

## NELSON MANDELA AND WITS UNIVERSITY\*

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### Abstract

Drawing on the Mandela file in the Wits University Archives covering all aspects of his relationship with Wits, and on Mandela's prison correspondence, this article rotates around a remarkable story of persistence in the face of adversity and repeated failure – the story of Nelson Mandela's 46-year long pursuit of the Bachelor of Laws (LLB) degree. In 1943 he first enrolled as a part-time law student at Wits University and finally graduated with an LLB through the University of South Africa (UNISA) in 1989, a year before his release from prison. Fresh light is thrown on the Wits University Mandela dealt with, and on the obstacles placed in the way of his prison studies. Throughout there is a focus on Mandela and Wits – the university's impact on him as a student, his attempts to complete his Wits LLB while on Robben Island, his candidacy from prison for the Wits chancellorship, and, as president, his remarkable reunion with the law class of 1946.

### Key Words

Biography, politics, law, prison, universities.

On the evening of Thursday 12 December 2013, the University of the Witwatersrand, Johannesburg (Wits), staged in its Great Hall an impressive memorial service for its most famous alumnus, the recently deceased Nelson Mandela. It was a proud occasion for the university, but one tinged with the regret in that while Wits could claim Mandela as an alumnus, it could not claim him as a graduate. As this article demonstrates, Wits's treatment of Mandela as an LLB (Bachelor of Laws) student, 1943–9, was not in itself a particularly proud chapter in the history of the university. As the first African law student at Wits, which had only recently opened its doors to students of all races, Mandela was treated as an alien rather than with respect and consideration, with the Dean of Law, Professor H. R. Hahlo offering the gratuitous advice that the African mind was not suited to the study and practise of law. Mandela sat the final LLB examinations on three occasions during the period of 1947–9, but failed to qualify for the degree, the rules for which were particularly stringent, and were stringently applied. As is known from the literature Mandela was refused permission to write three

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supplementary examination papers on the last occasion, on the grounds that the rules allowed for only two.<sup>1</sup>

What has not been previously known is that in late 1974, while on Robben Island, Mandela approached the Faculty of Law for permission to again write his final LLB examinations at the end of the next year, but he was again met with a legalistic, bureaucratic response. He was advised that ministerial permission was required, when that was not in fact the case, and that his existing credits would have to be reviewed in the light of syllabus changes. An application form was sent to him, but any sense that Mandela constituted an exceptional case and was worthy of special encouragement, was beyond the imagination of the Faculty of Law. The application form was never returned. In the event, it was intercepted by the Department of Prisons, which had previously obstructed Mandela's attempt to complete a London University LLB and which had decided to curtail Mandela's study privileges. With the aid of privileged access to parts of Mandela's prison correspondence, which the Nelson Mandela Foundation is in the process of cataloguing, this article throws new light on his prison studies, and the attempts to obstruct them, and seeks to explain his remarkable persistence and tenacity in pursuing the goal of an LLB in the face of those obstructions as well as repeated failure. In 1989, a year before his release, he qualified for the LLB through the correspondence university, the University of South Africa (UNISA), some 46 years after first enrolling at Wits. On 6 September 1991, Wits awarded him an honorary LL.D.

## JOHANNESBURG AND THE YOUTH LEAGUE

Mandela arrived in Johannesburg on 16 April 1941, aged twenty-two, having fled from the Transkei in order to avoid an arranged marriage. A member of the Thembu aristocracy, Mandela had been educated at the Methodist missionary schools Clarkebury and Healdtown in the Eastern Cape, and at the South African Native College, Fort Hare, where he studied for the BA with majors in politics and native administration. At the end of his second year of study in 1940, he was effectively expelled for his protest against the poor conditions at Fort Hare. At Fort Hare he had envisaged becoming a court interpreter, but on arrival in Johannesburg his ambition was to qualify as a lawyer. It was a profession held in high regard among the small but vibrant African elite, with only a handful in practice. The 1946 census gave the number of African lawyers as 18, with 13 articulated clerks.<sup>2</sup>

In a brief article 'Do we need lawyers?' for the *Bulletin of the Transvaal African Students' Association* in 1943, Mandela dealt chiefly with the difficulty African law students experienced in securing articles.<sup>3</sup> It was a difficulty he himself overcame with relative ease through the good offices of Walter Sisulu, then an estate agent specialising in African

1 B. K. Murray, *WITS The 'Open' Years: A History of the University of the Witwatersrand, Johannesburg, 1940–1959* (Johannesburg, 1997), 56; A. Sampson, *Mandela: The Authorised Biography* (London, 1999), 35; T. Lodge, *Mandela: A Critical Life* (Oxford, 2006), 72; D. J. Smith, *Young Mandela* (London, 2010), 68–70.

2 Lodge, *Mandela*, 28.

3 *Ibid.* 37.

properties, who found him employment with the law firm he conducted much of his business with, Witkin, Sidelsky, and Eidelman. Mandela was articled by them in 1943 after completing his BA by correspondence through UNISA, the examination and degree awarding body for Fort Hare and South Africa's other university colleges.

Shortly before marrying Evelyn Mace in October 1944, and embarking on family life in Orlando township, Mandela became politically active as one of a group of mainly young professionals involved in the foundation of the African National Congress Youth League (ANCYL) in April that year.<sup>4</sup> Born out of frustration at the cautious, deferential approach of the existing ANC leadership, the ANCYL was intended by its founders to provide a mechanism for radicalising the ANC, and steering it in a strongly African nationalist direction. At its first conference in September, the League elected Mandela to its executive, and in 1947 he was made secretary, responsible for political organisation.<sup>5</sup> In the same year he became part of the mainstream ANC with his election to the organisation's Transvaal Executive. Two years later the Youth League succeeded in directing the mainstream into the path of militant mass action through the ANC's adoption at its December 1949 conference of the Programme of Action, which was devised to challenge the newly-elected National Party Government and its apartheid policies, and to promote national liberation, by means of mass action. In 1950, Mandela was co-opted to the ANC National Executive, in which the Youth Leaguers were now prominent.

In between working as an articled clerk, raising a family, and propelling himself from nowhere to a leadership position in the ANC, Mandela pursued law studies at Wits University, registering in 1943 as a part-time student for the LLB, a postgraduate degree for aspirant advocates and attorneys. It was a life that demanded skilled multitasking of the highest order, but in the end university study defeated him.

## WITS STUDENT

The Wits that Mandela attended was, along with the University of Cape Town, one of the country's two so-called 'open' universities, open in the sense that they admitted 'non-white' students – African, Indian, coloured, and Chinese – to the same classes as whites. Prior to the Second World War, only a handful of such students studied at Wits; it was during the war that it became much more of an 'open' university, particularly with the opening up of the Medical School to students of all races. By the end of the 1940s the 'non-white' student population at Wits had grown to 192, including 71 Africans and 81 Indians, out of a total student population of around 4,000. The university's policy at the time was one of 'academic non-segregation and social segregation' – while 'non-white' students were admitted to the same classes as whites they were excluded from formal social occasions, such as university dances, as well as sports clubs and the swimming pool.<sup>6</sup> Generally, Wits was not a particularly sympathetic place for black students. The liberalism of the so-called 'liberal'

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4 For the foundation of the ANCYL see C. Glaser, *The ANC Youth League* (Johannesburg, 2012) ch. 2, and R. Edgar, 'Changing the old guard: A. P. Mda and the ANC Youth League, 1944–1949', in S. Dubow and A. Jeeves (eds.), *South Africa's 1940s: Worlds of Possibilities* (Cape Town, 2005), 149–69.

5 Lodge, *Mandela*, 37; Sampson, *Mandela*, 48; Smith, *Young Mandela*, 66.

6 Murray, *WITS*, ch. 2.

university was distinctly limited. The dominant attitude was that the university had done its duty in admitting black students in the first place, and thereafter it was entirely up to them whether they sank or swam.

