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**SOUTH AFRICA:
DIVIDED OR UNITED BY COLOR?
*A DETAILED LOOK AT THE
LEGAL RESOURCES CENTRE***

By Lourdes M. Ventura¹

INTRODUCTION

South Africa was a country of much controversy for many years due to its Apartheid Era. When apartheid ended, however, many did not see what was ahead. It is not easy to overcome such a policy, just as it has not been easy for Americans to get past slavery and segregation.

I spent the summer of 1997 (winter in South Africa) in Cape Town, South Africa, as an intern at the Legal Resources Centre. While there is much diversity among the South African people, there is still much division due to race, including division about what race meant during the Apartheid Era. After political system of apartheid was dismantled, many thought that the racial divisions created by apartheid would soon be eliminated. Even though the legal racial divisions were eliminated, the racial divisions still exist in many South African minds (similar to the effects that still stem from segregation to this day in the United States).

A BRIEF LOOK AT APARTHEID

In 1948, the National Party took political control of South Africa with the Afrikaner Party. The National Party remained in power until 1994, when the first democratic election took place. The National Party instituted what we have come to know as "apartheid," the state of being apart.² Since racial distinctions, oppression, and exploitation had existed since the beginning of colonial occupation, it was not difficult to institute the legal policy of apartheid.

Apartheid divided the South African population into separate groups according to color. Whites, a minority in South Africa, maintained

¹ Lourdes M. Ventura was a 1997 Summer Fellow at the Legal Resources Centre.

² JON MURRAY ET AL., *SOUTH AFRICA, LESOTHO & SWAZILAND* 100 (2d ed. 1996).

the separation of the people through the "law and force of arms."³ The Population Registration Act of 1950 set forth the racial categories - White, Coloured, and Black. These racial categories were then subdivided - ten sub-groups within the Black category and seven sub-groups within the two Coloured groups (Coloured and Asian). Coloureds were given preferential treatment over Blacks, who received the worst treatment. This differential treatment further divided the groups and caused animosity among them, because these racial categories determined, for example, each group's political structures (that were under White control), where groups worked and in what professions, what land they were given when forcibly removed from their own lands, who they went to school with, and who they married. While I was in South Africa, people told me stories of many Blacks who attempted to be classified as Coloureds in order to receive the preferential treatment. However, in order to pass as Coloured, "official examinations and investigations" were administered and many families were humiliated.⁴ For example, one Coloured man told me that since he looked Black, the police would always harass him. One test that he had to pass in order to prove he was Coloured was based on the size of his penis.

Any children that were born in this Apartheid Era were classified by the father's race, unless the father was White and the mother was Black. Then the child was considered Black.⁵

Apartheid caused a wave of drastic changes for a diverse population. Race determined almost every aspect of their lives. Due to apartheid, the disparity that exists among the races in South Africa today is overwhelming. The 1996 South African Constitution provides for the right to equality and freedom from discrimination. Not only is apartheid forbidden under the Constitution, but the Constitution allows for corrective action. This corrective action is a special measure (similar to affirmative action policies in the United States) to make up for the way people suffered under apartheid.

THE LEGAL RESOURCES CENTRE

The Legal Resources Centre was founded in 1979 during the Apartheid Era and during the struggle to end apartheid by the people.

³ INTERNATIONAL DEFENCE AND AID FUND FOR SOUTHERN AFRICA, IN CO-OPERATION WITH UNITED NATIONS CENTRE AGAINST APARTHEID, *APARTHEID THE FACTS* 15 (1983).

⁴ *Id.* at 16.

⁵ *Id.*

The LRC was created to demonstrate that clients can assert their legal rights, and to set legal precedents for others; use the expertise in legal institution building (acquired through development-related work) to strengthen the institutions of civil society; help clients create appropriate community-based institutions for land and housing development; engage in policy and legislative advocacy on behalf of client communities to achieve a more just legal enforcement; make the promise of human rights and equality in the Constitution a reality; and deal with the legacies of apartheid. The Legal Resources Centre deals primarily with constitutional litigation, human rights, land, housing and development, abuse of power by public officials, fair labor practices, consumer abuse, and welfare rights - all arising from the breakdown of Apartheid Era policies and laws. While these are the main areas of concern, these are just a portion of the work LRC conducts.

