests at the time, and we were involved in trying to calm things down a bit, because it was getting pretty hectic at the time. Students were being arrested left, right and centre. There were Police raids on universities and baton-charging students and so on, and there

was a lot of unrest at the time. Strangely enough, I was - the role of a number of us was to try and calm the situation because a lot of people were getting hurt and the people we know were going to get trigger-happy at the time, and one can never explain the actions of the Security Police. But here we were, we found ourselves in the situation where we were trying to calm the situation down, when a whole lot of us were trying to actually restore some sanity to the situation, were actually arrested, put into solitary confinement and so on.

MN: What were the charges?

JP: There were never ever charges; we were all released without being charged.

MN: Was that when, when were you released? How long?

JP: Well when I was arrested, I spend three months at Modderbee Prison in Benoni. After three months.

MN: Was that the last time you were detained?

JP: That was the last time I was detained, yes.

MN: And can you tell us, most people believe that the students started with, I mean, the 1976 version of things, how it's been. What can you tell us about it, the 1976 uprising? How it started out, I mean how can you tell us about it from your personal perspective?

JP: Well I, you know, it was, of course it was over the language issue, but I think that was just the issue that sparked off the unhappiness in a lot of other things, the conditions in which people lived in, the kind of education that they were receiving.

MN: Excuse me, I am replacing...

END OF TAPE 1 / CONTINUED TAPE 2 A

MN: Welcome back.

JP: Yes.

MN: Justice, welcome back again. Can you tell us about UDF, how was it formed, when and what lead to its formation?

JP: Yes, alright. Well a number of us were very intimately involved, NIC people, who were very closely and intimately involved in the formation of the UDF, but I don't know what other people may say about what lead to its formation, but my recollection is that we had a number of meetings in this very house, and we discussed, among other things the formation of the United Democratic Front but we were somewhat - at the time the NIC, of course, became quite active again after it was revived by Ramgobin and others, in the early 70's. But we had a problem and that is that the Transvaal Indian Congress had for all intents and purposes

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appears to have folded up but there were a few activists still operating in the Transvaal, and that we thought that we should help towards revival of the Transvaal Indian Congress and then proceed thereafter with the formation of the United Democratic Front. I am not aware of any instructions that came from overseas for the formation of the United Democratic Front - though there might have been other people who might have known about that - but as far as I am aware, that the formation of the United Democratic Front was discussed in NIC circles first. Somebody else might have a different point of view and they might have received instructions from London, but I am not aware of any such instructions that came from the ANC in exile.

Well, we went to the relaunch of the Transvaal Indian Congress in Johannesburg, and a whole number of NIC people had travelled up from Durban and some of us spoke and chaired the meetings and so on in Johannesburg.

MN: What year was it?

JP: This was just before the formation of the UDF. I think it was 1983, or it could be late 1982, but I have documents somewhere, which I might be able

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to pick up to pinpoint exactly when this took place. So as far as my own personal knowledge is concerned there - the whole idea of the United Democratic Front started with the NIC propagating a viewpoint that it's time for the formation of such a front.

JP: Boesak, at the time, was particularly prominent at the time in the Cape, but that was even before the formation of the United Democratic Front because he was quite active and he was very widely sought out as speaker and an outspoken critic of the Government.

MN: Speaker of?

JP: Well, at rallies and so on that they held in the Cape. He was - so what we thought we would do that at this relaunch of the Transvaal Indian Congress somebody, you understand, would raise this question of the United Democratic Front and propose the names of Boesak and so on, you follow.

And the UDF Declarations are the very first Declarations and I can't - it is something along the lines of the Freedom Charter - I can't exactly remember details now, but it was drafted by Jerry Coovadia, I think it was Paul David, Zac Yacoob and myself, in Newcastle, the night before we

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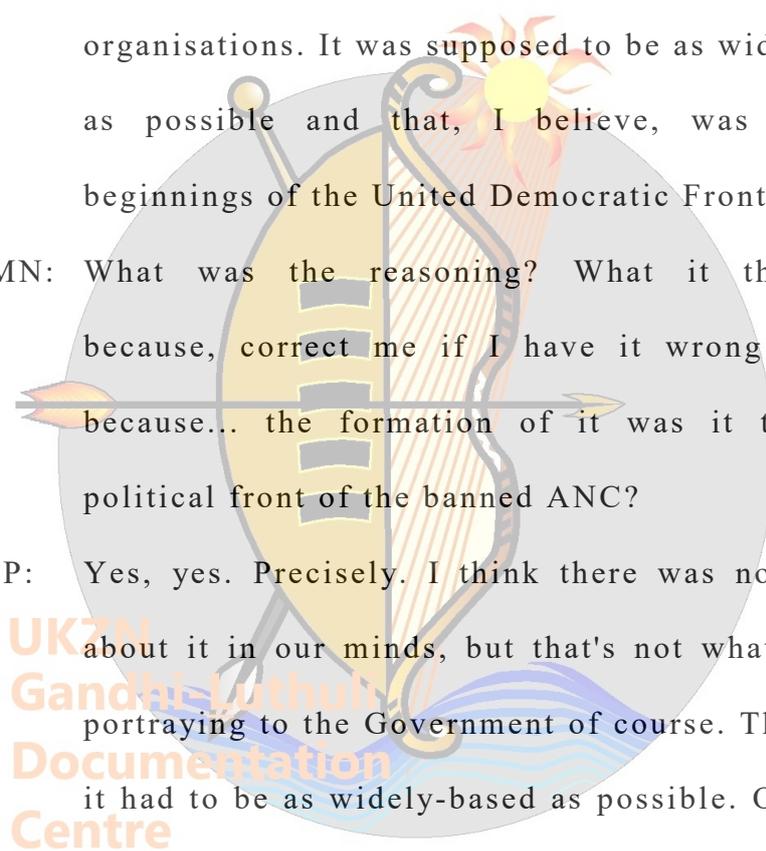
arrived in the Transvaal for the launch of that meeting.

And at that relaunch of the Transvaal Indian Congress it was accepted that an organisation like the United Democratic Front should now be formed, consisting of organisations from throughout the country, including not only political but other organisations. It was supposed to be as widely-based as possible and that, I believe, was the very beginnings of the United Democratic Front.

