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— Book Review —

STEPHEN ELLMANN, AND JUSTICE
FOR ALL: ARTHUR CHASKALSON AND
THE STRUGGLE FOR EQUALITY IN
SOUTH AFRICA

Michael J. Benza[†]

We shall overcome because the arc of the moral universe is long but it bends toward justice.

—Dr. Martin Luther King Jr.¹

This oft quoted passage from Dr. King has been a source of comfort, a rallying cry, and a hopeful truism. What is missing from this quote is the reality that the arc requires our involvement and active participation to bend toward justice. Nowhere was the long arc more difficult, more protracted, and more dangerous than South Africa. In the long and ongoing struggle against the formalized and institutionalized racism of apartheid, some participated with great flourish while others quietly set about the work. The recent biography of Arthur Chaskalson, advocate, quiet activist, architect of the South African Constitution, and first Chief Justice of the Constitutional Court, sets out the life and times of Chief Justice Chaskalson while also developing and detailing the legal battles to achieve justice in the face of the political, social, and legal apartheid structures.

I was fortunate to meet Arthur Chaskalson when I began my legal career as the Saul S. Biskind Public Interest Fellow working at the Legal Resources Centre (LRC) in Johannesburg, South Africa. Arthur was the Director of the national organization and the intellectual and moral force of the LRC. During my time at the LRC, 1992–1993, Arthur was a constant presence despite the incredible workload of his other commitments—at the LRC; with the Multi-Party Negotiating Process, drafting the interim and permanent Constitution; in teaching and mentoring young attorneys and advocates; and as well with his incredible family life. What was striking about Arthur was his aura of calm, of grace, and of dignity.

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1. Dr. Martin Luther King, Jr., *Remaining Awake Through a Great Revolution* (Mar. 31, 1968).

Professor Ellmann's extensive and personal biography captures the life, the essence, and the work of Arthur. Integrating historical references, legal records, and personal interviews with those who knew Arthur best, Professor Ellmann sets out the story of the man while also setting out the arc towards justice that Arthur was so integral in bending. In many ways, Arthur's life and career tracks the movement of South Africa from a deeply and officially segregated and brutal state to one on the path towards justice for all. But like the evolution of South Africa, the evolution of Arthur was not linear, the motivations were not always apparent, and there were sidetracks, setbacks, and disasters along the way.

Professor Ellmann does an exceptional job of capturing what is probably Arthur's greatest contribution to South Africa—a dedication to the rule of law. As you travel through Professor Ellmann's tome you realize that there appears to be a strategy in all that Arthur did. And while that strategy might only be apparent looking backwards, I think it is safe to say that the strategy was indeed there.

For all of the horrors of apartheid, one driving force was the belief in, indeed commitment to, the rule of law that was institutionalized in the government. Apartheid was justified because it was the law. It derived its power from the law. But, as law students the world over learn, the law is never as clear, direct, or formalistic as the power structure might wish. The rule of law led the opposition to, and the eventual downfall of, apartheid and Arthur was masterful at using the law against the law. Understanding the law, working with the nuances, realities, and power of the law, Arthur and the other brave attorneys and advocates standing against apartheid used rational thought, legal analysis, factual development, and even the government's own positions to stand and fight for the mandates of the law.

The early days of legal resistance to apartheid must have been heady times. Advocates developed the idea to use the law to fight the law. How each of them approached this fight makes for compelling reading. Professor Ellmann introduces the reader to this exemplary cast of resistance fighters. In so doing he gives a sense for how each determined an individual approach to the resistance. Without directly setting it out Professor Ellmann paints the pictures of many of those involved in the struggle. Some—President Mandela, Winnie Mandela, Walter Sisulu, and Oliver Tambo—are nationally and internationally famous for their roles. But Professor Ellmann leads us through the legal issues of the revolution and introduces us to some not necessarily well known beyond South Africa. There is Bram Fischer,² the deeply

2. For a more in-depth dive into Bram's world and work, I highly recommend the wonderful biography by STEPHEN CLINGMAN, *BRAM FISCHER: AFRIKANER REVOLUTIONARY* (1998). And on a personal note, Bram's daughter, Ilse Fischer Wilson, was a dear and wonderful friend to me

committed and active revolutionary; George Bizos, the mad Greek advocate ready for any brawl followed by a grand story and hearty laughter; and, of course, Arthur, the quiet intellectual of the group who never seemed to reveal what I believe were deeply held and passionate beliefs about the injustice of apartheid and the legal structure propping it up. And while this book is Arthur's biography, it is also in part the biography of these people, the struggle, the transformation of South Africa, and even the hints of a possible bright and just future.

At its core, Professor Ellmann's book is clearly a work of love and respect. As he painstakingly put together the story of Arthur's life he struggled with his own mortality. But it is clear from the treatment of this work that Professor Ellmann's long connection to Arthur in part sustained the effort to tell the story. But do not make the mistake of thinking that the book tries to make Arthur some mythical figure or a saint. Quite the opposite really, throughout the pages you discover that Arthur was a person simply making his way through his life. He chose, however, to make that life meaningful. He was educated in the law, understood the law, and practiced at the law. And through that lens he saw the power of the law and decided to use that power to compel justice for all. The power of the law comes from understanding the law, how the law works, how it is used, and then to take that understanding and use it against the unjustness of the law, itself.

Professor Ellmann develops Arthur's story not necessarily linearly, but rather as a lived experience. The past, present, and future are intertwined—what we have done, what we are doing, and what we will do impact the others forming, molding, and making us who we are. As is clear from this biography, Arthur was all that he was but so much more. For those looking for inspiration and a roadmap to continue towards justice for all, this book is essential reading.

during my time in South Africa, welcoming me into her family's life and circle.