

MOLOTO, BAKONE JUSTICE, 3 January 2020, Johannesburg (J)

Interviewer: Karen Hurt (KH)

Videographer: Nandi Mgwaba

Interviewee: Bakone Justice Moloto (BJM)

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KH We are with Judge Moloto in Morningside, Extension 15. Thank you for agreeing to be interviewed by the South African Banned Persons Memory Project. It's the 3rd January, 2020. Nandi Mgwaba is our videographer, and I'm Karen Hurt conducting the interview. Thank you very much.

BJM Thanks so much.

KH Could you tell us something about your early life? Where you were born, where you grew up, where you went to school, what you did as a youngster?

BJM I was born in a village outside Rustenburg, in the District of Rustenburg, if you know where that is. It's in the Northwest. The name of the village is called Saulsport. It had two names, an English name, and an African name. The African name is Moruleng. M O R U L E N G.

And I attended primary school there and, at the end of my primary school, I moved on to boarding school at a place called Tiger Kloof in Vryburg. That's where I did my high school, there. And up to matric.

And it was while I was in Vryburg, actually, that I came across what I thought were some injustices in the system in the country. I'll probably tell you more about them a little later, about what specifically triggered my interest in politics while I was there.

But that was not the beginning of my interest in politics. I... When I was a seven-year-old, my father asked me a question. What would you like to be when you are old? And I said, doctor. Unfortunately, he didn't ask me why did I want to be a doctor, and I would have told him with the logic of a seven-year-old why I wanted to be a doctor. And I still remember that reason.

The village I grew up in was predominantly black. There were four white families in this village - it was the local priest, the local dominee, actually, of the Dutch Reformed Church, the local shopkeeper, the local butcher, and the local doctor. The one and only doctor in the hospital. I didn't know where the other three lived. They were living on the outskirts of the village, certainly, but what I mean is I never saw their houses. But I **did** see the doctor's house, which was right in front of the hospital, in the hospital compound.

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And if my father had asked me, why do you want to be a doctor? My answer would have been, if I become a doctor, I'm going to turn white, and when I'm white, I'm going to have electricity in my home, I'm going to have a tap with water in my

yard. I'm going to have a telephone and life is going to be easier for me, unlike what I'm experiencing in this village. That would have been my answer. But unfortunately, he never asked me.

KH And when you finished, what point did you change your mind about your career?

BJM I changed my mind about my career when I got to university. Actually, what happened is that, having said to my dad that I wanted to be a doctor, he just pushed me into schools which offered medical subjects, like Physical Science, Mathematics, Biology and what-have-you.

And he applied for me, all the time. I never... He actually applied for me, even for university. And according to him I was just going to do medicine. I got to university, registered, and the first prac. that we did, in Zoology, was dissection of a frog. I had never touched a frog before. I haven't touched a frog since.

And that's when reality hit me, that medicine is not for me. I could tell you the process of what happened in that class, but it'll be a long story. But I am just not one person who touches frogs. And I realised. Before, I thought being a doctor is you use a stethoscope and you give them medicine. I... It hadn't occurred to me that you may have to do some surgery. And having to dissect a frog was a complete no-no for me.

KH Which university were you at?

BJM It was then called Turfloop, University of the North.

KH Yes. And did you stay there to continue?

BJM Well no, I made up my mind that year, and the following year, I was in Fort Hare, studying law.

KH Could you tell us about your most vivid memories of Apartheid, racial discrimination, or any other discrimination, and how it impacted on your day-to-day life?

BJM My entire life was just a reminder of Apartheid. As I said, from the age of seven, I could already see the differences and the privileges that whites got. And from what I told you, it's quite clear that I was already of the mind that they have those privileges because of the colour of their skin.

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That's why I wanted to turn white myself, you know. So my daily life was an experience of Apartheid. But let me say, the one act, for instance, that triggered my activism was when I was at Tiger Kloof, in the high school and the school expelled 15 students in the carpentry department. And no one in the school could understand what that... what caused that. So the student body went on strike. I was 16 years old at the time.

KH More or less, when was that?

BJM That was 1960. We went on strike. And if you remember the history of that time, a number of black high schools in South Africa went on strike in that year. Kilnerton

was one of them. Marion Hill in Durban, Marion Hill was one of them. Wilberforce in the Vaal was one of them. Ours, in Tiger Kloof, was one of them. Actually, my brother was attending Kilnerton, and just a week after that struck, we struck.

KH What were those generalised strikes? What were the issues?

BJM Well, the issue, specifically in Tiger Kloof, was the expulsion of the 15 students. However, it may very well also be that from those who were a little older than us and were aware of things, they were aware of the general mood in the country. Remember, this is the year of Sharpeville, and it was around the same time of Sharpeville, that we went on strike.

And actually, part of the school got burned, we got arrested and were kept in custody for nine days while they were taking statements and what-have-you. And then those of us who were not directly implicated were let go, and the rest had to stand trial. In the end, one student who was the head boy was convicted and was sentenced to three years, but on appeal, he was acquitted.

But I... The general mood in the country, generally, at the time, the strike against pass laws, which led to the Sharpeville massacre, was probably the underlying motive. I definitely didn't have an understanding of that. I didn't know that there was any political activity outside the school, but I was aware of what was happening in our school.

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KH Why were those 15 students, carpentry students, expelled?

BJM To this day, I don't know. As I say, we... The strike was because we didn't know why they were expelled. And we just thought it was an arbitrary action, that the expulsion was not justified. But we didn't know, really. And we were never given any explanation, even after the strike.

KH You have spoken about the strike at your school and generally. Was there a moment that you can remember and talk to us about, when you felt the injustice of the system compelled you to act in some way, other than this example you've given, of the expulsion of the carpentry students?