MN: What was the reasoning? What is the reason because, correct me if I have it wrong - was it because... the formation of it was it to give a political front of the banned ANC?

JP: Yes, yes. Precisely. I think there was no question about it in our minds, but that's not what we were portraying to the Government of course. That is why it had to be as widely-based as possible. Originally, you know, the United Democratic Front had all kinds of organisations as affiliates. Sporting organisations, cultural organisations, political organisations and so on. It was just not a pure political front.

MN: So it was suggested then, that time?



JP: And that's when the whole idea took off and that has lead to the Mitchell's Plain Launch and participation by all of us; and that massive launch is one of the biggest rally's that I have ever come across where Boesak spoke, and that's how it really took off. And it took off in quite an amazing way.

MN: Can you tell us about the Executive of the UDF, at that time?

JP: Well there was, there was of course the prominent people that I can remember offhand now would be Trevor Manuel, there was Boesak, Praveen Gordhan, there was Yunus Mohamed, there was Terror Lekota, I think, what about Aubrey...

MN: Aubrey?

JP: Aubrey Mokoena, who is the Premier of one of the Provinces - ag, you know, a good friend of mine.

MN: Moako?

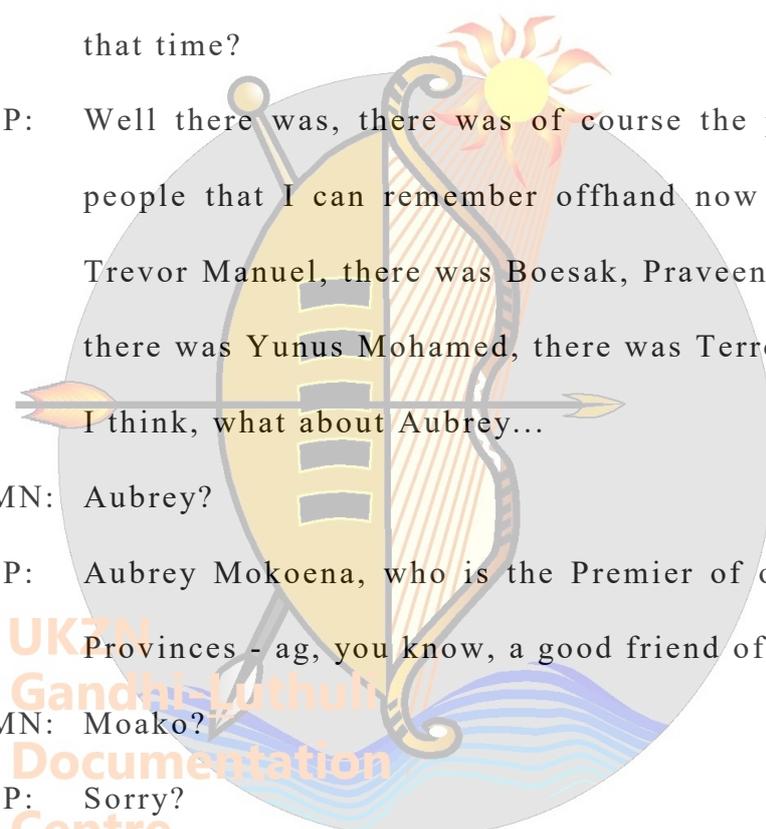
JP: Sorry?

MN: Moako Ramahlode?

JP: No, not him. There was Murphy Morobe, and there was... oh, why can't I remember it. Anyway, he's Premier of one of the Provinces now. Popo Molefe.

MN: Popo Molefe?

JP: Yes, yes I remember seeing Popo Molefe and Lekota during the Delmas Trial; yes, visiting them.



MN: Who was leading it? Who was the leader of the UDF at that time?

JP: Well, it was, well, Boesak, but there were a whole lot of people you know behind, he was not portrayed as the leader, but it was Boesak who was actually leading the Organisation, at that time.

MN: Can you expand more about this Mitchell's Plain meeting? Any interesting things that happened there?

JP: Well, you know, we had a very heavy Military and Police presence there, and at the launch, I remember an incident in which they came out with their Caspirs, and so on, and were really behaving very provocatively and, I remember very distinctly, very distinctly, Trevor Manuel wanting to take them on himself, and we had to restrain Trevor from, you know, confronting the Military and Police Establishments, at the time. He was quite a rough-neck.

MN: From then on it existed; can you tell us about the activities on missions that UDF undertook, of the significant ones - what their activities were from its inception.

JP: It was 1983 - just pause for a moment just let me get my thoughts. It was primarily formed to oppose

any Government move towards fragmenting the people into separate houses of Parliament and so on, and it was a mass-mobilisation against Government Policies to - as I said - fragment the people into racial groups.

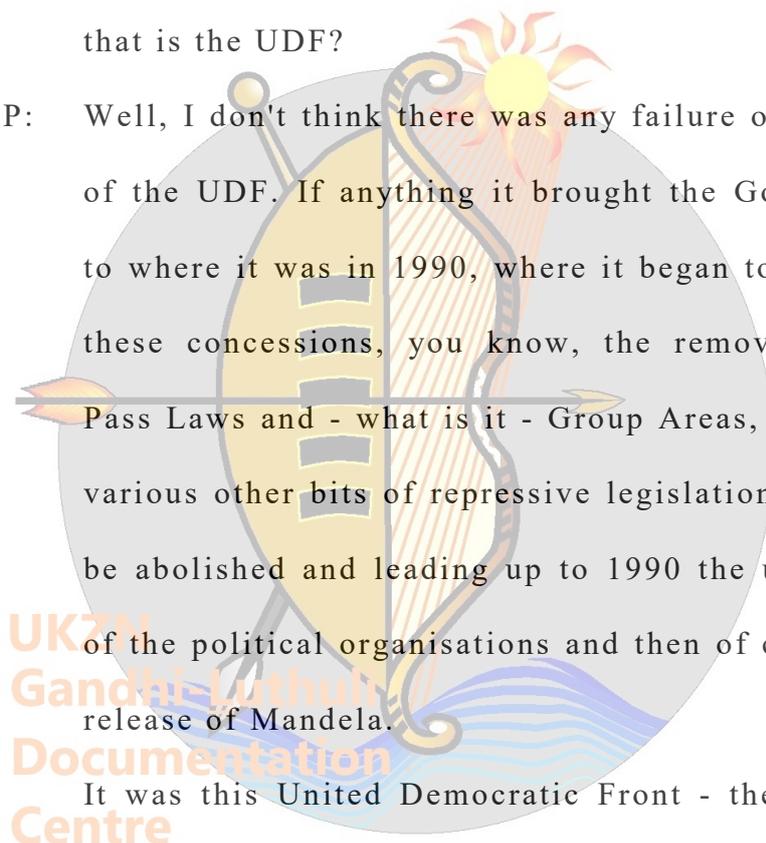
MN: From its inception up to its folding, what can you, can you pinpoint its achievements and its failures, that is the UDF?