The Wits Department of Law that Mandela entered as its only African student was a rather shoestring affair. Its head, Professor R. G. McKerron, had been awarded leave of absence for military service, and the other professor, Elemér Balogh, had been sidelined as incompetent, leaving only one full-time member of staff, H. R. Hahlo, whose appointment as a temporary assistant was renewed annually for the duration of the war. He took responsibility for teaching about half the courses for the LLB; the remaining courses were taught by part-time lecturers, all of them practising lawyers, among them the advocates Walter Pollak and Bram Fischer. There were only a handful of students – 35 in 1945, mostly part-timers and all of them LLB candidates. In the years immediately after the war the situation was transformed. A formidable team of full-time staff, including three new professors, was assembled and student numbers grew significantly with the return of ex-volunteers from war service. In 1947 Hahlo was installed as Head of Department and Dean of the Faculty of Law, dual positions he was to retain for some two decades

The Wits LLB comprised a three-year programme with three sets of examinations – preliminary, intermediate, and final – and was designed for both full-time and part-time students, with both groups attending the same lectures held after working hours every evening of the week, and both paying the same fees, £48 per annum in 1943. Few completed the programme in three years, with most requiring at least six. This was because of the fierce provision that candidates had to pass all their courses for a particular year of study in ‘one and the same academic year’ in order to obtain any credits; it was a matter of fail one, fail all. The one concession was that candidates who failed one or two courses in the November examinations might be granted permission to write supplementary examinations in those courses before the beginning of the next academic year; if they failed again they were deemed to have failed the whole year of study. Part-timers, who predominated, found the three-year programme brutal.<sup>7</sup>

Altogether the atmosphere in the Department of Law was demanding and generally unhelpful, with the focus on asserting high standards for the legal profession. This approach was exemplified by the man who became Head and Dean in 1947, H. R. ‘Bobby’ Hahlo, a formidable lecturer, administrator, and scholar. While students generally admired Hahlo’s lectures, chiefly in the Law of Persons, the Law of Succession, and Company Law, for their clarity, they found him an aloof and unsympathetic figure, and racist and misogynist at heart. While always fair in his marking, he made no secret of his belief that the minds of Africans and women were not suited to the study and practise of law. ‘His view’, Mandela recounted in his autobiography, ‘was that law was a social science and that women and Africans were not disciplined enough to master its intricacies. He once told me I should not be at Wits but studying for my degree through UNISA.’ Mandela added: ‘Although I disagreed with his views, I did little to disprove them. My performance as a law student was dismal.’<sup>8</sup>

7 *Ibid.* 218–24.

8 N. Mandela, *Long Walk to Freedom: The Autobiography of Nelson Mandela* (Randburg, 1994), 84.

In an interview after his release with Richard Stengel, who co-authored his memoirs, Mandela declined to describe Hahlo as ‘hostile’ but reckoned ‘he could have been more friendly and helpful to me’.<sup>9</sup> On one occasion Hahlo reputedly threw an essay back at him, exclaiming ‘You call this an essay?’ ‘You know what I wish for him?’ Mandela told one of his white friends, Jules Browde, ‘that one day he has to write by paraffin light in Orlando.’<sup>10</sup>

Given Hahlo’s observations about Africans, women, and law, a whole tradition has developed that saddles him with the blame for Mandela’s failure to obtain a Wits LLB. As the Mayor of Johannesburg, Councillor Mpho Parks Tau, suggested at the Wits memorial for Mandela that Hahlo is to ‘thank’ for ‘inadvertently’ providing us ‘with a leader who transcended racism, transcended gender discrimination’: ‘Who knows how the history of the world might have turned out if the professor had allowed him to continue his law studies?’<sup>11</sup> In a recent essay on Mandela and the law, the American political scientist, Adam Sitze, provides an extended critique of the ‘poisonous learning’ that Hahlo offered Mandela, particularly in the Law of Persons, a course that Mandela took in 1945 and 1946, passing it via a supplementary in early 1947. Sitze contends that Mandela’s ‘repeated failures to comprehend the law of the person as taught by Hahlo’ represented ‘successful comprehensions’ of the ‘incipient incomprehensibility’ of Hahlo’s essentially racist doctrine then in the process of being challenged by ‘the birth of universal human rights in the post-war period’. The UN Declaration on Universal Human Rights was issued in 1948.<sup>12</sup>

An interesting point is that Mandela ultimately passed all the courses he took from Hahlo, except for Jurisprudence in 1947. The examiners who consistently failed him were advocate Rex Welsh, who was represented by Antony Sampson, Mandela’s biographer, as a ‘generous liberal’, in Jurisprudence, 1948–9, and the Scot advocate R. G. McKerron in the Law of Delicts.<sup>13</sup>

With the aid of a supplementary Mandela successfully passed the preliminary LLB examination at the second attempt, a pattern repeated for the intermediate examination, enabling him to enter the final year for the LLB in 1947. At his first attempt at the final examination he failed all six courses, at his second attempt he passed two, and at his third three, Law of Mortgage and Pledge, Conflict of Laws, and Civil Procedure. Jurisprudence and the Law of Delicts he failed at all three attempts, but he had passed

9 Nelson Mandela Foundation (NMF), Madiba in conversation with Richard Stengel, 16 Mar. 1993.

10 Sampson, *Mandela*, 35.

11 University of the Witwatersrand, Johannesburg, Archives (WUA) Nelson Mandela Collection (NMC) WaB-13-Man-N, speeches at the Great Hall memorial service for Nelson Mandela, 12 Dec. 2013.

12 Sitze also writes of Mandela’s ‘encounter’ with Hahlo in Roman Law, and his ‘reflections on the “minor” in his ANCYL Manifesto’, when that Manifesto was the handiwork of Anton Lembede, A. P. Mda and Jordan Ngubane, not Mandela. A. Sitze, ‘Mandela and the law’, in R. Barnard (ed.), *The Cambridge Companion to Nelson Mandela* (Cambridge, 2014), 134–61. Sitze’s is a stimulating essay, but at times infuriatingly imprecise and inaccurate. For example, he knows full well that Mandela became an attorney but repeatedly refers to him as an advocate.

13 Sampson, *Mandela*, 34. Welsh had a reputation for setting high abstract standards for his course in Jurisprudence, while McKerron reputedly enforced rigorous British standards.

the Law of Evidence at his second attempt only, of course, not to have obtained a credit.<sup>14</sup> The pass mark for all courses was 50 per cent.

In a letter to the dean on 9 December 1949 Mandela applied for permission to write supplementary examinations in the courses he had failed. As he sought to make clear it would be financially impossible for him to continue his studies for another year. To date his studies had cost him £472 and 17s., including £336 in fees and £101 and 17s. for rail fares. He had been forced to sell his property, to take out a loan of £301 (it was in fact £352) from the Bantu Welfare Trust, and to draw on his savings reserve, a reserve he advised that ‘has now been exhausted leaving me almost destitute and stranded’. He continued by stressing how his difficult working conditions compromised his academic performance:

I should also add that during the whole of this period I studied under very difficult and trying conditions. I was a part-time student and resided (as I still do) at Orlando Native Location in a noisy neighbourhood. In the absence of electric light I was compelled to study in the evenings with a paraffin lamp and sometimes with a candle light. I wasted a lot of time travelling between Orlando and city and returned home after 8 p.m. feeling tired and hungry and unfit to concentrate on my studies. Even during the examinations I was compelled to work in order to maintain the only source of livelihood that I had. It is my candid opinion that if I could have done my work under more suitable conditions I could have produced better results.

He then added that he had already completed his articles of clerkship with the legal firm of Sidelsky and Eidelman – he did so in March 1946 – and that if he wrote the January supplementary examinations he might ‘be admitted to the Side Bar in early 1950’, that is, he would be admitted as an attorney.<sup>15</sup>

Mandela’s request to write supplementaries was considered, along with two others, by a special meeting of the Board of the Faculty of Law on 14 December, presided over by Hahlo and attended by seven members, including the two examiners who had consistently failed Mandela, advocates Welsh and McKerron. The requests of the other two candidates were granted, but ‘the Board regretted that it could not accede to the request of Mr Mandela who had failed in three courses’, whereas the regulations provided for a maximum of two supplementaries.<sup>16</sup> The sympathy Mandela had hoped to evoke was not forthcoming as for Hahlo and the Board rules and regulations were there to be enforced. This was at a juncture when the university had granted major concessions to returning ex-volunteers, though largely at the point of entry, and some along the way, rather than the point of exit.<sup>17</sup>

Evidently, the advice Hahlo subsequently gave Mandela was to abandon the LLB, which was required to become an advocate, a career Hahlo deemed unsuited to Africans as it necessitated being part and parcel of the mores of the people, meaning whites, if they

14 WUA NMC WaB-13-Man-N A, Transcript of Mandela’s academic record 1943–49 sent by the Registrar of Wits University to the Registrar of the University of South Africa, 18 Nov. 1980.