BJM I... No, that was the only thing, really, that sparked the whole thing. And the student anger, generally, was centred around that, and that only. And the older students, in fact, after we had had our student body meeting, and we had agreed that we're leaving the high school, we're going home, that the trains were passing on at... One at midnight, and the other one at one in the morning. As we came out of the mass meeting, they started breaking windows and others started burning, and so it just became a big commotion, and the police came and then found us there. We were still on the campus.

KH Do you remember what feelings you had, at that time?

BJM Well, the feeling we had was anger, anger at what had happened to our fellow students, and the lack of explanation for ejecting them. Just, what causes this? Why? Why were they being expelled? We didn't know.

KH How did you go on from there to become involved in political activity?

BJM Well, from there on, I went to university, to Turfloop, as I mentioned a little earlier. And...

KH What year did you register at Turfloop?

BJM 1964. Yes. I was in Turfloop. I passed my matric in 63 and I was in Turfloop 64. There wasn't much that happened in Turfloop that triggered any activity there. What did trigger some little bit of activity was the following year, when I got to Tiger... To Fort Hare, rather, where I was a freshman, but a freshman from another university.

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There was a tradition within the university that freshmen are there to be seen and not to be heard. But then there was a discussion of a topic of whether or not the student body should have an SRC. The SRC had been disbanded by the Mandela's in the early years, and it had never been re-established.

And I then raised a hand and said, I know I'm a freshman and I'm not allowed to speak, but, you know, you are not talking about something that is peculiar to Fort Hare here, where freshmen can be excluded, you're talking about a principled decision on whether or not to have an SRC. Some of us come from other universities, where there are SRCs, and we might perhaps be in a position to make better a contribution to the discussion.

And that meant I was... We were allowed to speak. Not only I, but also other fresh people, fresh students. And, as a result of my contribution that day, it just so happened that the entire university student body had some amnesia about this tradition of freshmen being heard and not being heard, because from then on, I was now made the chairman of choice for any student body meeting.

Because we didn't have an SRC, you... Every time you wanted to have a meeting, some... You've got to have... When you get to the meeting, the first thing you do is to appoint a chairman for that meeting. And from that day on, they appointed me, freshman as I was. And that happened the whole of 1965 and 1966, leading up to my expulsion from the university at the end of 1966. I was told not to come back for 1967. If I'm interested in studying, I must come back in 1968. I came back in 1968.

KH Could you talk about that expulsion? What led to that [overtalking]?

BJM The expulsion. What led to the expulsion was the fact that, by virtue of now being the regular chairman of student body meetings, no longer me today, so-and-so tomorrow, and so on, the authorities felt, oh, this is the guy who's influencing politics on campus.

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And they just... And of course, they don't give you reasons. They just say, don't come back.

KH What were the politics happening at the university?

BJM The politics [overtalking], were that we were fighting for this SRC, and wanting the university to release the funds that are supposed to be allocated to the SRC for the activities of the students, and the university was saying, not without an SRC.

KH Were there any particular political formations at Fort Hare during that time?

BJM Not really. Not national political formations, but it was just formations around this issue of SRC within the university. And, yes?

KH And so did you find there was a lot of cohesion amongst students, rather than anything party political, ideological [overtalking]?

BJM There was a lot of cohesion amongst the students, although there were two dominant views on the question of the SRC and because of that, it wasn't easy for the students themselves to come to a common decision on the way forward about this issue. But then it was...

KH What were the two views?

BJM The views, the one view was, you know, we are not going to have that. We are not going to have that. There was a reason why it was banned by the Mandelas. And the other view was, which I belonged to, was that no, no, man, you know, we have been to other universities, we've seen SRCs operate, and we think that life for students on the campus will be much better if you have an SRC.

KH Were you linking to students from any other campuses at the time, that you remember?

BJM No, there weren't any other students that I'm aware of, who came from any other university. I was aware of myself only. And when I made the request to speak, to be heard, I was thinking of myself only.

KH Judge Moloto, you were suspended, with no reasons given, but you were allowed to return the following year. Is that correct?

BJM That's right. That's right.

KH And then, could you take us on that journey a little bit?

BJM The following year, I came back, and then it happened again.

KH You were studying law? Sorry [overtalking].

BJM Yes, I was studying law, and I was still doing the BA part. We had to do a BA and then an LLB after that, but... Okay, I was studying law, and then I was still made chairman of the meetings, the student meetings, after a year's break. You know, in 1967, I was not there. I'm back in 68. And by September, October, 1968, 21 of us were expelled, this time for good. And they actually added that we may not be admitted to any university in South Africa.

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And it had to take a delegation of parents, my mother was part of that delegation, to go back to Fort Hare, to speak to the authorities, to say, well, if you deny these children the right to study, you're creating criminals out of them. If they are such a nuisance to you on campus, at least give them the dispensation to study through UNISA. So I had to study for the rest of my degrees through UNISA.

KH And where were you living at that time?

BJM At the time, I was living in Soweto.

KH So you returned home?

BJM I came home, yes, and I was studying through UNISA, and that's when I joined the University Christian Movement in 1968, okay.

KH Could you tell us a little bit about that movement and what it stood for?

BJM The University Christian Movement was, as the name says, a movement of university students who were... sort of believed in Christianity. Very much like what was happening in most campuses. There was what was called the SCA, Student Christian Association. But the Student Christian Association was a very conservative movement.

KH And it was predominantly white?

BJM Predominantly white, predominantly Afrikaner. And we then formed the University Christian Movement which was more to the left, more liberal, more English-speaking, mainly. We were supported by a number of priests from a number of denominations. The Methodist church, Alan Boraine was one of those who was supporting us. There was a guy called Colin Collins, who was a Catholic priest. There was a guy called Basil Moore, who was a Methodist minister with Alan Boraine.

There were quite a number of, actually, a number of Methodist ministers who supported us. But these were people you would have called left-wing in the politics of the time, you know.

KH What defined them as such, would you say?

