



A Curated Conspectus of the Life, Love, Law,
Literature and Laughter of Albie Sachs

THE PRINCE CASE – VIDEO TRANSCRIPT

CHAPTER: 'IT'S MY RELIGION, I WILL DO IT AGAIN'

JUSTICE ALBIE SACHS

Gareth Anver Prince with his dreadlocks, his knitted cap, passed the Law Society exams, did quite well, applies to be admitted as an attorney. They shake their head. Two convictions for smoking dagga/marijuana. *'If you promise to not do it again, we can turn a blind eye.'* He says, *'I can't promise. It's my religion. It's my religion. I will do it again.'* *'You can't be admitted then, that's your choice.'*

He goes to the Cape High Court, he loses. He comes to us. And you can sense the Court is dividing without saying so. We postpone the matter to get more evidence. The evidence is about a number of practical issues-- about: Is it possible to police an exemption? I forget all the factors that we look for, and the case is now back before us. I still remember him standing at the back of the Court, and he really got my goat because there he is, looking so lonely, looking like a Rasta, almost saying, *'...why is everybody staring at me?'* That's part of it, but there was something deeper. He's like saying, *'...lighten up everybody, let go, you're too intense, you're too driven.'*

And I want to be driven; I want to write good judgments. I don't want to be told that I'm wasting my life. He's upsetting me. And I feel for him, he's giving up.... he's giving up a career for his beliefs. They're bizarre beliefs that there was a prince Rasta, Abyssinian, Ethiopian, glorified by people in Jamaica as a kind of African hero, and I call it a diaspora of a diaspora - from Jamaica, from Ethiopia to Jamaica to South Africa. Those are their beliefs.

And I'm thinking, whiskey does much more harm than dagga. I've only smoked once in my life. I actually did inhale; it was in California on Easter weekend. I don't know if that makes any difference, and I enjoyed it, but I'm not a rooker. I gave up smoking cigarettes, I think in 1961. That's quite a long time ago. And I'm a pretty temperate person, I hardly drink. So I'm not in favour of it for itself. But I'm very respectful of this guy, for his conscience, for his beliefs, he's willing to make a stand. And of that

community, because they're not an aggressive community. They're a very inward looking and non-harming community. And there's something gentle in the very nature of their relationships.

CHAPTER: A TINY POINT OF DIGNITY

So I'm eager to find some kind of limited exemption. And my judgment-- I propose an exemption in favour of Rastafari priests to have the equivalent of communion that Catholic worshippers had during Prohibition in the United States. It's not what he wanted, he wanted free use, but it's something. It's the start of something. It's some tiny point of dignity. My colleagues, the majority are against. They say, *'we don't take a position on marijuana as such. It's a forbidden drug, it's on the list and there's no way we can police an exemption. There's no way that the police can find just the priests, in ways that it won't be used in ways that are unlawful. The issue is really one for Parliament to decide. It's not such a fundamental issue that we can intervene, given that there are said to be health factors involved, there's said to be negative consequences, sometimes associated with crime and so on. Parliament decides those things. It's a legislative choice and we stay out of it.'* So that's their position.

CHAPTER: A RACIAL COMPONENT

I feel there's actually quite a strong racial component, based on life experience. That for people from the black community, dagga has been smoked for centuries, it's part of the culture. Sometimes, a solace from white oppression. And I come across a statement by a researcher, a South African who went to Australia, who spoke about a moral panic in the 1930s.

That young white kids were smoking together with young black kids, and they felt that dagga was now going to be the end of white civilisation. When I put phrases like that in my draft judgment, my colleagues were very upset. They thought I'm dangerously tinkering with like a racial card, which could be very damaging to our jurisprudence. And although, I think there was a lot of validity to that, it wasn't so important for me to level it in the way that it looked like an accusation. But I truly felt that these are cultural things you grow up with. It's okay, in the community, or it's a terrible thing for people who are degenerate, and that's very much associated with race. I write a long judgment, and we were so divided on the Court, the majority, I think was 5 to 4. And I think Kate and Yvonne were on holiday then, on leave. It might have been different if they'd been at the Court. I don't even know what their views would be, but I think they could have been more sympathetic to the exemption.

CHAPTER: DIVIDED. EVEN ON THE PRESS SUMMARY.

We were so divided, we couldn't even agree on the press summary. You know, the press summary we bring out, it sets out the main arguments, the issues. The main judgment gets the main portion, and the concurring judgments get a space, and the dissenting judgments get a space - proportionate space.

My dissenting judgment was in fact twice as long as the main judgment. And we had a battle over how much went into the press summary

I was amused the next day when I see the Star newspaper gives a whole page to my dissenting judgment, and just half a column to the main judgment. And my colleagues were very annoyed, very annoyed.

CHAPTER: POSSIBLE REASONS FOR DISCOMFORT?

THANDI MATTHEWS

Sorry Judge, do you think that the fact that Prince was looking to be admitted to be an attorney played a role in the discomfort of the issue?

JUSTICE ALBIE SACHS

No, no, I don't think either way. They would have thought he's a little bit stupid, and if he wants to do it, he can do it quietly and just say he's not going to do it again. Instead, he's making a stand, makes a stand, he bears the consequences. The law's against him, too bad. And I think their feeling was, they are not anti-dagga, but they don't feel this is an issue the Court takes a stand on. It takes a stand on capital punishment. It takes a stand on gay rights. They see it as deep matters of principle. But not on sex workers, not on Rastafari. That's not where we should put our head on the block. I think that was their basic kind of motivation.

CHAPTER: A FINAL VICTORY, IN A SENSE

It's played out in quite an interesting way because years later, Dennis Davis gives a decision based on privacy rights to cultivate your own dagga; smoke it in the privacy of your home. It's accepted. Now, suddenly people are aware that dagga is a great export. South Africa, I'm told, produces very good dagga, gets good prices on the international market. It provides employment for rural people and it's not all that harmful anyhow. And many other countries have decriminalised, sometimes for purely medical reasons, but otherwise for recreational reasons as well.

So, Prince played his role, and in a sense, he won his final victory. And I lift my hat to some of these lonely freedom fighters for whom conscience is central to their lives and more important than having a hidden life to pursue what you believe in, which you suppress. I think of all the money he could have made, all the cars he could have bought... I don't know what you do, when you are a successful lawyer. I think there's a lot of trauma in his life, a lot of disappointment, a lot of hardship, but ultimately, a sense of vindication.

END