15 WUA NMC WaB-13-Man-N A, Faculty of Law S/403/49, Mandela to the Dean of the Law Faculty, 9 Dec. 1949.

16 WUA NMC WaB-13-Man-N B, Faculty of Law S/403/49, Minutes of the Board of the Faculty of Law, 14 Dec. 1949.

17 Murray, WITS, 62–4.

were to get any business, and instead to qualify directly as an attorney.<sup>18</sup> Ellison Kahn, then a senior lecturer, likewise advised him to sit the attorney's examination.<sup>19</sup> Mandela took the advice, passing the Attorneys' Admission examination at the end of 1951.

In his letter to the dean requesting supplementaries, Mandela asserted that the financial demands of his legal studies had required him to sell his property, whatever that was, as well as to take out a loan from the Bantu Welfare Trust of the Institute of Race Relations. His initial loan application for £250 from the Trust was made in December 1946, and was intended to see him through his final year of LLB study.<sup>20</sup> As he advised in his letter of application, he had just passed all the qualifying courses in the intermediate LLB examination except for Law of Persons, for which he had been granted a supplementary. He also advised that he was a married man with a child, and that he was 'presently employed' as an articled clerk by the firm Sidelsky and Eidelman. He continued:

Since my Articles of Clerkship with the above-mentioned firm have already expired, and in view of the fact that there is more work in the Final LL.B. than in the Intermediate, I have decided to be a full-time student next year. This means in effect that as from next year I will forfeit the sum of £8.10.1 (EIGHT POUNDS TEN SHILLINGS AND ONE PENNY) per month, which is the monthly salary I receive from our firm.

I require this loan for the payment of my University fees, the cost of textbooks including a monthly allowance of £11.0.0 (ELEVEN POUNDS) per month as from February 1947 to June 1948.

I may well mention, Sir that I have faced and am still facing considerable financial difficulties. For the last two years, my studies at this University have been done under very strenuous and trying circumstances. My only source of income is the salary I receive from our firm. It is out of this salary that for the last two years I have been able to pay my University fees and to support myself and family, and in view of the high cost of living in this City, I have found it almost impossible to make ends meet.<sup>21</sup>

He represented himself as the breadwinner, making no mention of the fact that his wife's salary as a nurse was twice his, or of the fact that he was the recipient of a Johannesburg City Council bursary, the third and final instalment of £32 to be paid at the beginning of his final year of study.<sup>22</sup>

Mandela was granted the loan. Three months later he applied for another loan of £150 on the grounds that his pregnant wife required six months maternity leave from nursing, and that this would deprive them of her monthly salary of £17 'which has been absolutely necessary for maintaining the family while I am continuing my studies at the University'. Perhaps unsurprisingly, his application was rejected, but in September another one for £102 was granted. He urged that his financial situation made it extremely difficult to meet his family budget and other requirements and that this plight was making it 'quite

18 Interview with George Bizos, Johannesburg, 15 Feb. 2015; G. Bizos, *Odyssey to Freedom* (Houghton, 2007), 90; Smith, *Young Mandela*, 70.

19 Interview with Professor David Zeffertt, Johannesburg, 4 Dec. 2014.

20 For the full correspondence between Mandela and the Bantu Welfare Trust, 1946–58, see Historical Papers Research Archive, William Cullen Library, University of the Witwatersrand, Johannesburg (HPR), Records of the South African Institute of Race Relations AD843/PJ, Pb11.3.9, Mandela file.

21 *Ibid.*; Mandela to Secretary, Bantu Welfare Trust, 30 Dec. 1946.

22 WUA NMC WaB-13-Man-N A, Mandela student card.

difficult to concentrate on my studies and the approval of this application will go a long way in assisting me'. In the event, it did nothing to assist his academic performance.

Mandela failed all his courses by a considerable margin in the November 1947 examination, which was hugely disappointing given that for the first time he was free to study full-time, having completed his term at Sidelsky and Eidelman. As a general pattern, evident even during his prison studies, Mandela did not seem to cope well with the pressure of writing a whole series of different exam papers, in this instance six, over a short period of time, but his increasing political activity probably had much to do with this particularly poor performance. By 1948, according to Evelyn, Mandela was often away from home days at a time, engaged in Youth League activities.<sup>23</sup> Political activity was evidently the main distraction from his studies over the following two years; his next recorded employment was towards the end of 1949 when he joined the legal firm Terblanche and Briggish as a clerk.

It must be assumed that the Bantu Welfare Trust backed Mandela financially in 1947 in the belief or hope that it would be helping the first African to graduate with an LLB from a South African university by the end of that year; it was provided that he would begin repaying the loan in July 1948. Repeated requests for him to do so were met by silence from an embarrassed Mandela until, in August 1949, the Trust threatened to refer the matter to his sureties, Walter Sisulu among them. Mandela then responded that, unfortunately, he had not as yet completed his LLB and requested the Fund to hold the matter over until January 1951, when he would pay the first instalment of £5 per month. In 1951 the Trust began another series of requests that were ignored, ultimately prompting Quintin Whyte, the director of the Institute, to write to him in March 1954 again threatening to call upon his sureties, and advising that: 'These loans are made on the understanding that they will be repaid so as to enable the trustees to continue assisting other deserving Africans and your failure to repay your loan makes this impossible.' Mandela thereupon undertook to repay at the rate of £15 per month, making his first payment in September and thanking the Trust for the assistance it had given him. That was also his last payment, notwithstanding the profits made by his law partnership, Mandela and Tambo. When the Trust evidently abandoned the matter in 1958, after Mandela had become caught up as an accused in the Treason Trial, the outstanding amount was £337. Altogether, Mandela was not at his forthright best in his dealings with the Trust.

## WITS AND MANDELA

'Wits made me what I am today', Mandela told a reunion of his Wits classmates in November 1996. 'I am what I am both as a result of people who respected me and helped me, and those who did not respect me and treated me badly.' Mandela's experiences at Wits were certainly not without their influence on his personal and political development. In the first instance, Wits provided him with the legal education he required to launch his career as an attorney, his ambition since arriving in Johannesburg. He was attracted to it as it was a professional career open to Africans – as he mentioned in his 1943 article 'Do we need lawyers?', the Act that provided for the training and admission of attorneys

<sup>23</sup> Lodge, *Mandela*, 37.

‘recognises no colour distinctions’<sup>24</sup> – and one that evidently appealed to his sense of status and ambition. Lawyers were held in particularly high regard in African society and historically a legal career was a well-travelled route to political leadership.<sup>25</sup> By the time he left Wits he had developed much more of a sense of his value as a lawyer in the service of his people. For one, he would provide them with a much-needed professional service. The legal system in South Africa was heavily weighted against Africans – the law itself was often an instrument of oppression, the judiciary was completely dominated by whites, lawyers themselves were overwhelmingly white, and the vast majority of Africans appearing in the regular courts were further disadvantaged by the fact that they had little or no comprehension of English or Afrikaans, the languages of the courts. That disadvantage concerned Mandela throughout his adult life, as initially evidenced by his earlier ambition to become a court interpreter, and prompted him to turn Hahlo on his head. White lawyers, however well-intentioned some of them might have been, had little or no understanding of the language and culture of their African clients, who might have a better chance of securing justice through African representation.<sup>26</sup> But, more than that, Mandela had developed a strong sense that knowledge and use of the law were vital instruments in the struggle for the liberation of his people.<sup>27</sup>

Wits was again important in that it represented Mandela’s first exposure to whites, and white prejudices, on any considerable scale, his first major exposure to people who did not ‘respect’ him and who treated him ‘badly’. As he recalled in his autobiography, while he met a number of sympathetic whites who became friends, the majority were not liberal or colour-blind, and shunned him, sometimes ostentatiously, as when a white student moved seats even after a lecture had begun in order not to have Mandela sit next to him. ‘No one uttered the word “kaffir”’, Mandela wrote, ‘their hostility was more muted, but I felt it just the same.’<sup>28</sup> However muted his later criticism of Hahlo might have been, at the time he suspected active prejudice against him. His wife Evelyn later recalled a remark that could only have been directed at Hahlo: ‘Nelson had not spoken about politics when he met me. Now he talked often about the oppression of our black people. He was particularly upset when he found people at the Witwatersrand University were blocking him from becoming an attorney because of the colour of his skin.’<sup>29</sup> Mandela was already politically engaged by the time he met and married Evelyn, but the Wits experience might well have given more of a personal edge to his participation in the emerging struggle against ‘the oppression of our black people’.