BJM Just their stand. I mean, they rejected Apartheid entirely, and they felt that South Africa should be a non-racial society. We objected to the fact that we are separated, even as students, that I should go to Fort Hare and... Mark you, going to Fort Hare, not being Xhosa, being Tswana, I actually had to get ministerial permission to go to Fort Hare, black as it is. Which meant, in fact, that... And the fact that I had to go to Fort Hare and leave Wits here, was a sore point. I mean, it was quite... We just felt it was unfair.

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So yes, there were all these things. But we were also aware of a whole lot of other political issues that are affecting outside universities - the pass laws, the influx control laws, all those things. And the fact that people didn't have

opportunities to make a living and come into the cities and make a living, was just a sore eye to us. And we just felt, this can't happen.

And then of course, we, as students, were experiencing this discrimination, enforced on us by this system, during our conferences. You know, you'd find that, you know, our conferences, when we went to conferences, and we were prepared to live together as black and white, the police would come in and raid us, and arrest the blacks if you were in a white area. And we couldn't go to black areas, because there was no decent accommodation you could get in the black area, you know.

But so every time the police come, it is the blacks who are breaking the law, because they are in a white area when they are not supposed to be there. In fact, it was as a result of one such incident that the idea of the South African Students Organisation was born, at a conference in Stutterheim, where the whites, the white members of the University Christian Movement, said, guys, stay. Don't walk away. When the police come, we will lie on the road and dare them to run over us, us, the white students.

And the black students who were there felt that's not a very clever tactic. Because they are just going to be removed, and the police will walk in and arrest the blacks, and that will be it. So the blacks asked to withdraw for a moment, to caucus and decide on the way forward from there on. And it was during that caucus that the idea of SASO was born, and Steve Biko was given the mandate to go through the universities all over the country, black universities, and canvass the idea of SASO.

KH What year was that?

BJM 1968. And the inaugural conference of SASO was then in 1969.

KH And but the University Christian Movement was still an independent, and they were supportive of...?

BJM They were independent. They were supportive of SASO.

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And SASO... As I said, the idea of SASO was born in a UCM conference. And the relationship... That demonstrates again how left the white membership of UCM were. They were prepared to... I remember that, as soon as SASO was established, there was a great deal of jealousy from NUSAS.

KH The National Union of...

BJM The National Union of South African Students. It was jealous of UCM for its close relationship to SASO, when SASO was literally rejecting NUSAS, okay. So there was... And a symbiotic relationship emerged between SASO and UCM. That...

KH Were you...? Did you hold office in UCM, or in both?

BJM Yes. At the 1969 conference of the UCM, I was elected president of the UCM.

KH Who were some of your contemporaries at the time?

BJM My... Well, my late wife was one of my contemporaries.

KH And her name?

BJM Vuyelwa Mashalaba was her name. Mamphela Ramphele was a contemporary within SASO. She was with SASO. And I had dual membership. I was a member of SASO and also a member of UCM, and an official in UCM. I couldn't take office in SASO while I was in UCM. It was sort of... The optics were not right. But I cooperated with them, and nobody queried me. And this is what created the jealousy on the part of NUSAS, you know.

But yes, I was elected president in 1969, of the University Christian Movement, and at the 1970 conference, somebody else was elected president. I can't remember who. But then I became the Travelling Secretary of the UCM. And it was during my presidency of the UCM that the functions of the president sort of changed, because, having been expelled, I could devote most of my time to the office, unlike a president who was at university studying, and would only be a spokesperson here and there. So I actually literally worked in the office on a daily basis and got paid.

KH You got... Became a full-time activist?

BJM I became a full-time activist. And then it became necessary for me to carry on with that activism, and that's why I was then appointed... No, not elected this time, but appointed as a Travelling Secretary now, as a full-time employee.

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Because then I had to travel through the country, and coordinate student activities on various campuses.

KH Could you describe some of the things that were happening on campuses at that time? What was the thinking about the struggle?

BJM The thinking about the struggle was, well... UCM's position, multiracial as it was, was virtually the same as SASO's. Black man, you are on your own, and so learn to stand on your own and do things for yourself. You are equal to anybody. Don't doubt yourself. Steve Biko's biggest line was, the biggest weapon in the hands of the oppressor is the mind of the oppressed. That was his special quote.

And the idea was to liberate the black man of his slave mentality and say, you are on your own, and you are equal to that white man next to you. SASO... Beg your pardon, NUSAS, as we know, was a liberal university student... But a university student organisation which was really preparing students for government within the system. Whereas the others wanted to see the system overthrown, although they wouldn't say that. Okay.

And the debates within NUSAS were almost parliamentary, if you remember well. You could see that this is just training ground for going to parliament and making debates, with the end of getting involved in debates in parliament, which is what we were not standing for.

And then, of course, within the University Christian Movement, we had projects that we did. And the two main projects that I can think of was the Adult Literacy Project, and the Black Theological Project. The Black Theological Project was the one that was supposed to be working on this self-worth of a black person. You know, you are a black person, you are a human being, just like anybody else. Stand on your own. So... But the... And it was led by a young priest, Stanley Ntwasa. He has since passed.

KH He was also banned.

BJM He was also banned, yes. Stanley Ntwasa was leading that within the office at the UCM. I led the Adult Literacy Programme. And the philosophy behind our literacy programme was that we're not going to have primers for our people that we are going to teach.

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We get into an area and check, find out their lifestyle. What are you? Are you farmers? Are you...? And if you are farmers, are you agricultural farmers, are you pastoral farmers? And then we develop a vocabulary around what you actually do, because you are dealing, here, with adults. You can't be saying to the adult, the adult must say, the cat sat on the mat. You've got to... He must see the worth of literacy immediately, otherwise he's not going to be interested.

So we would try to teach them on crop rotation, vaccination of livestock and what-have-you. The things that have to do with what they are doing. And a little of bookkeeping on... You know, okay, fine, when you've ploughed and you've sold what you've sold, you keep that for seed for the next season, and make sure you have enough to live until the next harvest. You know, those kind of things. So our vocabulary was based on what our target market...