JP: Well, I don't think there was any failure on the part of the UDF. If anything it brought the Government to where it was in 1990, where it began to make all these concessions, you know, the removal of the Pass Laws and - what is it - Group Areas, you know various other bits of repressive legislation began to be abolished and leading up to 1990 the unbanning of the political organisations and then of course the release of Mandela.

It was this United Democratic Front - the pressure that Organisation brought to bear, not only internally, but as a result of the support which it got from throughout the world.

MN: During those times, during the existence of the UDF there was so much turmoil especially in the black townships.

JP: Yes.



MN: And mostly, or during that time, the word was that UDF was the cause of that. What is your opinion?

JP: That UDF was the cause of the turmoil?

MN: Was it given to us because of its existence. I mean it got blamed left and right.

JP: Yes. Well, when UDF was formed, well, part of the reason was for mass mobilisation and if people were venting their dissatisfaction, it was perfectly justified. I don't think the UDF propagated burning of homes and schools and whatever, but that was a just natural reaction of the people, but UDF never had a policy of going out and destroying.

MN: What sort of form did your political activism take during the UDF period? Were you at the forefront as you were in the NIC?

JP: No, I don't, not. Quite honestly I don't think I was on the forefront but I certainly was in a supportive role throughout and a lot of my activity was confined to my work as a lawyer defending people, you follow? The number of applications which were made for the release of people, and I'm just trying to, when I look at this document that I have, which was to record some of my activities, simply just to remind me and refresh my memory, I know I was acting for people like Billy Nair, Praveen Gordhan,

Yusuf Vawda, Archie Gumede, Gene Manning, Mac Maharaj, and in the Applications for Indemnity for people like Sepiwe Nyanda, Mac Maharaj and I acted for some of the people who were part of Operation Vula.

In fact, I can now tell you that a lot of people had meetings in this very house that stayed here. Mac Maharaj, when he first came into the country for operation Vula, he came here to stay with me, and yes, and I helped him along the way, yes, certainly.

MN: Can we pause, please.

RECORDING STOPPED - ON RESUMPTION

MN: Welcome back again. Justice Pillay, you told us about the UDF as from the 80's, as it's earlier formation in the early 80's, but you haven't told us about what was happening as a lawyer, during that period. Did you belong to any lawyers association during this period?

JP: Yes, now let me just briefly just sketch the history of what the existing lawyer organisations in South Africa consisted of at the time. What we had, was the Provincial Law Societies and they were white dominated, and although we had to be members of the Law Society we never really participated in their affairs and they're - apart from a few exceptions

there were, their Executive was almost entirely white.

We then, in the late '70's I think it was, or maybe even the early '70's, formed what was called the Democratic Lawyers Association [DLA]. And that existed for quite a time it was the only alternative lawyers association in the country at the time, and it was called the Democratic Lawyers Association, and the successor to the Democratic Lawyers Association was the National Association of Democratic Lawyers, which we now call NADEL.

Now in 1981 I went to London, and with the help of MD Naidoo, who was then in exile in London, the late MD Naidoo, and the ANC in London, I - and with the help of Mr Anooga Reddy from India, and also a Mr Malcolm Smart from the International Commission of Jurists, I arranged with as I said, with the help of MD Naidoo and Mr Anooga Reddy -

the affiliation of the DLA to the International Commission of Jurists and the International Association of Democratic Lawyers, and we had to do that, and we could only do that successfully with the assistance of the ANC because there were competing claims for affiliations to those organisations from existing white lawyer bodies in South

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Africa who were opposed to NADEL getting affiliations. And as a result of that Advocate Zac Yacoob, who is now a Judge of the Constitutional Court, he and I attended the meeting of the International Association of Democratic Lawyers in Malta, which was held in Malta in 1981. Of course as you know, NADEL is still going strong today.

MN: Can you tell us about the meeting, just briefly?

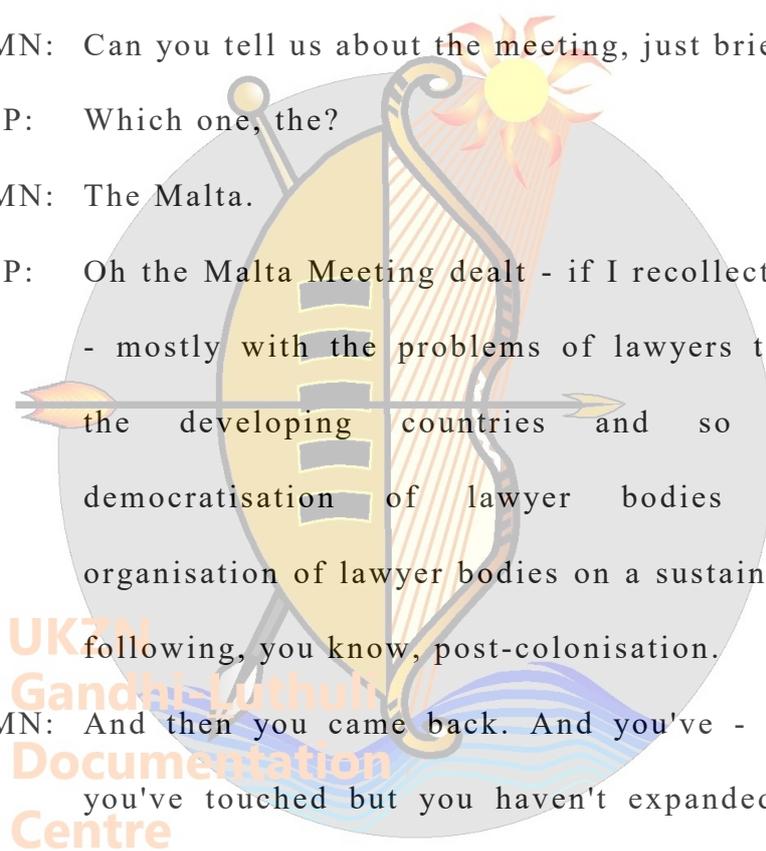
JP: Which one, the?