Apart from white prejudice, Wits also exposed Mandela to a ‘new world’, a ‘world of ideas and political debates, a world where people were passionate about politics’.<sup>30</sup>

24 *Bulletin – Tydskrif: Transvaal African Students Association I* (1), 5. Copy kindly provided by Professor Tom Lodge and placed with the Nelson Mandela Foundation.

25 See Lodge, *Mandela*, 28.

26 Callinicos, *Tambo*, 172–3. For a fuller and rather different analysis of Mandela and the law, including the role of court interpreters, see Sitze, ‘Mandela and the Law’. For black lawyers more generally see K. Braun, *Black Lawyers, White Courts* (Athens, OH, 2000).

27 Interview with Jules Browde, Johannesburg, 10 Mar. 2015.

28 Mandela, *Long Walk*, 83.

29 Smith, *Young Mandela*, 70.

30 Mandela, *Long Walk*, 85.

During the war and immediately after with the return of radicalised ex-volunteers, the Wits campus was a lively place politically, notably with emergence of an organised and assertive left, inspired by notions of refashioning South Africa's segregationist society. In 1943, left-wing students, with Communists (white and Indian) in the forefront, founded the Federation of Progressive Students (FOPS) to radicalise the student body and mobilise it in support of 'progressive' causes in the wider society.<sup>31</sup> Among the founders were Ismail Meer and Ruth First, CPSA members then engaged in a forbidden mixed-race relationship, and they were at the heart of the mainly Indian campus group Mandela discussed politics with. Meer's flat, as Mandela recalled in his autobiography, 'became a kind of headquarters for young freedom fighters'.<sup>32</sup> Radical whites Mandela engaged with included Harold Wolpe and Tony O'Dowd, both Communist members of FOPS, added to after the war by Joe Slovo, already a key figure in the CPSA, and some non-party progressives, notably Jules Browde, like Slovo an ex-volunteer and fellow law student, and George Bizos, a Greek immigrant who became Mandela's lifelong friend and lawyer. In the recollection of Slovo, he and Mandela argued 'madly' with one another while at Wits.<sup>33</sup>

That was the heart of the matter. While Wits opened Mandela up to political dialogue and also friendships with persons of other races, many of them Communists, this coincided with his development as an assertive African nationalist, hostile to communism and political alliances with other race groups. Straddling the worlds of township, law firm, and university, it was the influence of the former that determined the trajectory and content of Mandela's political ideology and commitments. Initially, the most important influence was provided by the discussions that took place in Walter Sisulu's Orlando home, where Mandela engaged in dialogue with Oliver Tambo, and the two 'outstanding inspirational figures' behind the ANCYL, A. P. Mda and Anton Lembede, a lawyer.<sup>34</sup> It was Lembede's message of a militant African nationalism, rooted in self-reliance and self-determination, that 'struck a chord' with Mandela, prompting him to join the discussions of a group of 'young intellectuals' likewise attracted by Lembede's 'Africanism'. Towards the end of 1943, Lionel Majombozi, a Wits medical student, proposed the formation of an ANC Youth League to give institutional expression to Lembede's 'Africanist' project.<sup>35</sup>

From the formation of the ANCYL in 1944 to his departure from Wits at the end of 1949, Mandela remained wedded to the Youth League and fundamentally opposed to collaboration with the CPSA. On the Wits campus, FOPS, which was essentially a Communist Party front, made an early attempt to embrace the Youth League, but this was immediately rejected. 'We fear there is a yawning gap between your policy or philosophic outlook and ours', Lembede, as the League's first president, advised Ruth First.<sup>36</sup> The 'yawning gap' was between the racial exclusivity and nationalism of the League, together with its strident

31 Murray, *WITS*, 96–9.

32 Mandela, *Long Walk*, 84.

33 Interview with Joe Slovo, Johannesburg, Aug. 1990; and Murray, *WITS*, 99.

34 For Lembede see the introduction to R. Edgar and Luyanda ka Msumza (eds.), *Freedom in Our Lifetime: The Collected Writings of Anton Muziwakhe Lembede* (Athens, OH, 1996), 1–43.

35 Glaser, *Youth League*, 20–7; Lodge, *Mandela*, 32–5.

36 Lembede to First, 16 Mar. 1945, T. Karis and G. Carter (eds.), *From Protest to Challenge, Volume II: Hope and Challenge, 1935–1952* (Stanford, 1971), 316.

anti-communism, and the non-racialism of FOPS and the CPSA. A cluster of Wits medical students, including William Nkomo, who was also a member of the CPSA, played active roles along with Mandela in the launch of the ANCYL, but Wits did not thereafter become much of a Youth League stronghold.

Nonetheless, at the end of the decade the Wits branch of the CPSA, formed in response to the return of a significant contingent of radicalised ex-volunteers, felt sufficiently threatened to call for a meeting 'to clear the air between the two groups'. Held in Douglas Smit House, the recently constructed residence for African students, the meeting was attended by Mandela and Diliza Mji for the ANCYL and Joe Slovo, Harold Wolpe, and Mervyn Susser from the CPSA.<sup>37</sup> In the next few years Mandela's fundamental opposition to all forms of political cooperation with Communists – the CPSA itself was banned in 1950 – and Indians proceeded to fall away. In the later view of certain 'Africanists', Mandela's time at Wits had indeed contributed to 'a watering down of his affiliation to radical African nationalism (Africanism) and of becoming more amenable to the influence of Communists'.<sup>38</sup> As he conceded in his autobiography, his friendships with people like Ismail Meer and Ruth First, and his observation of their own sacrifices, made it 'more and more difficult to justify my prejudice against the party'.<sup>39</sup>

After qualifying as an attorney, Mandela decided on another attempt at the LLB, enrolling again at Wits for the 1952 academic year, but he never really made a go of it. In March he formally registered as an attorney and in that capacity went to work for the firm of Hyman Basner, a former member of the CPSA and a former Native Representative in the Senate. At the same time he was deeply involved as volunteer-in-chief in helping to organise the Defiance Campaign, which would mark the beginnings of ANC mass action in alliance with the South African Indian Congress. While registered at Wits, he had been unable to pay his full fees for the first term – the annual fee was £54 – and on 9 June, on the eve of the launch of the Defiance Campaign, was warned by the registrar, I. Glyn Thomas, that he was about to be suspended: 'I have to inform you that the Principal [Humphrey Raikes] was about to suspend you immediately from attendance at the University for the reason that after reminders from the Accountant and from him you have failed to complete the payment of your fees for the current term. However, he has asked me first of all to see you about this matter and I trust therefore you will call at my office without delay.' Glyn Thomas was a sympathetic figure – for the first time Wits seemed prepared to give Mandela a sympathetic hearing – but it was an invitation that Mandela did not take up, and nor did he pay his outstanding fees. On 18 July his registration was duly cancelled, and he was excluded from attending classes.<sup>40</sup> A month later Mandela opened his own law practice in Chancellor House in central Johannesburg, soon to be joined by Oliver Tambo to form the legal firm of Mandela and Tambo. In the company of his new wife, Winnie,

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37 Interview with Professor Mervyn Susser, Jan. 1995; and Murray, *WITS*, 99.

38 Stephen Platjje, 'ANCYL's Ideological Conflict with Communism', 15th Biennial Conference of the South African Historical Society, Rhodes University, Grahamstown, 2–5 July 1995.

39 Mandela, *Long Walk*, 112. For an analysis of Mandela's 'volte-face' on 'the issue of multi-racialism' see P. Bonner, 'The antimonies of Nelson Mandela', in Barnard (ed.), *Cambridge Companion*, 29–49.

40 WUA NMC WaB-13-Man-N A, I. Glyn Thomas to Mandela, 9 June and 18 July 1952.

Mandela next visited the Wits campus on 2 February 1959 for the opening night of the African jazz musical, 'King Kong', staged in the university's Great Hall.