KH The sort of context that people knew?

BJM That's right.

KH Were you...? The literacy that young... University Christian Movement was involved in, was that on a national scale?

BJM It was on a national scale. But, of course, the... conceptually, it was on a national scale. Practically, we were not able to reach every corner of the country, because of lack of resources. But I remember that I was travelling in the north of KwaZulu Natal of the time, Northern Zululand, and having those projects there, you know. And Eastern Transvaal and all those places, yes.

KH Were... What did you...? Literacy is an interesting sort of programme to embark on, and that, I assume, was part of the ideology of...

BJM It was part of the ideology.

KH Empowerment.

BJM It was the empowerment of the people, and to say, if I'm saying, through my black theology, black man, you are on your own, and you are equal to everybody, then I must empower you to be equal to anybody, okay.

KH Were any other members of your family active in the struggle against Apartheid?

BJM Just before we get to that, SASO also had its own little projects, in which we used to assist, as UCM. The main... Steve Biko, being a medical student at the time, they came up with the idea of clinics, mainly in the Durban area, run by students, medical students.

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So they had that little project, also, which, whenever I was in Durban, I would just join in and...

KH So long as there weren't any frogs to dissect? (Laughs).

BJM As long as there were no frogs to dissect. Yes.

KH And members of your family?

BJM Members of my... My mom was a member of the Youth League in the Mandela era.

KH The African National Congress.

BJM The African National Congress. She was actually a president of the branch, Orlando West Branch, to which Mandela belonged. In fact, when she became a member of parliament after 1994, she used to tell us that Mandela used to joke with her in the corridors of parliament and say, hello my president, called her, my president. Because she was the president of the branch, you know.

KH Could you share with us your mom's name?

BJM Ellen Kuzwayo.

KH Who was also a famous trade unionist.

BJM She was an author... She's an author. She was not a trade unionist, but she did work, at some stage, with... What is that group now? This guy who's chairman of the board at Eskom was part of it at the time, Jabu Mabuza. I'll remember the name.

KH Your mom wrote a very famous book.

BJM Book, *Call Me Woman*, yes, she wrote that book. My mom was a teacher, but in 1953, when the Bantu Education Act was introduced, she resigned from teaching in protest. That's when she was a member of the Youth League of the ANC. And she then went back to school to study social work and came back and worked as a social worker.

She became the Transvaal Secretary of the Young Women's Christian Association, YWCA, it's usually called, and worked for them for quite a long time. Was very active in the politics of Soweto and became a member of the Committee

of Ten. I don't know whether you remember the Committee of Ten, that was set up after the 1976 riots.

KH Could you mention what that was about?

BJM That was about the (pause). The population of Soweto had lost confidence in the municipal superintendents of the townships, who were running the townships, who were employees of the government of the day.

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And they formed a Committee of Ten to try and deal with problems in Soweto. But, as I say, it was formed specifically after the 1976 riots. There had been a lot of trauma within the township. Children were killed and what-have-you. And the people wanted some kind of authority which they had confidence in. And they just felt they cannot have confidence the people who are appointed by the government as superintendents of the townships, so they formed this Committee of Ten.

My mom was one of them. The late Dr Motlana, I don't know whether you know of him, was a member of the Committee of Ten. My other brother, cousin, I call him brother because we grew up in the same house, but he's my cousin, Thomas Manthata was also in the Committee of Ten. I'll mention him a little later.

So, what else did my mom do? She was a member of the YWCA, she was a member of the Committee of Ten. And in 1977, she was detained for something like six, seven months, or... Six or nine months, I can't remember, at the Number Four Prison here, which is now called Constitution Hill, with a few other women.

And that's in 1977, when a number of organisations were banned. SASO was banned, the Committee of Ten was banned, and a whole number of other organisations that had started around were being banned. And people were being just detained without trial. So she was one of those who were kept in Number Four and they were never tried.

Now, my other family member is this cousin of mine that I call my brother, as I said. He was a teacher himself. He taught in the high schools in Soweto, specifically Sekano Ntoane. He became a member of the Committee of Ten. And he was arrested, together with the likes of Terror Lekota and others, and they were tried in the so-called Delmas Trial. Yes. So those were my... The two people in my family who were very active in politics.

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KH What were you doing at the time of your mother's incarceration?

BJM In 1977, I was in Durban, finishing my articles.

KH What law firm were you with?

BJM I was with a law firm called Frank Sithole and Company. It was a one-man black guy company, because, at the end of my banning order, I then... Actually, I got banned and banished from Johannesburg. So I was...

KH So could we talk about when you were banned, in what year you were banned?

BJM I was banned in 1971. I was banned in September 1971. I'd still been working for the UCM at the time, and I then got banned and got banished to Mahikeng.

KH Which is not where you...?

BJM Which is not where I came from. If anything, you can ban me to Rustenburg, where I was born. But they sent me to Mahikeng, and my own reading of the rationale behind that was Mahikeng was now the capital of the Tswana Territorial Authority. You remember what it was called before? It was called Bophuthatswana. Now it was called Tswana Territorial Authority. And therefore, go and be a problem to the government, so to speak.

KH So could you tell us about the conditions of your banning order, and was the banishment also an official legal document, that was given to you?

BJM Well, it was part of the banning order. The banning order said, you may not be with more than one person at a time, you may not address a gathering, you may not be in an institution of learning. And you may not leave the magisterial district of Mahikeng without the minister's permission.

KH Which law were you banned under?

BJM The Suppression of Communism Act.

KH Could you just...? Could you tell us what you were doing at the time you were banned?

BJM I was working for the UCM. I was the Travelling Secretary of the UCM in 1971, when they banned me. Actually, they picked me up from the office.

KH And where was the office?

BJM In Braamfontein, in Jorissen Street.