MN: The Malta.

JP: Oh the Malta Meeting dealt - if I recollect correctly - mostly with the problems of lawyers throughout the developing countries and so on, the democratisation of lawyer bodies and the organisation of lawyer bodies on a sustainable basis following, you know, post-colonisation.

MN: And then you came back. And you've - earlier on you've touched but you haven't expanded on that, during the period of the UDF about the Treason Trial that happened in Pietermaritzburg.

JP: Yes, you know, following the formation of the UDF and the extensive campaign carried out throughout the country against the Tricameral System, a number of activists - mostly activists who were prominent in speaking out against the Tricameral System - who



spoke at mass meetings and so on, were arrested and charged for High Treason and that Trial took place at the Pietermaritzburg, at the Natal Provincial Division, Pietermaritzburg at a special court which was designated for that purpose, and amongst the Trialists if I remember, was Albertina Sisulu, there was Aubrey Mokoena, Frank Chikane, Archie Gumede, Billy Nair, Cassim Saloojee, Yusuf Jasset, Paul David and so on. And I was part of the defence team, of course.

The Trial eventually fizzled out and the indictment was quashed. You will recall that the lawyer who played the most prominent part in that Trial was our Late Chief Justice [Ismail Mohamed].

MN: You've also mentioned that - earlier on - that your job wasn't, you were not forefront, but mostly your job was a qualified lawyer who was the defence activists.

JP: Yes.

MN: You also mentioned that - can you tell us about your defending the Black Pimpernel [Mr Mandela] way back then?

JP: Well I haven't been personally involved in Mr Mandela's defence, but there was an occasion in 1976 when Mac Maharaj was released from Robben

Island and he smuggled out a letter which was written to my firm by Nelson Mandela, and I have the original of that letter with me, and complaining of prison conditions and so on and treatment by warders and censorship and the prison visits and so on, and that letter was smuggled out by Mac Maharaj. There was a letter from him, and there was a letter from Ahmed Kathrada, which I have in those files, and I had various consultations at the time, together with the late Hassan Mall, who was an advocate at the time.

We discussed those letters. I discussed the letter with Advocate Kentridge as well, and eventually it was decided that the best course would be for lawyers from London to instruct lawyers in South Africa, to bring an Application to the Supreme Court in relation to the treatment of Mandela and other prisoners. But it was initiated through my office.

MN: And it was done, the instructions?

JP: Well it came to me directly and then went to London, and then it followed eventually in the Cape Court, after which I had nothing further to do with it.

MN: Coming back to 85. Is there any significant area, from what you can remember, that happened during the activities of the UDF. What was happening after that Treason Trial?

JP: After the Treason Trial. With that, well of course following the Treason Trial a whole series of things took place and that would be of course the scrapping of the Group Areas Act, the Immorality Act, Pass Laws and the relaxation of a range of oppressive laws, right, which eventually lead to the unbanning of the organisations and, of course, the release of Mandela, and so on. Also with the formation of the UDF we saw an increase in sanctions, when the Government took action against UDF Activists in the form of the Treason Trial, you will recall that also at the time an incident which brought world focus was the sitting at the Consulate in Durban, and charges following therefrom, and so on. There were a whole range of inroads, which were being made and the Government were steadily being placed into a corner and quite obviously they just simply couldn't go on, you understand, with their oppressive policies because of the pressure, and the economy of the country suffered at that

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stage. People would say the country was virtually bankrupt at that stage.

And they just had to release Mandela and talks had to start and then, of course, followed the Kempton Park, the CODESA and the World Trade Centre talks and where I also represented the NIC/TIC Delegation at those talks, which gave us our new constitution.

MN: Coming a little bit back to the UDF activities, I also understand that you lead a huge march in the...[interruption].

JP: Yes, there was a range of protest action throughout the formation of the UDF and one of them was the Desegregation of Amenities and you'll recall, I think it was in 1988 or 1989 there was this huge march, a protest march that took place on the Durban Beachfront and that march was to have been lead by Trevor Bonham. Now a day or two before the march there was mass mobilisation throughout Durban and throughout Natal for this march to take place, and we were going to go, walk through the white beaches and so on to defy the segregated beaches and they arrested Trevor Bonham in an obvious attempt to put an end to the march and that was one of their intimidatory tactics. I was, unfortunately or

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fortunately, but anyway, put into the hot seat, I had to take over the organisation of that march from Trevor Bonham and I must say I was extremely nervous because we were literally expecting thousands of people to come onto the beaches that day. And we were threatened by the Police and I recall not having slept that night because early the next morning, at about five or six o'clock in the morning - our march was supposed to take place at about ten o'clock - I went through to survey the beaches to see what action the Police were going to take, and there were their armoured cars, and their police vans and their saracens] and their troupe carriers and barbed wire and police dogs, and I must say I was extremely nervous because I thought something was going to happen and as you know, the Police at that time, were particularly trigger-happy.

Anyway, there was nothing that we could do to stop the march and lo and behold I would estimate over a 100,000 people on the beaches on that day, and apart from a couple of incidents, where the Police sjambokked a few of the protestors, the march went off extremely successfully and I would like to think



that that was one of the most successful protests against segregation.

MN: Was the protest only marching or did you deliver a speech as a leader during that?

JP: No there were no speeches delivered. It was just a march to defy apartheid beaches.

MN: Then you've also spoken about the starting of talks.

