

## Claire Palley

Tucked away in the far eastern corner of the Mediterranean is a very small area of land with a long and complicated history. Although it is only four times the size of metropolitan Cape Town (including the Peninsula) it is claimed as home by two very different people, bound together by a long history but separated by walls and mutual hostility. Still needing, in the 21<sup>st</sup>. century, to find a way of learning to grow and live together in peace and harmony, it is one of the places in the world - Ireland is another - where South Africa's experience during the last quarter of the 20<sup>th</sup> century has helped to provide some insight as to possible ways forward. I refer, of course, to Cyprus - island of 'Bitter Lemons'.<sup>1</sup>

Claire Palley has been constitutional advisor to the Republic of Cyprus for nearly thirty years (since 1980) and started her distinguished career as a part-time lecturer in law - stepping into the not-so-tiny shoes of Professor Ben Beinart who was on leave - here at UCT where she obtained her BA (with Distinction in Constitutional Law) in 1950 and her LL.B. Earlier this week, in a lecture to the Faculty of Law, she paid tribute to her early teachers, singling out, particularly, Beinart, Tom Price and the inspiration she drew from the lectures of Denis Cowen. UCT, she reminded her listeners, taught far more than the professional discipline. It provided 'a general moral and social education' with a strong emphasis on values. Law students were "imbued with the concept of 'fairness' and lack of arbitrariness." First-year Economics, I am happy to report, also "provided a fundamental attitude-changing experience".<sup>2</sup>

In between Cape Town and Cyprus a lot happened. First she and her husband [Ahrn Palley, a fellow student whom she married at UCT] moved to Zimbabwe [then Rhodesia] where he was to become well-known as the only Independent MP in a parliament where the other 49 MP's were all members of Ian Smith's Rhodesian Front. She had five sons and became a lecturer in law at what was then the University

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<sup>1</sup> Lawrence Durrell, *Bitter Lemons*, Faber & Faber, London, 1957.

<sup>2</sup> These, and subsequent quotations of Claire Palley in this Citation are drawn from her lecture, "A Faculty Legacy: The Instrumentality of Law" delivered in the Faculty of Law, University of Cape Town on Human Rights Day, Wednesday 10<sup>th</sup>. December, 2008.

College of Rhodesia and Nyasaland from which base she published the first of her important constitutional books, **The Constitutional History and Law of Southern Rhodesia 1888- 1965**<sup>3</sup>, to make sure that the British Government realised and could not run away from the fact that it was legally responsible for Southern Rhodesia and, in her words,

“to prove that the UK retained, despite her virtually complete delegation of power to European settlers, rights to intervene: and to prove the UK’s correlative duties not to grant independence without acceptance by the people of Rhodesia as a whole.”

With this book, Claire Palley was putting into practice lessons that she would use for the rest of her life; lessons rammed home by Denis Cowen’s analysis here at UCT, that it is possible to use “legal weapons, whether as swords or shields, to attack laws thought to be wrong.”

From one frying pan she moved to another. In 1966 Claire Palley became a Lecturer in Law at Queen’s University, Belfast, Northern Ireland. There she continued to teach and write. In 1970 she became Professor of Public Law - the first woman professor of Law in the United Kingdom - and in 1972 her book on **The Evolution, Disintegration and Possible Reconstruction of the Northern Ireland Constitution** was published in collaboration with the Institute of Irish Studies. [One thing lawyers never learn, even at UCT, is how to write catchy titles. But perhaps that is just how lawyers are. No frills]. This too was an important book and by this time she was Dean of the Faculty of Law; again the first woman law dean in the United Kingdom.

From Belfast, she moved in 1973 to be Professor of Law at the University of Kent at Canterbury where she was also Master of Darwin College for eight years. Then in 1984 she was appointed Principal of St. Anne’s College, Oxford where she spent another seven distinguished years and of which she was elected an Honorary Fellow in 1992.

Alongside all this work she was building an influential career in public service. This has included a ten-year stint as a member of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities [1988-1998]; membership of the Lord Chancellor’s

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<sup>3</sup> Clarendon Press, Oxford, 1966

Advisory Committee on Legal Education and Conduct [1991-1994]; being Chairman of the South East Area Committee, National Association of Citizens Advice Bureaux [1974-1979]; a term as a Governor of the British Institute of Human Rights [1989-1991] and many other activities including Course Assessor and Consultant to the Open University and Governor of the King's School in Canterbury for five years.[1977-1982]

But possibly her most important work has been as Constitutional Advisor to the Republic of Cyprus. This began nearly thirty years ago, in 1980, and she is still going strong. In fact, 25 years after starting her work as Constitutional Adviser, she published what may well prove to be her most influential book: **An International Relations Debacle. The Secretary-General's Mission of Good Offices in Cyprus 1999-2004**<sup>4</sup>. This is not the time to go into the long sorry history of the search for peace, justice and reconciliation in Cyprus. Suffice it to say that in this process Claire Palley has been unwavering in her quiet, intelligent use of commonsense and straight-writing - based on sound values - to resolve the issues. The President of the International Strategic Studies Association had this to say in his review of her book.

“Rarely, in lives filled with books, is a volume found which has the power to profoundly influence minds with the compelling weight and wisdom of its facts and arguments, and with the movingly restrained passion of its compilation.”<sup>5</sup>

But let Claire Palley herself explain what she has sought to do in her life's work.

“My own agenda, nourished by [my teachers at UCT] and reinforced by South African, Rhodesian, Northern Ireland and Cyprus experiences, has been opposition to majoritarianism; opposition to excessive party power through the closed party list electoral system; acceptance of checks and balances as in federal systems; pursuit of equality, untainted by overly-long affirmative action (the latter being acceptable only as a necessary transitional measure); emphasis on an independent judiciary and the rule of

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<sup>4</sup> Hart Publishing, Oxford, 2005

<sup>5</sup> Gregory R. Copley, 'On Incompetence', review of Clair Palley's International Relations Debacle. On the web <http://www.freerepublic.com/focus/f-news/164931/posts>

law; and freedom of expression, backed up by effective bars to intimidation. Probably, because there was impatience about moving speedily to a just non-racial order, and because many advocates of some of the arrangements I have mentioned were suspect, South Africa's new Constitution did not adequately reflect them. That impatience may entail the Constitution's failure to ensure long-term democracy and protection for all shades, or inside shades, of this rainbow nation."

These are lessons not only for South Africa, but for the whole world. And they have been brilliantly and courageously practised and taught by Claire Palley in the more than 50 years since she left the Law Faculty here. No wonder her portrait hangs in the National Portrait Gallery in London; no wonder that she was made an Officer of the Order of the British Empire in 1998. No wonder that we at UCT are so proud to welcome her home.