KH And what did they...? Did they give you any reasons when they...?

BJM No.

KH They actually picked you up and...?

BJM They picked me up, just said, come... Actually, come with us. And I said, where am I going to? We are going to your home. Okay. Jump into the car. No, I refused to jump into the car.

KH Was it a police van?

BJM No, it was a private car, but I refused to travel with them.

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I took the UCM car. I said, I'll follow you. So one of the policemen travelled with me in my car.

KH Did anyone else travel with you?

BJM No, only that one policeman, and the others were in the police car.

KH Were you able to alert any of your comrades?

BJM Not at that time.

KH Were you on your own when you [overtalking]?

BJM I was on my own, but Basil Moore, who, as I mentioned earlier, is one of us who was also in the office, was in the office when I was picked up, so he was aware of that. So, and they said literally, we're driving to your home. But then they drove to John Vorster Square, took me up to some floor up there. And I got in there, and they said, do you know Timol? I said, well, I've heard of Timol, yes. And then they said... Well, this is, of course, somewhere during the interrogation. And they said, do you want to follow him? You see that window? I said, I see the window, but I'm not here to follow him. And then they left me. They left me about an hour or two.

KH In a cell or in an office?

BJM No, in an office. But this... The lifts in this building, when you go up, the inside of the lifts, there are no buttons. You can't control it, control where it goes. It's controlled automatically from the outside. And when it gets to this office, it opens into the office. As soon as you come out of the lift, you are in the office already, and then the lift closes and you are on your own. So...

KH How did you feel at that time?

BJM Of course, I was scared, particularly when they asked me, do you know Timol? And I was very scared. Anyway, the long and short of it, from there, we drove to Soweto. And we get to my home. They said, open, I said, I don't have the keys. They said, but why don't you have the keys with...? Why didn't you tell?

I said, well, you didn't tell me what you are coming to do. You just said, we're going to your home. I don't know whether you're coming to take a photo of my house. And this is not my house. This is my mother's house. She keeps the key. Where is your mother? My mother is at work, De Korte Street, just next door to Jorissen Street, where you took me. If you had talked then, I would have said, let's go across the street and take the key from my mother, but you didn't tell me.

So we had to drive back to Johannesburg and got to my mother's office. That's when she was secretary of the YWCA. And my mother just clung onto me and ignored them, and clung onto me for life. And just clung onto me until they said, Madam, maak gou jou, maak gou. Ons moet loop.

00:45:05

Okay, and then we drove back home, and they said, take everything that's yours. You are not told anything. So I just took. I was literally a university student. All my possessions could fit into that trunk that I take to university when I go to school. So I threw everything in there.

KH You had no idea where you were going?

BJM And I had no idea where I was going. And I said, you're not taking my trunk. I'll put my trunk in my car because I'm still having this car. And then they start driving,

and I follow them. And out of Johannesburg, Krugersdorp, and we end up in Mahikeng. Only when we get into Mahikeng did they pull out the banning order and start reading it for me. And I tried... I said to them, look, I don't understand what you are saying, because you don't pronounce the words the way they are supposed to be pronounced. They were pronouncing it with an Afrikaans accent. Can I read it myself? They said, no, no, no, I've got time to explain it to you. Okay,, I listened. Those were the conditions, yes. And they banned me, and they left me there.

KH But where did you stay? I mean, you had...

BJM They... Well, yes, there was a little bit of drama there, because then they said to me, well, it's late at night now. I mean, I'm tired, we've been driving all the way. These people came to my office at about 11. This is about nine, ten in the evening. They said, man, your house is not ready. It'll be ready tomorrow. You've got to go and sleep in the cells. I said, I'm not a prisoner. You may have... I may be banned, but I am not a criminal. I have not been found guilty. I will not go to a cell. I will sue the daylighters out of you if you put me into a cell. Sorry, shall we wait for that to...?

At the time, my father was working in Mahikeng, and after a lot of toying and throwing, they then suggested... The local police suggested, who knew that was my father, they suggested that I go and sleep at my father's place. I said no, no, no, I'm not. I'm not my father's guest. He doesn't know that I'm here. Unless you are telling me that you are in cahoots with him. But I will accept sleeping in the station commander's house, rather than sleep at my father's house. Or, you can book me into a hotel and pay.

00:48:02

The idea of me daring them to go and sleep in the boss's house (laughs). Anyway, fatigue was getting the better of me, and then I finally agreed to go and sleep at my father's place.

KH How did he receive you?

BJM Very warmly, notwithstanding the fact that we were not on good terms. We had parted some years back, and we were really not on good terms. And it made me suspect... To this day, I still do suspect that he might have been party to it. That they suggested that I go and sleep at his place was telling to me.

And I knew that he was a faithful servant of the government. He had... He differed strongly with me on my ideas. He just felt that I'm stirring the hornets' nest unnecessarily and I should just work and forget about all these things. But that's how you feel about it, that's not how I feel about it, sorry. So let's agree to part.

But he was... He accepted me very warmly that evening. And I tried to challenge the very police about it. I said, but your own banning order says I may not be with more than one person at a time. My father has got his entire family with him. What am I going to do for tonight? Are you going to come and arrest me for this? No, no, no, there will be a dispensation for tonight.

KH It sounds like your legal training was already coming into effect.

BJM Well, yes, I had... During my banning order, on one day when I was... One of the occasions when I was arrested for breaking one of the conditions of the banning order, I had to defend myself. And the magistrate was impressed with my defence, and said so. (Laughs).

KH Why do you think you were...? Why do you think you were banned?

BJM I think I was banned because of my activities within the University Christian Movement, and SASO. And it was no secret that I'm working within these organisation. Remember, John Vorster had described the University Christian Movement as, quote, "a snake in the grass", unquote.

KH And you were key leader in that organisation.