JP: Yes.

MN: Starting of talks between the Government and Exiled Political Organisations.

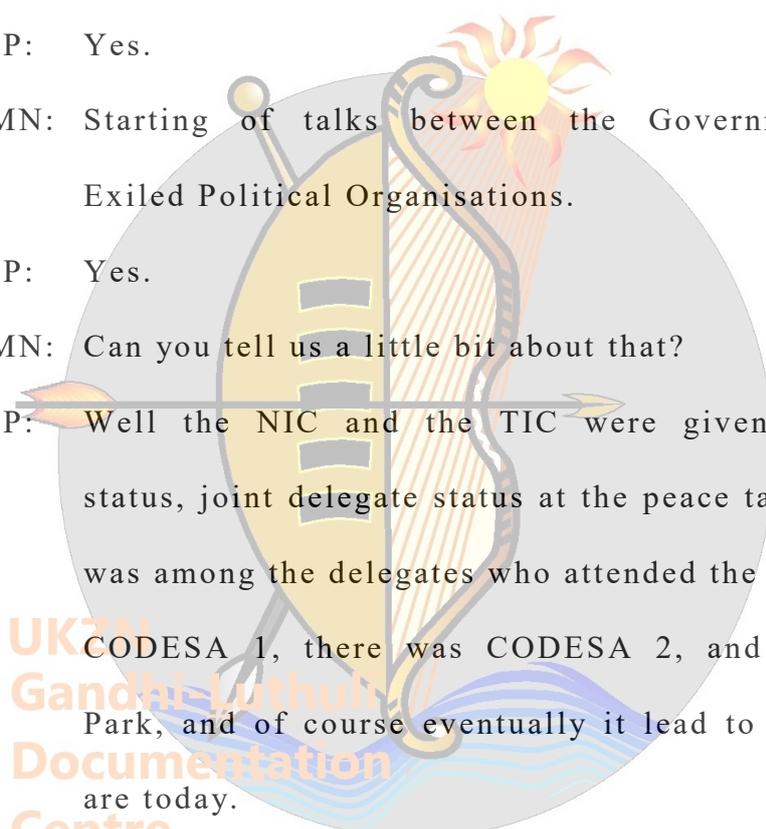
JP: Yes.

MN: Can you tell us a little bit about that?

JP: Well the NIC and the TIC were given delegate status, joint delegate status at the peace talks, and I was among the delegates who attended the talks.

MN: CODESA 1, there was CODESA 2, and Kempton Park, and of course eventually it lead to where we are today.

MN: What's your opinion about the composition of parties in those talks. I mean you had exiled political organisations, you had the government that was rolling you, there was the homelands representatives, and all. What's your personal ...
[interruption]



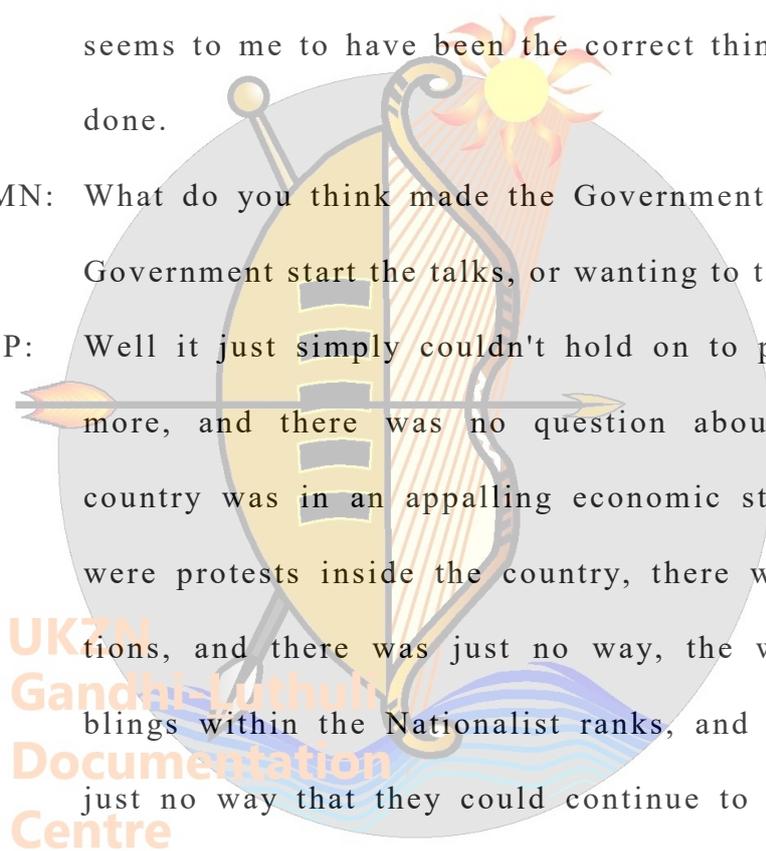
JP: Well it was supposed - I think it was the right thing to do, it was supposed to be an all-inclusive thing where everybody had their say and which resulted in the Constitution we have today. And I think it had to be all-inclusive to be successful.

Inasmuch as there were some misgivings about having homeland people and so on, in retrospect, it seems to me to have been the correct thing to have done.

MN: What do you think made the Government, the then Government start the talks, or wanting to talk?

JP: Well it just simply couldn't hold on to power any more, and there was no question about it. The country was in an appalling economic state, there were protests inside the country, there were sanctions, and there was just no way, there were rumblings within the Nationalist ranks, and there was just no way that they could continue to hold onto power. And it really, it really had to agree, to save itself, save face.

MN: Generally speaking, apartheid means different things to other people. How can you explain apartheid, what does it mean, what was it? According to Justice Pillay, what was apartheid to you?