The Legal Resources Centre (LRC) has offices in Cape Town, Johannesburg, Pretoria, Grahamstown, and Durban, and is linked to a network of "advice offices" in rural areas all over the country. There is a constitutional litigation unit in the office in Johannesburg, and a national land unit, based in Cape Town. One of the Legal Resources Centre founders is also on South Africa's Constitutional Court.

My internship at the LRC in Cape Town, South Africa, included good times and bad times, but I generally tried to make the most of the experience. My day would include one or more of the following: waking up a 7 a.m.; having breakfast; taking a packed mini-van ride into town (the city); researching and writing; visiting the South African library; attending parliament hearings; attending Truth and Reconciliation Commission hearings; visiting historically Black and Coloured townships, squatter camps, as well as other communities; visiting various agencies for information; attending lectures at the University of Cape Town and the University of Western Cape; taking tea-time breaks (10:30-11:00 am); taking a one-hour lunch break (1:00-2:00 pm); taking another packed mini-van ride home; throwing myself into bed; and finally catching my breath. (This list is not exhaustive).

In my spare time I visited townships, Robben Island (where Nelson Mandela was a prisoner), attended union meetings (where members called one another comrade), went out with local South Africans and American Study Abroad law students to cafes, dance clubs, restaurants, shopping centers, movies, universities. We also took scenic car rides and walks, and visited Egypt.

What I miss the most right now is the mountain that greeted me

every morning (Table Mountain) and the great South African people that helped me get through a summer without my family.

I had a summer unlike any other. Being a Latina - specifically Dominican - helped me blend in as a South African and Egyptian local. Only when I opened my mouth to speak did they know that I was in fact an American. And then I had to explain why I never call myself an American in the United States. I explained that, like many of them, I struggle as well, as I continued to struggle at the Legal Resources Centre.

LEGAL RESOURCES CENTRE AND RACE

Even though the Legal Resources Centre is a fascinating organization in South Africa and was instrumental in ending apartheid, color/race issues still exist within the organization.

The Legal Resources Centre is made up of an administrative staff, a translator, attorneys, and candidate attorneys (who spend one or two years at the office completing their "articles" --the required practical experience after law school before qualifying as an attorney). As of December 1997, the Cape Town office included White attorneys and one Black attorney. The administrative staff consisted of one Black receptionist, one Black translator, one Black messenger, one Black office cleaner, one Black office administrator, two Coloured secretaries, and one White librarian. There were four Coloured and two Black candidate attorneys.

All but one of the attorneys was White, most of the candidate attorneys were Coloured, and most of the administrative staff was Black. The LRC does recognize the visual imbalance of races in its organization and is currently taking in more Coloured and Black candidate attorneys to bring more Coloured and Black attorneys into South Africa's legal system (and maybe into its own organization).

Interesting facts about the South African legal profession appear in LRC's Candidate Attorney program brochure.⁶ The Legal Resources

⁶ The vast majority of legal practitioners are White men. An estimated 15% of private practicing attorneys are Black (i.e. African, Coloured or Asian). In 1994, there were 194 all-Black law firms in the former Transvaal, with 257 partners. There were 9,841 attorneys of all races in South Africa in 1995. Of these, 1442 (approximately 15%) were women. The total number of women attorneys increased by 354 (33%) from 1993 to 1995. Two hundred and eighty-nine (37%) of the women attorneys listed by the Law Society of the Transvaal in 1995 were admitted recently - between 1993 and 1995. Seventy-five women and 37 Blacks were listed among the 534 practicing members of the

Centre is making a great impact by introducing trained people into the profession - people who might not otherwise have gained entry.

However, even though LRC has a structured Candidate/Attorney program, it does not have a structured internship program. They have been inviting interns for about ten years, but the lack of time does not permit them to establish a more solid internship program, including more guidance.

In addition, I (and other interns like myself) felt the differential treatment of interns in the office based on race, schooling, and/or both. Several incidents led me to feel this way in the office. At the end of my internship, I provided the director of Cape Town's LRC office with some comments and proposals for a better internship program. Such comments included the following:

Positive

I learned what it is like to be classified as Coloured (usually seen as a Muslim and/or Malaysian) and what came with that classification. But when I spoke, I was then classified as an American and had to deal with what came with that classification as well. In the United States, I classify myself as a Latina, because my family emigrated from a Spanish-speaking country in the Caribbean and because of the daily struggles that we confront in the United States. It was interesting how my color of skin (physical appearance) allowed me to fit in as a local and be spoken to in Afrikaans. (This happened in Egypt as well. Persons immediately spoke in Arabic to me).