BJM And I was a key leader in the University Christian Movement. So I... And I was the first person to be banned in the UCM. And then, after that, virtually everybody who was in the UCM got banned. When I got banned, the Catholic priest, Colin Collins, was overseas, fundraising. Basil Moore was banned, following after me. Chris Mokoditso, who was working with us, was banned. And this Stanley Ntwasa was after... Looking after the black theology, was also banned. So it was quite clear that this is aimed at the leadership of the University Christian Movement.

00:51:07

So it was an attack on the University Christian Movement, particularly because, as I said, John Vorster had called us a snake in the grass.

KH They obviously were scared of what you could accomplish if you weren't banned.

BJM Stopped, yes. Absolutely. I thought so.

KH What did the impact of the banning order have on your political activity?

BJM My political activity was curtailed drastically, because now I can't be with people, I can't do what... And I'm... I was literally under surveillance, 24/7.

KH Could you just...? Sorry, to disturb you. Were you house arrested, as well?

BJM No, I was not house arrested, but just banned and banished. But as soon as I got to Mahikeng, a Special Branch policeman was transferred, a white one, from Namibia, then South West, specifically to come and look after me.

KH Did you live in the house on your own?

BJM I lived in the... (Sighs) it was a painful way, the way I acquired that house. The following day, after I'd slept at my father's house, they came in and then took me along to the township houses. Four-roomed houses. Some, they are two-roomed. Now there's a family here, husband and wife with children, living in this four-roomed house.

And in what appeared to me, pouncing without prior notice, these people were just told to get out of this house, because a senior clerk at the Tswana Territorial Authority is coming to stay in this house. And I said to them, but you know what? Why do you do this to these people? This is a family. I'm a single young man. I'm

alone. Two rooms would be fine for me. Why must you put me in a four-roomed house and take these people to a two-roomed house?

They said, it's none of your business. You're the senior clerk at the Tswana Territorial Authority, you can't stay in a two-roomed house. But this is a family. Father and mother with children. Are you saying that all these people must sleep in one room? Anyway, the long and short of it is that family was kicked out and I was given the house.

KH You're talking about this Security Branch policeman who was assigned [overtalking].

BJM Yes. Well, no, that Security Branch person has not arrived yet at this stage. These are just the police, the local police. And then they take me from there to the township office, where I must be registered as the occupant of the house.

00:54:04

KH Which area was this?

BJM This is Mahikeng, the township of Mahikeng. It was called Montshiwa, Montshiwa township. So I go there, and they give me... I get registered there that I'm the occupant of the house and what-have-you. And then a couple of months down the line, the township office wants rental from me.

So I said to them, I beg your pardon? Did I apply for the house or was I given the house? Do you remember who brought me here? You go talk to them. Go talk to Pelser, the Minister of Justice. He's the man who brought me here. I'm banned by him. Okay?

So I'm not going to pay rent for a cell. In my vocabulary, that's not a home. That's a cell. You kick me out of there, I go to Johannesburg, to my mother's house, and you will tell Pelser why I'm not here. So it became a big wrangle. It went to the cabinet of Mangope's government. They tried to get me... to force me to pay. I refused to pay for my entire stay there.

KH Were you banned for five years?

BJM I was banned for three. It was a funny banning order. I didn't know why they banned me for three. The standard was five, but they banned me for three. And they didn't renew it. I did hear, when I got arrested a second time, that if they could get a conviction, that would give them, the minister, a strong hand to extend my banning order. But they couldn't even start the case because they didn't have witnesses.

KH What was the conviction about?

BJM Well, the charge was that I had been in the company of more than one person. The thing... It was a funny situation. The Minister of Justice of the Tswana Territorial Authority is a distant cousin of mine. He has a party at his house. He invites me. And a friend of mine comes to my place with his wife and they say, look, let's drive to the Minister's house. But we drive in your car, not in their car. And my... This friend of mine takes the keys from me and he drives.

Okay, we don't... Now we are three in the car, but we didn't meet any problems on the way. We get there, and my car is parked outside. I'm inside. We're having a party. And at some stage, somebody said, Justice, Justice, hide! So I go through the kitchen, back fence, jump over the fence, and run back to my house, which is on the same street, on the back side.

00:57:08

And I just get into bed, lock, stock and barrel, boots and all. They arrive and find me there and say, where do you come from? I said, I come from my bed. No, no, no, no, before you came to your bed. I said, what do you mean? You tell me where I come from. I'm telling you from my bed. They say, yes, but where's your car? My car? A friend of mine borrowed it, so-and-so. They said, where are the keys? I said, I just told you, my friend borrowed the car. I can't have the keys on me if I've lent the car out to somebody else. He's got the keys.

So they rushed back there, find he's got the keys. His wife, unfortunately, was highly pregnant. Virtually in her ninth month. The following day, they pick her up at eight o'clock and take her to the police station and interrogate. They want her to say I was there. And she tries to resist, she tries to resist. But, two o'clock, she breaks down. From eight to two, on a pregnant woman.

At two o'clock, she breaks down. She comes back, she's crying. Justice, I'm sorry, I'm not used to these things of yours. I'm not a politician. I broke down. I said, what did you say? She said, I told them you were there. What time did you tell them? At two o'clock. What time did they take you? At eight o'clock. All I ask you, when we get to court, tell the magistrate that. That you, at eight o'clock you told them I was not there. At nine o'clock, I was not there. Ten, 11, only at two, because of pressure from them, did you say I was there. Let the magistrate tell us what does he believe between these two.

She was... and everybody else refused to testify for the police, including the Minister of Justice. So they didn't have a case. They realised they can't sustain a conviction on that case, on that evidence of that one single witness who is obviously going to say, you forced me to say this. So the man didn't get his...

Oh yes, this guy now, who came from South West Africa to come and look after me, he's now the guy who's investigating all this case. And he had been promised that if he got me convicted on that occasion, he would get a promotion. So he didn't get his promotion.