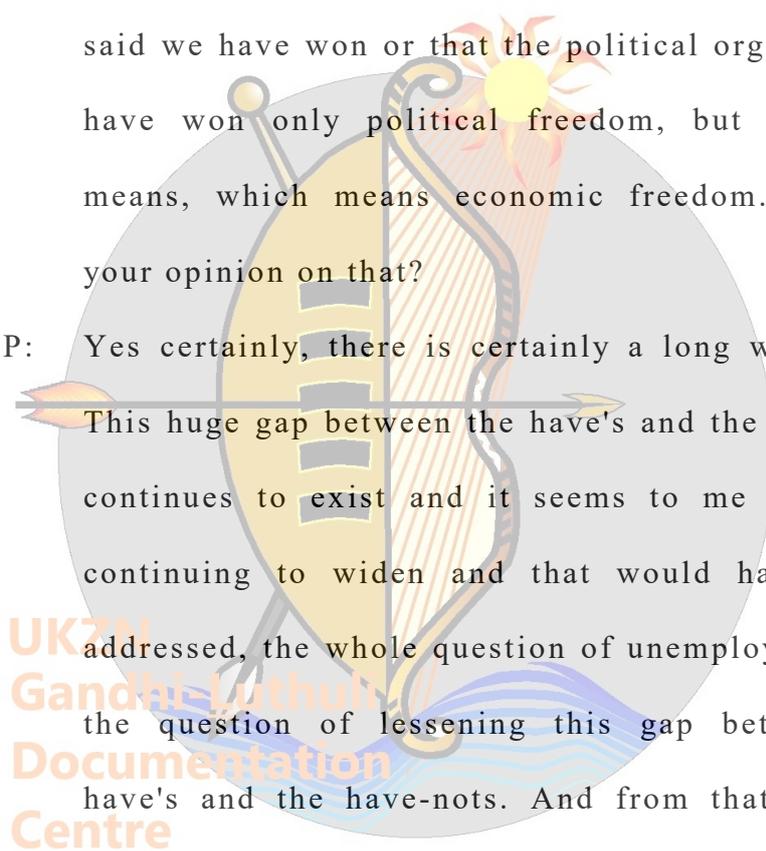


JP: It was degrading; it was humiliating; I mean I don't know what more I can say about it, you know. It treated human beings, fellow-human beings as lesser beings and it was simply a system that just had to, had to be destroyed, and which inevitably had been destroyed.

MN: Do you, there is a point of view from others that said we have won or that the political organisations have won only political freedom, but not other means, which means economic freedom. What is your opinion on that?

JP: Yes certainly, there is certainly a long way to go. This huge gap between the have's and the have-nots continues to exist and it seems to me that it is continuing to widen and that would have to be addressed, the whole question of unemployment and the question of lessening this gap between the have's and the have-nots. And from that point of view there's a great deal still to be done.

MN: Looking at the transformation of institutions, the transformation from the racial ones, and now, there was an opinion by other people - feeling that the ANC compromised too much during the negotiations. I mean I can point one thing like, say for instance, the job reservation that what they had,



what the employees, the employees that were employed by the Nationalist Government were not removed, and the opinion is that those people who were left in those positions are holding back transformation. What's your opinion on that - the mere fact that the ANC or the Incoming Government didn't remove those who were in power then?

JP: Yes, I think the practicalities have dictated the situation. I don't think that - I think that if we're honest enough - we had people in positions which we simply couldn't remove because of the practicalities of the situation. You simply didn't have the people who could replace those people immediately. But insofar as transformation is concerned, hopefully that is taking place and one can see that taking place, and as we get more people trained into positions and being put into positions which were formerly the preserve of whites, you can see the transformation unfolding.

MN: Independently, not taking the organisational stance, what is your opinion on the fact that some people are saying that the ANC leadership were eager to take power, was that the reason? That was the reason why they compromised so much. What's your individual opinion? That they were so eager to get

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into power that's why they compromised a lot on the table?

JP: Are you talking about compromise in terms of not removing people who were holding positions of power?

MN: Yes, compromising in that the people are of the opinion that they only took the Office...

JP: Yes?

MN: ...but the economy can't weigh, or the status quo still remains the same.

JP: Whether I'm not sure whether it remains - it remains the same to a large extent, you follow, and I'm not sure whether the change is taking place fast enough. That's all I can say. But as I said earlier there were practicalities that dictated the situation at the time, whether it's taking place fast enough or not, I'm not quite sure. Perhaps it could be accelerated.

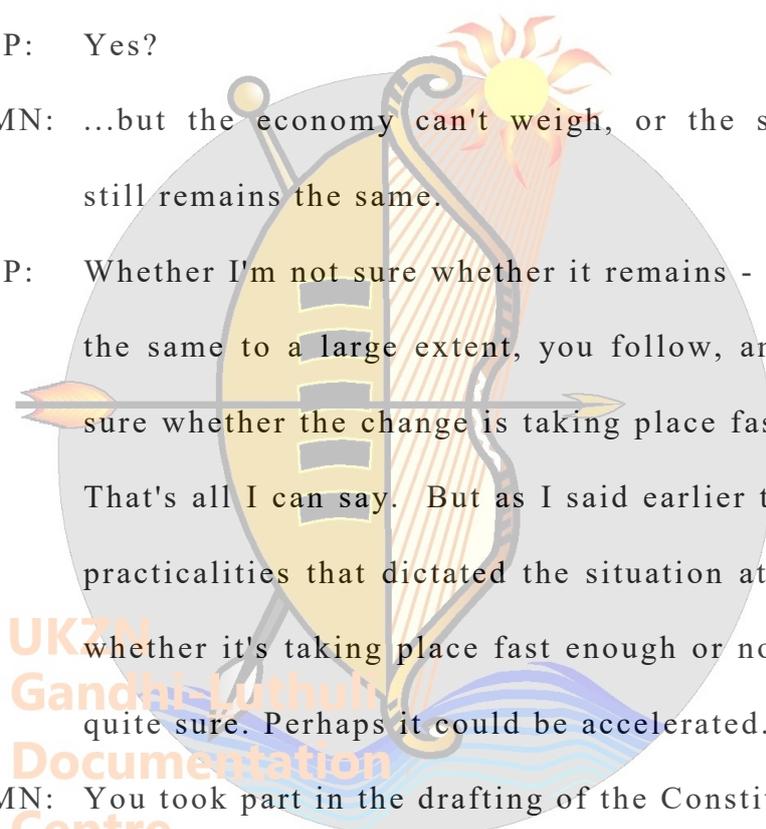
MN: You took part in the drafting of the Constitution?