## PRISON STUDIES AND WITS

After abandoning his studies at Wits in 1952, Mandela turned at the end of the decade to London University, registering on 1 January 1959 as an external LLB student. That was in the midst of the marathon Treason Trial (1956–61), with Mandela one of the accused, and on the eve of the launch of the breakaway Pan Africanist Congress (PAC). The next few years were to prove tumultuous, a watershed in Mandela's life and the history of South Africa itself. The Sharpeville massacre of 21 March 1960 was followed by the banning of both the ANC and PAC, and the formation in July 1961 of Umkhonto we Sizwe (MK) as the armed wing of the ANC with Mandela as commander-in chief, operating from underground as the 'Black Pimpernel'. Following a six-month tour of Africa, and two weeks in London in the first half of 1962, Mandela was arrested soon after his return to South Africa on 5 August at Howick, just outside Pietermaritzburg.

Prison was to be Mandela's fate for the next 27-and-a-half years, and the opportunity prison time presented for the pursuit of his LLB was taken from the outset. While awaiting trial for two months in the Fort in Johannesburg he received from David Astor, the editor of the *Observer* whom he had met during his London visit, a supply of books he required for his London University studies, enabling him to study even in the midst of the two major trials he was thereafter subjected to.<sup>41</sup> Sentenced in the Pretoria magistrate's court on 7 November to five years' imprisonment for incitement to strike, and leaving the country illegally, Mandela was sent first to Pretoria Local and then to Robben Island before returning to Pretoria in mid-July 1963 to join the MK leaders the police arrested in their raid on Lillieslief farm in Rivonia, on the outskirts of Johannesburg, on 11 July. Their trial under the Sabotage and Suppression of Communism Acts, with Mandela as the first accused, opened in the Pretoria Supreme Court in October and concluded on 12 June 1964 with the imposition of life sentences on those convicted. During the three weeks Mr Justice Quartus de Wet JP took to consider his verdict and sentence, which the accused predicted would likely be the death penalty, Mandela wrote the papers for London University's Intermediate Examination in Laws. As he recounted in his autobiography:

In the days before we were due to reconvene, I wrote papers for a set of University of London examinations for my LL.B. It might seem odd that I was taking law exams a few days before the verdict. It certainly seemed bizarre to my guards, who said I would not need a law degree where I was going. But I had continued my studies throughout the trial and I wanted to take the examination. I was single-minded about it, and I later realised that it was a way to keep myself from thinking negatively. I knew I would not be practising law again very soon, but I did not want to consider the alternative. I passed the exams.<sup>42</sup>

<sup>41</sup> Sampson, *Mandela*, 173.

<sup>42</sup> Mandela, *Long Walk*, 358.

Upon sentencing, Mandela and his fellow prisoners were promptly flown to Robben Island where they were all housed in the B Section single cells as distinct from the dormitory-style cells for 'general' prisoners. From the first Mandela was permitted to continue his LLB studies, while the other political prisoners had to wait until mid-1965 before they were granted permission to pursue degree study through UNISA or high school qualifications through the Rapid Results College, a correspondence school. The study of law was not permitted, except in the case of Mandela, on the grounds that he had previously been given permission to pursue the London University LLB. During the week the prisoners studied at night, after a long day's work in the lime quarry for their first 13 years on Robben Island, and their cells were their studies, which initially lacked either a desk or a chair to work on. After complaints each cell was equipped with a stand-up desk attached to the wall, and after further complaints lower desks and wooden stools were provided. A continuing problem was that of censorship of the books required for study, hampering Mandela's own work towards the LLB:

In my own case, studying under the auspices of the University of London was a mixed blessing. On the one hand I was assigned the sorts of stimulating books that would not have been on a South African reading list; on the other, the authorities inevitably regarded many of them as unsuitable and thus banned them.<sup>43</sup>

Gaining access to the required literature became a massive problem for Mandela.

Studying for a London University LLB meant that Mandela had to attempt to master English law, some of it familiar to him as a consequence of its influence on South African law but much of it novel, and a different series of courses. In June 1965, he wrote Part I of the London University LLB examination, passing three papers, Law of Tort [Delict], Law of Trust, and Principles of the Law of Evidence, but was referred in a fourth, Criminal Law, which he successfully rewrote in June 1967. Not for want of trying over the next seven years, Mandela made no progress towards completing Part II of the LLB course, comprising Jurisprudence and Legal Theory (a paper he passed in 1969 but received no credit), Public International Law, English Administrative Law, and Law of Business Associations. In 1977 he obtained from London University an official transcript of his academic record, which indicated he had been granted no credits for Part II of the LLB. As he explained his lack of progress to his wife, Winnie, in a letter of 18 August 1976:

My main difficulty in completing the English degree is that of obtaining the prescribed literature, especially the text books, law reports & journals. Jurisprudence is essentially a philosophic subject & requires reference to comparatively few cases, but Administrative Law, International Law & Company Law are fast-moving subjects & almost every yr [sic] there's some important case that changes one or other established principle. Without access to this literature, I consider it a sheer waste of time & effort to continue with the English degree.<sup>44</sup>

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43 *Ibid.* 398–9. For an overview of study conditions on Robben Island see N. Alexander, *Robben Island Dossier 1964–1974* (Cape Town, 1994), 47–65, and F. L. Buntman, *Robben Island and Prisoner Resistance to Apartheid* (Cambridge, 2003), 62–5.

44 NMF, Mandela personal correspondence.

Another major difficulty was the deliberate obstruction of the Department of Prisons. At the outset the Robben Island administration encouraged political prisoners to pursue academic studies, responding positively in that sense to Mandela's urging on the Commissioner of Police, General Pierre Steyn, that he should 'let the atmosphere of a university prevail' on the island. But at the end of the 1960s the administration changed direction, in part, it seems, out of the realisation that the education of prisoners was showing up the ignorance of their supposedly superior white warders. The change was highlighted in 1968 by the furious row that Mandela, who rarely lost his temper in dealing with prison authorities, engaged in with the studies officer, the intransigent Colonel G. Huiseman, over the issue of warders sabotaging prisoners' studies by withholding study materials.<sup>45</sup> But the dramatic change in policy came from above. In 1969, on instructions from the minister of justice and police, Piet Pelser (a Wits-trained lawyer), all further postgraduate study by political prisoners, white as well as black, was terminated with immediate effect. As Pelser advised parliament in response to a question from Helen Suzman, it was not the policy of the Department of Prisons to 'produce specialists'. Evidently the prison authorities had become alarmed by their lack of absolute control over postgraduate studies, as against the more structured nature of undergraduate work, and particularly the difficulties in controlling the literature required by postgraduates.<sup>46</sup> Mandela's LLB studies were again the exception. As explained to him by Brigadier Aucamp, the notorious head of security in the Department of Prisons, in an interview in May 1969, the termination applied to those pursuing UNISA postgraduate courses, and not to those studying with overseas universities. For all that, the government acted swiftly to curb Mandela's access to literature from abroad. David Astor, who had continued sending books to Mandela for his LLB studies through the British ambassador, was advised in early 1970 that the South African Government would no longer allow this as Mandela 'had enough books'.<sup>47</sup> The effect was to sabotage Mandela's London University studies.

Even before then the Department of Prisons had done its best to obstruct him. On 9 October 1969 Mandela advised Huiseman of his interview with Aucamp and requested him to forward a letter to the External Registrar of London University asking for approval for his plan of action for completing the LLB:

I should be pleased if you would kindly credit me with having passed Jurisprudence and Legal Theory, and allow me to write the remaining three subjects for part II of the LLB. course on two separate occasions, i.e., I should like to write Public International Law in June 1970, and the remaining two subjects in June 1971.

As a prisoner who is doing hard labour, I am experiencing considerable difficulty in preparing to write four subjects in one examination, and any concession you might make in this regard will give me a fair chance of showing competent knowledge in each subject I offer.<sup>48</sup>

Although Mandela was assured that the letter had been posted by airmail, it never reached its destination, and nor did Mandela ever receive the examination entry form for 1970,

45 Sampson, *Mandela*, 217.

46 Alexander, *Robben Island*, 55.

47 HPR, Helen Suzman Papers A2084, Ab5.2, David Astor to Helen Suzman, 20 Apr. 1974.

48 NMF, Mandela correspondence with various universities.

which came via the British Embassy, as it was not passed on by the Department of Prisons. The Department 'justified' its action on the grounds that Mandela's 'permission to study with this particular university had lapsed', and he was adjudged by London University not to have applied in time for a 1970 examination.