KH You've described the... I mean, just the thought of a highly pregnant woman being pressurised in that way is pretty cruel.

BJM Very cruel.

01:00:03

KH And you've, so you've described some of the impact, socially, through this event that you've described. Could you talk about anything else to do with the impact of the banning order on your livelihood, on your social...?

BJM On my livelihood, my social life. Obviously, being banished out of Johannesburg, I was moved away from my family and my loved ones, my siblings, my mother and everybody. And my colleagues that I worked with, and my friends, and people of... Like-minded people.

KH The stimulation of...

BJM That's right. And being in Mahikeng, being watched by the police, and not being allowed to have contact, you know, it was not easy to make friends. Well, I did make some friends, but again, I had to talk one-on-one all the time, and this just, sort of, curtailed my political activity. But I refused to allow my spirits to be dampened. But I felt... yes, my activities, politically, were curtailed. My activities, socially, were curtailed. And at the time, I was dating this girl from Durban, who was my fiancée at the time.

KH In Mahikeng?

BJM No. She was a student at Natal University, doing medicine there, with Steve and them. Steve Biko. And now we were having a long-distance relationship when I was in Johannesburg, but I was free to move around and I could go and see her as and when I could. Now, being in Mahikeng, when I'm further away, too, I can't move. So we just had to have a love relationship on, not even telephone, letters. You know.

And sometime during the banning order, that is now in 1972, I then... We then got married, because then I knew that... Okay, it was... They didn't forbid her visiting me in Mahikeng, but she could only visit during university holidays. But then I felt, okay, let's get married. And then we got married. But then she leaves me in Mahikeng, she goes back to finish her studies. So by the time my banning order expired in 1974, the first place I could think of going to was Durban, where my fiancée is, my wife is. My then-wife is.

KH Were you allowed to attend your wedding ceremony?

01:03:01

BJM My wedding... It was... Four people were allowed to attend my wedding. Me and my wife, her representative, and a representative on my side.

KH Who was your representative?

BJM My representative was my mother, and...

KH And where was the marriage ceremony?

BJM In Mahikeng, in my little four-roomed house, we had a little party there. And we... Her representative, who had a car... My car, by the way, UCM had to come and fetch it, because they needed it, of course. So I didn't have a car. So her representative who had a car, had to lend us the car and we had to drive ourselves, just the two of us in the car, to the commissioner's office, Bantu Affairs Commissioner's Office, where... because we couldn't go to church. So we got married there, civil marriage, and signed there and what-have-you. And, of course,

our witnesses were allowed to be with us in the office, but they didn't come with us in the same car. They had to come in a separate car.

KH Could you sketch for us, briefly, how your life has unfolded from the time of your banning order, which expired in 1974? You moved to Durban.

BJM I moved to Durban. Because of police interference during my banning order, I had been unable to get articles of clerkship with... There were three law firms in Mahikeng at the time, only three. And I went to all three of them after I had resigned from this, where they had employed me, because again, I'd fought with them. And each time I went into the building, the policeman would go in there. What did he want? He wants a job as an article clerk. We can tell you he's a communist. Don't touch him. So I couldn't get a job.

KH Would you have described yourself as a communist?

BJM No. No, I didn't. I was a democrat. That's how I would describe myself. All I wanted was democracy and decency between man and man. That's all.

KH No, I'm just curious, because it was the Suppression of Communism Act that just... Most people at the time were banned under, and many of them weren't communist.

BJM Well, the mentality of the government at the time was if you were anti-government, you were communist. Only communists could be against us. Everybody else loves us, you know. They were not even prepared to accept that some of the most democratic countries like Sweden and Switzerland and what-have-you were against the Apartheid practices.

01:06:01

And these countries were far from being communist. But according to them, anybody who is against us is communist.

KH So you went to Durban.

BJM So I went to Durban, joined my wife there. And looked for articles. Finally got these articles, and it's a two-year thing, so I... What happened, I got there '75. Oh yes, I remember. I couldn't get articles for quite some time. Until 1977. So I kept on working in law offices, but not a registered article clerk. So sort of not making progress towards qualifying. So only in 1977 did I get registered with one law firm. And I qualified. It's a two-year stint.

So 1978, May, I got admitted as an attorney for that. Having been admitted as an attorney, my boss told me that he couldn't afford me now, now that I'm no longer a clerk. He can't afford to pay me R500, which was now the going rate for a young attorney. So within a week of being admitted, I had to open my own office, because nobody would employ me.

So I opened my own office and sat there and waited for clients to come. And they trickled in. I had every disadvantage against me. One, I didn't know Zulu. Two, I didn't know lots of people, because I'm new in the area. The people I know are my

colleagues, the other lawyers who I approached for employment, and wouldn't touch me with a long piece of... A yardstick.

Anyway, I had to open my office. I ran that office for 19... From 1978 to 1986, was it? I think. When I joined up with some of the guys who wouldn't take me when I qualified. They started wanting to join up with me. So we had a partnership of five lawyers. It was myself, it was the guy who became our first Public Protector, Selby Baqwa. He was one of my partners. A guy who's a judge, but now I think he's boarded, George Webster, was my partner. And a guy... And two guys who have since passed. So it was a partnership of five. By... After about 18 months in that partnership, I resigned from the partnership.

01:08:59

Mainly because I just didn't see myself... I saw the partnership not doing things the way I would have loved to do them, and I felt I would rather stay on the clean side with the Law Society. So I resigned and sought work, and could only get work in Johannesburg, with the Black Lawyers' Association. They wanted me to come and run their legal education centre. So I came up to Johannesburg in 1987, mid-year, and ran the centre, the legal education centre of the Black Lawyers' Association, until the end of 1992.

At the end of 92, I left the centre and went and worked for Eskom as an in-house law counsel. And I was there until... Now this is now the beginning of 93, the end of 92, beginning of 93. And in 1995, the Black Lawyers' Association nominated me for judgeship, and I was called to the bench. So from 95, I became a judge.