JP: Yes.

MN: And our Constitution is described as the most democratic as anywhere else.

JP: Yes, yes.

MN: But most people believe that or think that the people on the other side of the law seem to enjoy



more of the rights than the people and the law-abiding citizen. What is your opinion on that?

JP: Yes, you know, that's - I've heard that often being said, you follow. For instance the people - let's take an example of people complaining that criminals get bail far too easily and so on. You see, the problem is that when you find yourself on the other side - and you can never guarantee that you'll never be on the other side - if you, you just have to have laws in place and you have to abide by them because it is applicable to everybody equally, you follow?

If you take the question of bail, if you were - for instance wrongly arrested on a charge of hijacking or whatever it is, you know, now the law presumes to be, there is a presumption of innocence, you understand? And if you had to bend to public opinion and say, "well, all hijackers, people charged for hijacking should not get bail" - do you understand - it can operate very unfairly. It must be left to the discretion of the Courts.

MN: What would you say, what's your opinion?

JP: No I don't think it favours the criminal unfairly. Certainly, you've got to have rules in place, which are applicable to all. If you believe in the rule of law, then you can't make exceptions.

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MN: Looking back now at your life, your activism life and looking back at what is happening now, do you think it was worth your while?

JP: Absolutely, I mean absolutely. It was worth our while. I mean, there is a different South Africa altogether.

MN: When there - there is this opinion again that says...

[interruption]

JP: Let me give you an example, when I was appointed a Judge, and when the very first day that I entered my Chambers and then entered the courtroom, I just couldn't believe that this was happening to me. You know, having spent almost 35 years before then practising as a lawyer and never ever having thought that this was - it was an experience which is very hard to explain.

So it's been a worthwhile experience personally, and I daresay for all South Africans.

MN: When the ANC and the other political organisations were unbanned, then there was this opinion that people of the - who were in the UDF, the majority of the people of the UDF were ignored or were cast aside. I'm talking of people like Archie Gumede. What's your opinion? How do you see it - were they - is it justified, was their opinion justified. Because

soon after the unbanning those people - we heard nothing of them any more.

JP: Yes I'd only like to say that it's unfortunate that a number of people who ought to have been recognised and who ought to have been brought into Government, were not brought into Government. That's all that I'd like to say that I think - I don't know what the reason for it was - but certainly many people in the UDF appear to me to have been marginalised for some reason or the other.

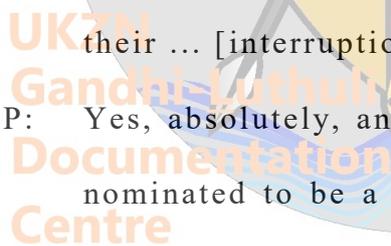
MN: Can we pause, please.

RECORDING STOPPED - ON RESUMPTION

MN: Welcome back. Justice Pillay, welcome again.

Touching on the TRC, the Truth and Reconciliation Commission, did you believe in the mandate of their ... [interruption]

JP: Yes, absolutely, and let me tell you that I was even nominated to be a Commissioner on the TRC and I was shortlisted. I could very well have ended up as a Commissioner on the TRC, and yes, I think - if anything - the TRC served one very useful purpose. And that is that it exposed to the whites of this country, atrocities perpetrated by whites which they believed never existed, and from that point of view and which a lot of us - I mean even as a lawyer I



must tell you that I didn't even realise it was as bad as it was, you follow? And from that point of view I thought it served an extremely useful purpose. The Security Police - in a lot of cases - weren't even sophisticated in the way they got rid of people, I mean, you know - you read about them - that some of them were shocking. If it hadn't been for the TRC this ominous, inhuman behaviour would never have been exposed, and from that point of view, it served an extremely useful purpose.

MN: Did you participate in it?

JP: No I didn't. I didn't participate. I was never called to testify and I didn't testify.

MN: Had you've been?

JP: Well I could have, of course I could've mentioned some of my own experiences and some of my experiences as a Trial Lawyer for a number of people who were tortured and so on. I could have.

But it never arose.

MN: Looking over your shoulder at the road you have travelled, is there anything you could have done differently, politically or otherwise that you - where you can put your fingers and said, "here, I could have done this, I've done this wrong."

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Is there anything at all you could have done, if you were given a second chance, you can do differently?

JP: Well, let me tell you what - from a very parochial point of view - one of the things that I'm very saddened by, and which I thought ought not to have happened, and which I, at the time, said was the wrong thing to do, and that was the disbanding of the Natal Indian Congress. I think it was the wrong thing to do. I think the Natal Indian Congress still had a role to play because I don't think the Indian people were completely mobilised towards the ANC, it [NIC] had a further role to play.

I strongly mooted, even in meetings with Madiba, that the NIC should continue to exist and I'd like to believe that he also entertained the thought that all organisations should continue to exist, because it had tremendous organisational and administrative skills and it had quite a significant support from the Indian community.

If you look now, insofar as politics is concerned, a lot of Indian people appear to be quite leaderless. If you look at the whole Mbongeni Ngema incident, the people who are really taking up the cudgels on behalf of the Indian community are not recognised leaders. In fact, some of them ought not to be there

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at all. And I questioned the motives of some of them who portrayed leadership within the Indian community and one of the reasons for the poor showing of the ANC in this province, insofar the Indian community is concerned, in the elections, the municipal elections and the provincial elections and so on, is because of this vacuum that was created by disbanding the NIC.

And I believe that the NIC could have worked, you know - I mean - could have worked as an ally of the ANC just insofar as its ability - which it displayed clearly in the tricameral System - its ability to mobilise the Indian people towards voting for the ANC. I am not saying that the ANC should - that the NIC should put up candidates for any election, but should have been able to, should have been allowed to exist to mobilise support for the ANC.

MN: Besides sitting on the Bench being the Judge, what does Justice Thumba Pillay do? What's your hobbies,

how would you spend a day, outside the court?

JP: You can see I spend my day almost entirely in my garden, then I have two wonderful grandchildren and I have three great children, so I spend a lot of time with them.

MN: So you are a gardener?

JP: Yes I'm a gardener, and then of course, I do a lot of handiwork and a do-it-yourself enthusiast.