Negative

The preference that some attorneys and candidate attorneys seemed to take for certain interns. In other words, favoritism. I was not able to figure out if this occurred because of skin color, the law school which that intern attended, or both. But I was informed that past non-White interns have experienced similar feelings. Maybe this should be looked into further and some sort of action should be taken to avoid such a situation with future interns.

Johannesburg Bar in 1995. In 1995, there were 17 Black judges (compared with one in 1993). Thirteen were Supreme Court judges, out of a total of 153 permanent judges. Four out of eleven Constitutional Court judges were Black. Three Supreme Court and two Constitutional Court judges were women. Thirty-five percent of magistrates were Black, and 17% women.

Final Comments

Organization of this internship is vital to the experience the interns will have in this country and to the work product that you will receive from the interns. I guess I may have been spoiled by my last public interest summer internship, where an internship program existed. Due to the internship program's existence, many of my concerns raised above did not exist. For instance, favoritism did not openly exist because interns chose the cases that they wanted to work on. (At LRC, the few attorneys that utilized the interns usually approached the same intern over and over). Another great aspect about the program was the educational component, in which each week the internship coordinator would show a documentary film on controversial issues (i.e. Federal Bureau of Investigation vs. Black America) and compliment the film with speakers (i.e. an ex-Black Panther). These sessions taught the interns about different peoples' struggles, including realities that are not taught in school. Something similar should occur at LRC because there is much to be learned about the country and the Apartheid Era. The LRC staff could be the best teachers because they lived through it. Sometimes reading about something is simply not enough. I hope that these comments will be of some use and that they may be taken into consideration for the sake of future interns.

Prior to submitting my comments, I had a staff member read them and give me advice. I thought that maybe I was dreaming up the different treatment based on race in the office. All of the above comments arose out of the different treatment that was given to the office interns. Even looking at my photo album, one can see the closeness I experienced with the Coloured and Black staff as opposed to the White staff. One time the differential treatment was as blatant as a failure to be introduced to a LRC guest while I stood right next to the White intern who had been immediately introduced by one of the White attorneys.

The staff member that I spoke to with regard to my comments stated that previous interns had similar experiences, but that nothing was ever done to remedy the situation. The staff member also felt that the LRC director was not going to be happy with my observations and suggestions. I did what I felt was best and submitted the comments. The director looked them over and we met to discuss the comments. He was very receptive to the comments, but for a moment I felt that he was just being nice and nothing would be done about it anyway. That

same day there was a staff attorney meeting and after that meeting one attorney approached me and congratulated me for the comments I had submitted, stating that, for the most part the attorneys agreed with my comments and would try to do something about these issues for future interns. I felt like I have left something behind at the LRC and I hope they actually follow through on some of my suggestions.

The director stated that in the future, LRC intends to have more interns from the African continent as opposed to the United States, which was the reason an internship program I had described would not work. However, I told him that as long as they were continuing to invite American and British law students, they should implement some type of internship program with an educational component, even though time is certainly a factor.

In the end, I am grateful to the Legal Resources Centre for giving me the opportunity to intern in their Cape Town office. For the most part the administrative staff, the candidate attorneys, and attorneys were great people. A few shared their intimate stories of the struggle - Apartheid - and discussed how they lived their lives in that era. I can still envision one of the attorney's eyes, her strength, and the power she had within to right all wrongs to the people. She encouraged others to keep fighting, which is why the LRC was created. Unfortunately this attorney, who was one of only two Black attorneys in the office and only in her 30's, died this past October 24, 1997. Her replacement needs to be just as spirited as she was.

What occurs at the Legal Resources Centre on a small scale is occurring nationwide in South Africa. It is not easy to remove every ounce of separation and oppression ingrained in the people.

CONCLUSION

The different treatment of people in South Africa according to race is still prevalent and the disparity between the races runs rampant. The end of apartheid did not address the continuing feelings of separation among the races. During my stay in South Africa, I attended a union meeting where a member of the December First movement spoke of keeping the Coloured identity as is. He believed that Coloureds are not Black, will never be Black, and that they deserve a categorization of their own. On the other hand, there are Coloureds that fought for democracy, and who believe that they are Black and have struggled like Blacks. At the same time, there are Blacks who are angry at Coloureds for having preferential treatment during apartheid.

And there are Blacks that embrace Coloureds as Blacks.

Even though there are still racial divisions in South Africa, somewhat similar to the United States, the people are trying to regroup as one and reconcile with their oppressors.