KH And which fields of law?

BJM When... Five of us were appointed specifically to the Land Claims Court, which was a completely new court in South Africa, to deal with this whole question of land. So there were five of us on contract. The idea had been that we were going to do the problems of... Deal with the problems of land for five years. In five years' time, we will have finished everything, we pack... Everybody packs and go home and you are no longer a judge.

Of course, came five years, the Minister of, the then-Minister of Justice, Penuell Maduna, comes to the court and says, guys, I hope you are aware that tomorrow is your last day. We said, we are aware of that. We hope you are... We hope you have judges to replace us because the job has not started, let alone finished. Oh no. I never thought of that. What am I going to do? We said, we don't know. But we can tell you there's work to be done tomorrow. So... (Pause). Stop?

NN You're good to go.

BJM Okay. So he says, give me two years, let me see how I deal with this situation. So we stayed for another two years there. And at the end of the two years, they realised the job is still not finished, so then they appoint us as full judges of the High Court. So from 2003, we are now judges of the High Court, seconded to the Land Claims Court, to finish the job, but also being used in the High Court as and when needed.

01:12:11

So we had our [unclear] like that.

KH And I'm sure your time was fully occupied, as well.

BJM It was fully occupied. I mean, we were busy in the Land Claims Court every time. And if there was a little break in the Land Claims Court, then they put me in the busiest court in the country, the Pretoria High Court, which is very busy. And I did that from 2003. And in 2005, I got seconded to the United Nations. So after seven years of being a judge here. Was it seven or ten? Because my whole term... 95, yes, to 2005. That's ten years. Then I went to the Hague. And I was there for 12 years.

KH How did you feel, leaving your work here, given that Land Claims is such a big issue?

BJM Land Claims is a very big issue. My... I was in two minds. There was obviously the excitement of going into an international court. I mustn't suggest that I didn't like that. I did like that. And I looked forward to it. But at the same time, I felt that the Land Claims Court was a very strategic court, in which a lot could be done to improve the lot of black people in the country.

And unfortunately, after we left, and after I left, it didn't look like there was any thought behind... What do I say? Thought behind transformation, if I may call it, using the courts. So the Department started interfering with the courts, took it completely off its tracks. Actually, those... The beginnings of the interference by the Department started while I was there, in 1999, when Thabo Mbeki took over. And his... The previous Minister of Land Affairs and Agriculture was Hanekom who gave us laissez faire... had a laissez faire attitude. We ran with the Act as it stood.

01:15:01

As soon as Thabo Mbeki's term came in, and his Minister, what's her name? The lady. She's now the current Minister, again, of Land Affairs. I'll remember her. She started by amending the Acts. And amended the Act in a way that began to whittle away the powers of the court, because she proposed an amendment to the effect that, where a settlement is reached, there's no need for the court to carry on supervise the settlement to finality. The Department can finalise the case.

And that created a precedent for the government overpaying the people from whom land was being taken because they looked at the market value only, as the only criterion on which to negotiate. Whereas the Act had some seven or nine factors you have to take into account.

KH Could you mention a couple of those?

BJM A couple of them, well, market value, the history of the acquisition of the land by the current owner. Remember, some white people got land for free during the 1960 removals of black people. People were just removed and then the white person was given land. No money paid. Some paid for the land but got a loan from the Land Bank which didn't charge commercial rates. They charged 4% interest. And if

a black person bought land, if you could buy land at all, you couldn't get that loan from the Land Bank, you'd have to go to the commercial banks and pay 15%.

So those were some of the things. And then, of course, the other thing is, what does the claimant intend doing with the land? Now, here was to ensure that I don't take land from a white person who is probably using it profitably for the benefit of the country to give it to somebody who is not going to use it in the same manner. So you've got to... You, the claimant, had to say what it is you want to do with the land. Actually give us a business plan, which we had to look at. And, if, once we have given you the land, we would supervise you for a number of years and supervise your implementation of your business plan to make sure that you achieve what you do.

01:18:00

Now, all that was taken away from us, and the government didn't both to supervise anything. They just gave land to the claimant, and even gave him start-up money, and let him go. And what happened then was, that in a number of cases, you would take a farm from a white person, pay him for the price of the farm, give it to the black people, and the black people... The government would then set up a rental contract. The black people rent it back to the white person who pays nominal rent, and employs a few, if any, of the people who come from the claimant group.

KH So transformation wasn't happening.

BJM It wasn't happening.

KH Judge Moloto, looking back on your past and knowing what you do now, is there anything you would have done differently?

BJM Certainly not. Not given the conditions under which I was. If the conditions were what they were, I would do exactly what I did.

KH Do you have a message for young people?

BJM Yes. My message for young people today is - you're living in what is nominally a democracy. One does appreciate that it is not giving you half of what you want, and we therefore appreciate your militancy, your demands, but we ask you, please, prosecute your demands, prosecute your claims lawfully. Within the law. You do not pursue a noble idea by ignoble means, and hope that society will laud you and think that you are a hero. And the case of a student who was just released a few days ago because they were fighting for Fees Must Fall is a very pertinent case on this one, you know. He was fighting for a good cause. He used the wrong means.

KH Judge Moloto, thanks so much for your time, for this interview, and taking us over this incredibly challenging life that you've lived.

BJM Thanks, thanks, thanks.

KH And all the best with going forward.

BJM I enjoyed it. It may have been challenging with... I suppose, as a young man, it's funny that I never got bitter, even, as a result of my banning order.

01:21:05

To me, it was just a challenge that... Okay, fine, we'll go on. When I finish this banning order, I'm going back to fight. And I decided then that, well, I'd already started my legal studies, and it had been my decision that I will fight the system through the law.

KH Thank you.

BJM Thank you. The same message I'm giving to our youth today.

01:21:32

Transcribed by Way-With-Words. Checked by Anne Mager.