MN: Let's go back a little bit again on that thing you've touched something here - Mbogeni Ngema. What's your personal opinion about his...?

JP: I'm deeply upset by his statement and I think he's being allowed to get away with it. I think it was an afterthought. It was an afterthought on his part to say that he'd "composed a song to initiate debate" and what I believe is that those people who are now sitting and talking to him are playing into his hand because now he is saying "you see what I said, I wanted to initiate debate, and the debate is taking place."

And the people who are now engaging in this debate in my view are being extremely foolish to do so, or if they are doing so, they should first ask from him an apology, because I personally am deeply hurt because there is just no way that anyone can accuse me, my family, my father, my grandparents of riding on the back of the African community to get where we are today. I'm just the son of a Policeman and for him to say that I exploited, to generalise, is a grievous sin.

MN: What do you read, Justice Thumba Pillay?

JP: I read just about anything I can lay my hands on.

MN: What is your favourite author or favourite work, is there any?

JP: I don't have anybody in particular but there's a lot of new Indian authors who write beautifully and there's - what's this lady's name that I've been reading of recently - Arundhati Roy and there's Nepal and so on, who write beautiful English.

MN: Music-wise?

JP: Music-wise I love jazz, I love classics equally enough, generally I like all music, mainly classical music.

MN: Yes. What artists do you like - which ones? Who's your fan?

JP: All jazz, Dave Brubeck.

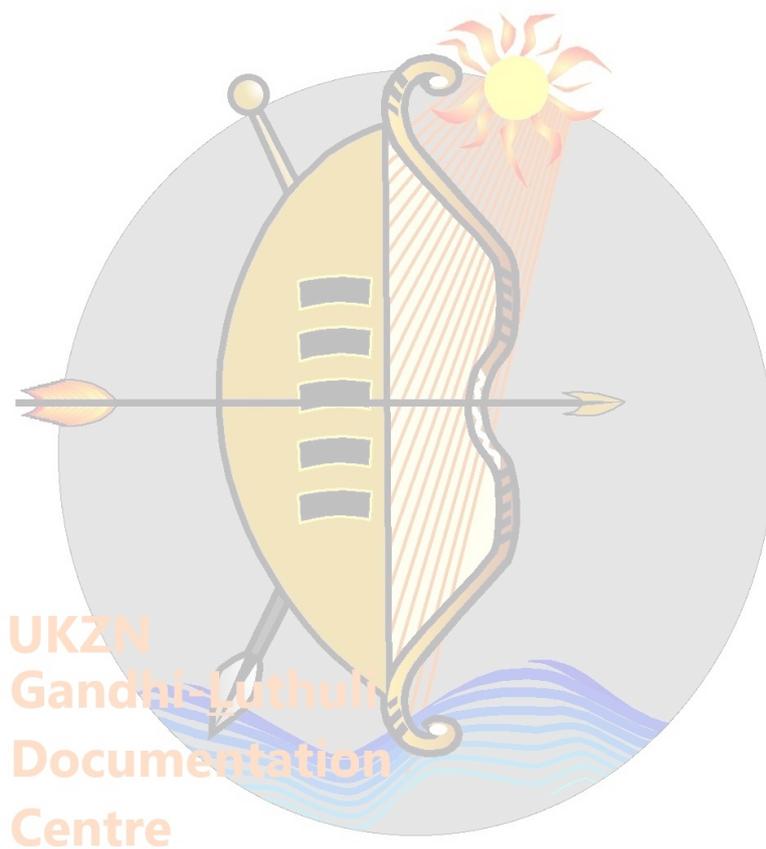
MN: 'Take Five'. It's been a long run. Justice Thumba Pillay, thank you very much for your time. On behalf of the Documentation Centre of the University of Durban-Westville, I would like to thank you for your time and our gratitude for inviting us to your house.

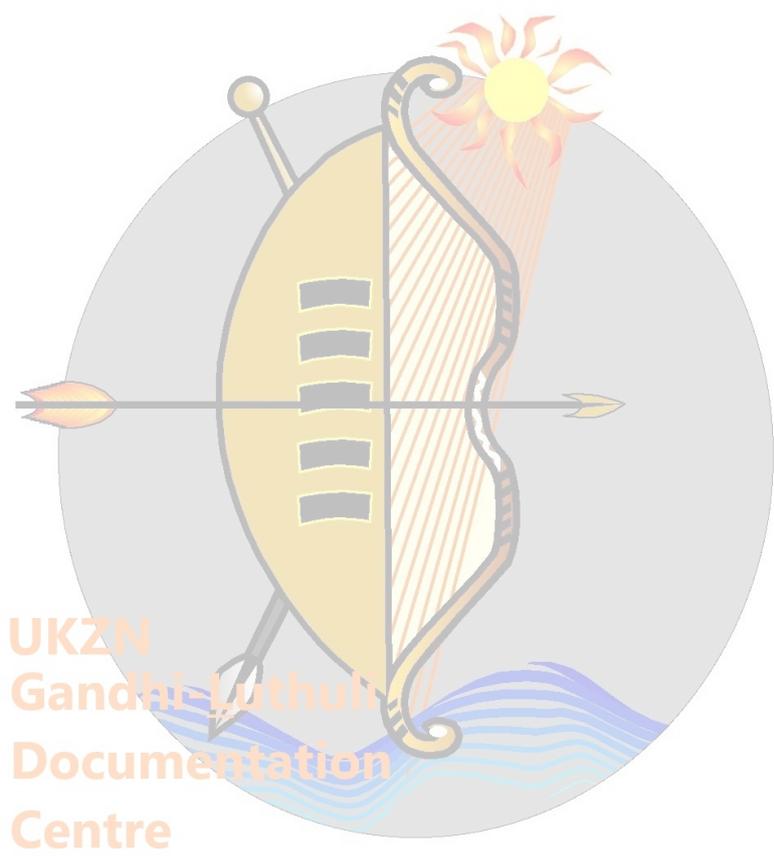
JP: Well, thank you for asking me to speak, and I hope I've - well thank you for asking me to be

interviewed and it was a pleasure, and I hope I've
been of some help.

MN: Thank you.

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