In September 1970, the Department permitted him to resume his studies after London University had agreed to transfer his candidature for the LLB Part II examination to 1971. Mandela still hoped to stagger his examination papers but this option was denied him by Huiseman, who insisted that he complete his LLB in 1971. That June, Mandela, who had been seriously ill earlier in the year, found taking '4 wide and complicated subjects in one sitting' quite beyond his 'physical condition'.<sup>49</sup>

After each failure thereafter Mandela had to reapply for permission to continue his London University studies. On 11 November 1974 he wrote to the head of prison, Colonel Johan Willemse: 'Permission was previously regranted on condition that I complete the course on or before June 1974. Unfortunately, I was unsuccessful and I am compelled to renew the application.' The application would not be granted.

It was, evidently, out of a sense that he was getting nowhere with his London University LLB that Mandela considered the possibility of completing his Wits LLB. On 24 October 1974 he wrote to the Dean of the Faculty of Law at Wits inquiring whether, in his 'current circumstances', it would be possible for him to write the University's final LLB examinations in November of the next year. He added: 'As you may be aware, I attempted the final of this course several times unsuccessfully and, if this could be arranged, I should like to sit the examinations again. There would be no need for me to receive any formal tuition and would prepare on the basis of the prescribed literature.'<sup>50</sup>

The inquiry was handled like a hot potato at Wits. The dean at the time was Professor Paul Boberg, an excellent lawyer but not at all politically attuned, and he consulted his colleagues on the governing committee of the School of Law, Professors Ellison Kahn and David Zeffertt, though not Professor John Dugard who was away on sabbatical. Boberg also referred the matter to the registrar's office, which dealt with all 'non-white' applications to study at the university and which recovered Mandela's academic record at Wits and previous correspondence with him.

What is striking is that the registrar's office felt compelled to approach the minister of Bantu education for his permission for Mandela to enrol again as a student at Wits. On 18 November Mrs Joan Brady, the faculty secretary, advised Mandela on behalf of the registrar, that: 'As Ministerial consent is necessary before you can be registered as a student at this University the matter is being taken up with the appropriate Government Department.' It was not, however, until 2 December that K. W. Standemacher, the deputy registrar (administrative), applied to the secretary for Bantu Education for ministerial consent for Mandela to register for 1975. The brief, cautious, letter noted that Mandela had been registered at Wits in 1952 as a final year LLB student and that he 'merely' wished 'to write the examinations of this University on Robben Island'. Nevertheless, he would still be

49 NMF, Mandela correspondence with Department of Prisons.

50 For the correspondence regarding Mandela's inquiry about the possibility of his completing his LLB at Wits see WUA NMC WaB-13-Man-N A.

required to register as a student at Wits for 1975 and 'such registration requires Ministerial consent in terms of the Extension of University Education Amendment Act, 1971'.

That consent was not in fact required; the original act of 1959, which imposed university apartheid, was quite clear that blacks who had enrolled at Wits before its enactment were entitled to complete their degrees at the university.<sup>51</sup> That was the reply Wits duly received from the secretary for education: 'In view of the fact that Mr Mandela was a registered student at your University prior to the inurement of Act 45 of 1959 (as amended), the Honourable Minister's formal permission is not required for this re-registration.'

Wits's approach to the minister might have arisen out of a concern not to unduly antagonise the Vorster Government at a juncture when it was being subjected to intense pressure to 'control' the behaviour of its students, particularly student protest and the student press, or face the consequences. In response to government's clamp-down on dissent and the ferocious new security laws of the 1960s, student protest by the early 1970s had moved far beyond largely university issues to challenge government's security actions and legislation, while the student newspaper, *Wits Student*, carried a series of 'lavatorial' lampoons and cartoons directed at the prime minister himself. When Professor G. R. Bozzoli, the Wits vice-chancellor, together with other vice-chancellors met J. B. Vorster in March 1973 he described it as the 'most intimidating' experience of his life.<sup>52</sup> Perhaps the approach to the minister over Mandela was a fishing expedition to discover the government's attitude. More likely, however, it was simply typical of Wits's inherent caution on the issue of black admissions. Virtually from the outset, Wits's registrar's office had been extremely cautious in handling black applications for admission so as not to challenge the 1959 legislation that required ministerial permission for new black admissions.<sup>53</sup>

In a letter dated 7 January 1975, Mrs Brady duly advised Mandela that ministerial permission was not required, and she consequently enclosed an application form and Faculty of Law prospectus. She also advised: 'The syllabuses have changed considerably since you last registered for the LLB and, once you have submitted the application form, the University will have to determine what credits can be given and which subjects you will still be required to complete in order to fulfil the requirements for the LLB.' In her previous letter she had already advised that he would have to obtain a credit in Latin I. This was all technically correct – there had been a major revamp of the LLB syllabus in 1966, and Latin I had been added as a requirement for the degree. In the 1940s, candidates were required simply to 'attend satisfactorily a course in Legal Latin', a requirement Mandela met in 1944. The decision as to which of Mandela's credits would be recognised lay with the dean, in consultation with the lecturers responsible for the courses concerned.

As is evident from Mrs Brady's letter, the Faculty of Law was again throwing the rule book at Mandela. Law faculties are sometimes radical places, but that was certainly not the case at Wits. With the occasional exception among its staff, law was a very conservative faculty in a generally conservative profession. In 1973 the university had bestowed an

51 Murray, *WITS*, 323.

52 G. R. Bozzoli, *A Vice-Chancellor Remembers: The Memoirs of Professor G. R. Bozzoli* (Randburg, 1995), 190–7. For student politics at the time see G. Moss, *The New Radicals: A Generational Memoir of the 1970s* (Auckland Park, 2014), chs. 1–6.

53 See Murray, *WITS*, 323–4.

honorary LL.D. on Hahlo at the behest of the Faculty of Law, but the idea of providing favourable treatment to his first African student seems not to have entered its mind. That Mandela, as a political prisoner of apartheid devoid of any realistic prospect of ever practising law again, constituted an exceptional case and was worthy of special encouragement, was simply beyond the imagination of the Faculty of Law.

Mandela never submitted his application form, though evidently not because he had been discouraged. From the internal evidence it is clear Mandela did not receive the form and Mrs Brady's accompanying letter, which had evidently been intercepted by the Department of Prisons. In his letter to Winnie of 16 August 1976 he asserted:

The best thing for me to do would be to complete the six subjects outstanding for the final LL.B. of Wits. All of them are fairly familiar & I'd be able to take them in one sitting & thereafter tackle Latin which has since been added. In '74 the Registrar advised that they'd have no objection to me completing the remaining courses & indicate they'd ask the Minister (of Education, I suppose) for me to sit for the exams. It'd not be necessary for me to obtain the DP Certificates as I've already attended classes & attempted all these particular subjects. Latin I could be done through Unisa & then apply to Wits for exemption.<sup>54</sup>

He was clearly ignorant of the contents of Mrs Brady's letter of 7 January 1975.

Another option Mandela mentioned in his letter to Winnie was UNISA, which offered a programme of a rather daunting 26 subjects for the LL.B. but which was prepared to recognise seven of his Wits credits. But there was one major obstacle that blocked the pursuit of any of his LL.B. options; the Department of Prisons. On 18 December 1975, Mandela applied for permission from the Commissioner of Prisons to resume his LL.B. studies, either by completing his Wits or London LL.Bs, or enrolling for the UNISA LL.B. All three options were refused him, evidently on the grounds that he had exhausted his privileged opportunities to complete his LL.B. Mandela responded by applying for permission 'to do the UNISA LL.B. only', explaining that 'the real cause of my negative results' with London University lay with the considerable difficulties he experienced in obtaining the prescribed literature. In February 1976 the commissioner again refused permission.<sup>55</sup> If the Wits administration had suspected that the Vorster Government was opposed to Mandela completing his LL.B. through Wits it was right, but government was perfectly capable of looking after itself.

In this situation, Mandela turned to the idea of embarking on an undergraduate B.Com. (Bachelor of Commerce) through UNISA, but even here an attempt was made to block him. In 1975 Mandela had engaged in a major confrontation with the then head of prison, Lieutenant I. Prins, over his refusal to sanction a visit by Winnie, leading to a disciplinary case against Mandela; at the beginning of 1977 Prins renewed the feud by obstructing Mandela's attempt to register for the UNISA B.Com.<sup>56</sup> It was only by threatening legal action that Mandela was permitted to register for the B.Com. for the 1977 academic year. In the event, that enterprise was soon cut short. In October 1977 the Department of Prisons cancelled his registration for his having abused his study privileges to produce an illicit autobiography.

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<sup>54</sup> NMF, Mandela personal correspondence.

<sup>55</sup> NMF, Mandela correspondence with Department of Prisons.

<sup>56</sup> For the clash with Prins see Sampson, *Mandela*, 218.

The idea of writing his memoirs had been put to him by Walter Sisulu and Ahmed Kathrada on the occasion of his 57th birthday on 18 July 1975, with a view to having it smuggled out by Mac Maharaj when he was released the next year. Writing mainly at night and sleeping during the day (claiming to be ill) Mandela employed his prodigious memory to produce in the space of four months a 500-page manuscript, a copy of which was taken to London by Maharaj while the original manuscript was buried in the B Section courtyard. Disaster struck when a work crew stumbled across segments of his hidden manuscript, resulting in the indefinite suspension of his study privileges, later limited to four years, on the grounds that he had abused those privileges to write the manuscript illegally.<sup>57</sup>

For Mandela, the 1970s consequently proved barren of academic achievement. The dramatic change by the end of the decade was in his international status. His powerful speeches from the dock in 1962 and 1964 had first established his international reputation, but by the early 1970s he had become almost a forgotten man internationally; subsequent to the Soweto uprising of 1976, and the repression and anti-apartheid protests that followed, the imprisoned Mandela emerged as the international symbol of opposition to apartheid. The British Anti-Apartheid Movement's campaign around his sixtieth birthday in July 1978 signalled his new international status. In 1980, after the ANC decided to personalise its campaign to secure the release of political prisoners, Percy Qoboza's *Sunday Post* newspaper in Johannesburg launched the Free Mandela campaign, which rapidly became an international movement, ensuring Mandela's status as 'the world's most famous political prisoner'. In the view of some, it was in an effort to combat the 'mythic proportions' of Mandela's incarceration on Robben Island, that P.W. Botha's Government decided to move him, Raymond Mhlaba, Walter Sisulu, and Andrew Mlangeni to Pollsmoor Prison in Cape Town on 31 March 1982 – they were later joined by Ahmed Kathrada – though the move probably had more to do with preparing for the possibility of negotiations with ANC leaders as a way out of the morass South Africa was descending into.<sup>58</sup> Initially Mandela shared the same large cell as his colleagues, but on 23 November 1985, following his discharge from the Volks Hospital after prostate surgery, he was moved to his own separate quarters with the prospect of beginning 'talks about talks'.

Indicative of Mandela's new status, and the efforts to promote it, was that he was nominated to run for the essentially ceremonial post of chancellor of the two universities whose LLBs he had unsuccessfully pursued, London University in 1980–1 and Wits University in 1982. In December 1980 students at London University nominated him as a candidate for election as chancellor, and he managed to poll some seven thousand votes, losing to the Queen's daughter, Princess Anne. More dramatic was his nomination for the chancellorship at Wits. The Students' Union at York University in England decided to nominate him for the office and through four Wits graduates at the university, as members of the Wits Convocation, he was nominated. The other candidates were Mike Rosholt, a former director of Barlow Rand, and Helen Suzman, the Progressive Party MP who periodically visited Mandela on Robben Island. All nominations had to be signed and approved by

<sup>57</sup> *Ibid.* 242–4.

<sup>58</sup> See M. Meredith, *Nelson Mandela: A Biography* (London, 1997), 341–4; Lodge, *Mandela*, 147–9.

the candidates and submitted to Wits by closing day Tuesday 4 May 1982. Mandela's nomination form never reached him, let alone Wits, before the Tuesday. At 5.50 pm on the Tuesday Suzman received a telephone call from Mark Sebba in York to the effect that the registrar at Wits, Ken Standemacher, had not yet received Mandela's nomination:

Sebba instructed me to follow up the matter, to get the form signed and delivered to the registrar before midnight that night, when nominations closed. He further instructed me to withdraw my name from the contest. I told him he had a monumental impertinence to suggest this, that I had every democratic right to stand and that I had no intention of withdrawing. However, I stated that I believed Mandela also had a right to stand and I would do what I could to get the nomination form signed and delivered. I told Sebba it was unlikely that I would succeed. To my utter astonishment, I not only managed to contact someone in the commanding officer's department at Pollsmoor at that late hour, but he arranged for Mandela to sign the nomination form and it was sent by special plane to Johannesburg by the Prisons Department.<sup>59</sup>

The person she contacted was Major Immelman. As witnessed by Major H. J. Bruyns, Mandela signed the nomination form at approximately 8 pm; it was incorrectly dated by him as 5 May, but he meticulously corrected the submission that he possessed a Wits LLB. At 8.45 pm, Immelman phoned Standemacher to say 'that it was on the plane & that someone would deliver it to the University'. It was delivered just before midnight to Savernake, the official residence of the vice-chancellor, by Brigadier van Zyl of the Department of Prisons in Pretoria; at 12.02 the security guard at Savernake radioed the Security Office to advise that that he had received the form.<sup>60</sup>

Why Mandela had not received his nomination form in good time is unknown, but the reaction of the Department of Prisons to Suzman's intervention was remarkable. No doubt tongue in cheek, she speculated that the prisons' officials were 'inspired by political acumen', realising they could split the liberal vote in the contest for the Wits chancellorship. It is more likely that, following her intervention, they feared the prospect of a major scandal over the non-delivery of Mandela's nomination form.

The list of candidates sent out to the voting body, Convocation, comprising the university's graduates and academic staff, provided full CVs for Rosholt and Suzman, and a rather more limited entry for Mandela. Normally the information on candidates was taken directly from their nomination forms, but the submission made on Mandela's behalf that he was: 'Leader of the ANC. He is regarded as leader of the nation by millions of South Africans' was not copied, as the university feared it might be accused of promoting the aims of a banned organisation. Instead Mandela was represented as 'a politician, who formerly practised as an attorney of the Supreme Court of South Africa, and who is now a prisoner'.<sup>61</sup> A packed meeting of students in the Great Hall on 2 June enthusiastically endorsed Mandela's candidature, but the election was duly won by Rosholt, confirming the alliance between Wits and big business.

With the restoration of his study privileges in 1981, Mandela again enrolled at UNISA. This time it was for the LLB, thanks to the intervention of Professor Willem Joubert, the

<sup>59</sup> H. Suzman, *In No Uncertain Terms: Memoirs* (Johannesburg, 1993), 189.

<sup>60</sup> WUA NMC WaB-13-Man-N, Misc. I.

<sup>61</sup> *Ibid.*; Interview with Professor David Zeffertt, Johannesburg, 7 Apr. 2015.

Dean of Law at UNISA, who obtained the necessary governmental permission.<sup>62</sup> On the basis of his previous studies at Wits and UNISA, he was given exemptions for eight courses towards the degree, about a quarter of the eventual total. The familiar pattern of failure immediately reasserted itself. ‘The exams were so disastrous’, a disconsolate Mandela wrote to Winnie at the end of the 1981 academic year, ‘that I am wondering whether it will be wise for me to continue with my studies next year.’<sup>63</sup> But continue he did, as he had always done, and by taking advantage of the UNISA system whereby a credit was given for each course passed, he steadily built up his credits. By November 1983, he calculated he had 14 credits towards his LLB, with three results still outstanding and another 15 courses to go, but the next year proved another disaster, with Mandela failing all six courses.<sup>64</sup> At the end of 1985 he was due to sit the examinations for five courses, four of them repeats, but these were deferred in the light of his pending prostate operation in November. While recuperating from that his examination preparations were interrupted by a hospital visit from H. J. ‘Kobie’ Coetzee, the minister of justice, thereby effectively initiating the ‘talks about talks’ that were to lead ultimately to his release and negotiations. Despite the distraction and discomfort, Mandela passed four of the papers he wrote in January 1986. This progress was maintained in his examinations at the end of 1986 and 1987 (with the aid of an aegrotat and a supplementary), leaving him with four courses to complete the degree in 1988, Military Law, Labour Law, Practical Afrikaans, and Xhosa.<sup>65</sup>

At the end it was the language requirements that caused Mandela the most headaches. In terms of the rules and regulations for the LLB, Mandela was required to pass courses in Practical Afrikaans and Latin I in addition to the English course he had previously passed. As Mandela prepared to embark on what he hoped would be his final year for the LLB, he applied on 22 December 1987 for an exemption from Latin I on the grounds that he had forgotten all the Latin he had learnt at school and at Wits, and that it was not a language he would be requiring in his future: ‘I have no intention of ever practicing law again either as an attorney or as an advocate. Even if I had intended practicing law sometime in the future, I am not likely ever to do so, since I am serving a sentence of life imprisonment.’<sup>66</sup> He was duly granted an exemption on condition that he passed a course in his own native language, Xhosa. He was then granted another concession in the light of his hospitalisation for TB and was permitted to postpone his language examinations until January 1989. In November, after having written his papers in Military Law and Labour Law, he finally applied to the Dean of Law, Professor W. J. Hosten, for exemption from both Practical Afrikaans and Xhosa on the main ground that, given the drug treatment he was receiving, he was not in fit condition to write them. Anyhow, he added, he would not require Afrikaans as he had no intention of returning to practise as a lawyer, and he offered an

62 Telephone interview with Professor Marinus Wiechers, 23 Mar. 2015.

63 NMF, Mandela personal correspondence.

64 Mandela diary entry, 12 Dec. 1984, in N. Mandela, *Conversations With Myself* (Basingstoke and Oxford, 2010), 293.

65 NMF, Mandela correspondence with various universities.

66 Mandela, *Conversations*, 25.

existing credit in Sotho in the stead of Xhosa.<sup>67</sup> UNISA again lent a sympathetic ear. Mandela obtained passes for his two remaining law courses, his credit for Sotho was accepted and he was granted special exemption from Practical Afrikaans in the light of his condition. He had also passed a course in Afrikaans/Nederlands in 1964. On 5 December 1988, Hosten advised him that he had completed the LLB degree. Four days later he was driven from the Constantiaberg Clinic to a house in the Victor Verster prison in Paarl as a 'halfway house between prison and freedom'.

According to what Mandela later told Richard Stengel, he had made 'no progress whatsoever' with his final year LLB studies on Robben Island because of his deep involvement in the political affairs of the island, and that it was the move to Pollsmoor that provided the personal space he required: 'It is only ... when I went to Pollsmoor that I got a chance of concentrating, especially when I was alone. Then I knew, right from the beginning, that I would pass.'<sup>68</sup> Accompanying the award of his LLB, *in absentia*, at UNISA's Cape Town graduation on 17 May 1989 was a warm telegram of congratulation from Professor Willem Joubert.<sup>69</sup>

## RECONCILIATION AND WITS

A remarkable feature of Mandela following his release from prison on 11 February 1990 was his evident lack of resentment after 27-and-a-half harrowing years of imprisonment. He buried his bitterness, and instead revealed the forgiving side of his character. At the head of his agenda, after the attainment of a democratic political order, was not retribution but reconciliation between black and white and transformation of the wider society. In his dealings with and appearances at Wits in the 1990s he embraced and extolled these ideals, most notably in encouraging his former profession to 'lead the struggle for the liberation of the law' when soon after his release he addressed the legal fraternity in the Wits Great Hall; in readily accepting the university's offer of an honorary LLD in 1991 in recognition of his 'unique contribution towards the attainment of a democratic and non-racial South Africa'; in instigating a remarkable reunion of his 1946 law class in 1996; and as an alumnus of the university urging Wits on the path of transformation when delivering the main address on the installation of Professor Colin Bundy as vice-chancellor on 28 March 1998.<sup>70</sup>

That Mandela would not emerge from prison holding a grudge against Wits, and that he perceived it as an important instrument of transformation, was manifested by his response to an attempt in the 1980s to elicit his views on the way he had been treated by Wits as a student in the 1940s. As he advised his lawyer, George Bizos, that 'as Wits was doing a good job he felt it would not be helpful to revive the matter'.<sup>71</sup>

The prospects of the present and the future were more important to him than the slights of the past. But, as his response to Bizos suggested, he never forgot those slights. He forgot neither those who had helped him in the past, nor those who had hurt him, as exemplified

67 NMF, Mandela correspondence with various universities.

68 Mandela, *Conversations*, 257.

69 NMF, Mandela correspondence with various universities.

70 WUA NMC WaB-13-Man-N, F I, Mandela speeches.

71 Bizos, *Odyssey to Freedom*, 90.

in his personal dealings and references during his Wits engagements. Seated behind the speaker's podium for his Great Hall address to the legal fraternity were a number of lawyers who had befriended and assisted him in the past, and when his first employer and the man who had given him articles, Lazear Sidelsky, was introduced, he rose and went across to embrace him. Most remarkable was his class reunion dinner at Wits on the evening of 2 November 1996. It was arranged at his personal request; as he told Jules Browde, who served as master of ceremonies, he wanted to see how everyone had got on since they had studied together at Wits. Nineteen of his contemporaries attended the function on the eleventh floor of Senate House, and when Mandela arrived he went up to each one of them to greet them by name. But the one hand he particularly wanted to shake was not present. That was the hand of 'Ballie' de Klerk, a noted rugby player and Nationalist supporter. De Klerk had ostentatiously moved seats in the lecture room rather than have Mandela sit next to him.<sup>72</sup> It was Mandela's wish to extend the hand of reconciliation to him, but all efforts to trace him failed.<sup>73</sup> In his address at Bundy's inaugural, Mandela made a point of speaking in his capacity as an alumnus and honoured 'some of my fellows who studied, debated and agitated on this campus: Their names are legend: Joe Slovo, Ismael Meer, Harold Wolpe, J. N. Singh, William Nkomo and Ruth First'.

One person Mandela never forgot, and who many at the reunion blamed (perhaps unfairly) for his failure to obtain a Wits LLB, was H. R. 'Bobby' Hahlo, the Dean of Law in his student years. Mandela said he was grateful to the dean for one thing, making it easier for him to decide what to study in prison. It gave him a personal goal in prison. Perhaps he should also have been grateful to the dean for his steely determination to keep on trying until he finally realised that goal. Mandela's pursuit of the LLB constitutes a remarkable story of persistence, encompassing 46 years, 26-and-a-half of them in prison when he had virtually no prospect of ever practising law again. Arguably one of the factors that drove him was his determination to prove Hahlo wrong by demonstrating his ability to attain an LLB.

There was always a stubborn, obstinate streak to Mandela, and perhaps Hahlo and the goal of an LLB encouraged it. In the 1940s Mandela had stubbornly rejected Hahlo's advice that he would do better to pursue the LLB through UNISA, where the rules and regulations for the degree were not as fierce as at Wits, as he was determined on a Wits LLB. He might well have obtained it in 1949, but seemingly miscalculated. If the pattern of his passing the first and intermediate years of study was to be repeated, he would have calculated on two supplementaries, Jurisprudence and Delict. His miscalculation was to also fail Evidence, a course he had passed the year previously. Forty years later he finally obtained his LLB, through UNISA and not Wits, thereby validating Hahlo's advice regarding the former but, more importantly, demonstrating to himself, if not to Hahlo, who had died in 1985, his ability to master the study of law, even though he would never again practise it.

In 1954 Duma Nokwe became the first African to graduate with an LLB from Wits.

72 In Mandela's autobiography that person is incorrectly identified as Sarel Tighy, who later became a member of parliament for the United Party. As Jules Browde remembers the occasion, there was an empty seat between him and de Klerk, and when Mandela entered and took that seat de Klerk got up and moved to the other side of the room. Browde spoke to Mandela after the lecture and that was the beginning of their friendship. Interview with Jules Browde, Johannesburg, 10 Mar. 2015.

73 Browde interview; and *Sunday Times*, 10 Nov. 1996.