



**TOURO UNIVERSITY**  
JACOB D. FUCHSBERG LAW CENTER  
*Where Knowledge and Values Meet*

Digital Commons @ Touro Law  
Center

---

Scholarly Works

Faculty Scholarship

---

2014

## Accidental Witness to History: My Trip to South Africa

Harold I. Abramson

*Touro Law Center*, [habramson@tourolaw.edu](mailto:habramson@tourolaw.edu)

Follow this and additional works at: <https://digitalcommons.tourolaw.edu/scholarlyworks>



Part of the [African History Commons](#), and the [Law Commons](#)

---

### Recommended Citation

Abramson, Harold I., "Accidental Witness to History: My Trip to South Africa" (2014). *Scholarly Works*. 593.  
<https://digitalcommons.tourolaw.edu/scholarlyworks/593>

This Article is brought to you for free and open access by the Faculty Scholarship at Digital Commons @ Touro Law Center. It has been accepted for inclusion in Scholarly Works by an authorized administrator of Digital Commons @ Touro Law Center. For more information, please contact [lross@tourolaw.edu](mailto:lross@tourolaw.edu).

# Accidental Witness to History

## My Trip to South Africa

Professor Hal Abramson



Several hours after we landed in Johannesburg, we heard the news that flashed around the globe. Nelson Mandela had passed away at 8:50 pm. With that announcement on December 6, 2013, we became eye witnesses to history. We went to South Africa to visit a beautiful and fascinating country and conduct two mediation representation training programs. But, with the passing of South Africa's greatest leader, we unwittingly became participants in and bore witness to ten meaningful days of mourning and remembrance.

The official death announcements marked the next ten days for mourning, but, to us, they felt more like a nation's collective celebration. Together, in a groundswell of love and gratitude, the people of South Africa spoke as one of their debt to the person known internationally as Nelson Mandela, but locally as Tata, meaning the father, and Madiba, "the reconciler." This single man profoundly changed the lives of millions of people living in South Africa. His impact, as lawyer, activist, agitator, orator, prisoner, and healer of a fractured nation, was made vividly clear in daily testimonials on local television shows, in newspapers, at memorial services, and on the hundreds of cards and flowers left at various remembrance sites.

Over the course of the ten days, we attended formal memorials and informal gatherings. We also were guided by three local hosts with their own surprising connection to South Africa's history. What we learned about South Africa's anti-apartheid history was inspiring. What we saw about Mandela's unrealized aspirations was distressing.

### MEMORIAL EVENTS

The first memorial service that we attended was held at the Cape Town City Hall, the very spot Nelson Mandela gave his first speech as a free man 23 years earlier, on February 11, 1990. We listened to eye witness recollections of that day when Mandela was seen and spoke in public for the first time since he was incarcerated at Robben Island at the robust age of 46. He reappeared at the age of 71 in front of an audience of more than 60,000 people packed into the Grand Parade

and before a world-wide television audience. He thanked his supporters, recognized the heroes of the liberation movement, and set an agenda for moving forward. He spoke about the need for direct talks between the ANC and Government to normalize the political situation based on democratic principles. He also affirmed the need to continue the armed struggle in order to create a climate for a negotiated settlement. He then elevated the stature of the person the ANC would need to negotiate with, President De Klerk of the Nationalist Government-the same government responsible for his 27 years of confinement. He described De Klerk as a "man of integrity" who is "taking real steps to normalise the situation." He emphasized that De Klerk is a man aware of the dangers of not honouring his commitments.



At Mandela's Cell on Robben Island

The main international memorial service was two days later at the FNB Stadium in Johannesburg. This service was on the same day as our scheduled training program in Cape Town. Our host made adjustments to accommodate the memorial schedule. We gathered with others to watch the televised ceremony celebrating Mandela's inspiring life of accomplishments, with a view out the window of Robben Island where Mandela spent 18 of those years confined to a tiny cell.

We watched President Obama's stirring speech before a rain-drenched live audience. The rain was seen by some as the heavenly clouds crying for the passing of this great man. Obama's speech resonated for those involved in peacemaking when he extolled Mandela: he "taught us the power of action, but also ideas; the importance of reason and arguments; the need to study not only those you agree with but those who don't....Mandela understood the ties that bind the human spirit. There is a word in South Africa-Ubuntu-that describes his greatest gift: his recognition that we are all bound together...."

With exuberant pride, local residents repeatedly recited who from abroad was coming to South Africa to honor their Madiba. And they had reason to be proud because the memorial service was one of the largest gatherings of heads of states other than at the United Nations. Nearly a hundred heads of state came, including President Obama and three former U.S Presidents and David Cameron and three former British prime ministers. Speakers included Obama and UN Secretary General Ben Ki-Moon.

We also heard the loud jeering of the President of South Africa, Jacob Zuma, when he spoke. The unpopular president faces corruption charges in a country with gross income inequality and deep political divide. And we read for days the unfolding, bizarre story of the sign language interpreter who gave meaningless gestures while standing within a few feet of President Obama. The government-hired interpreter told the media afterwards that he was a "violence-prone schizophrenic."



**Memorial service at Cape Town**



**Signing Memorial Book at Mandela's Soweto Home**

The last day of official mourning was the day of Nelson Mandela's burial. It was declared a national holiday. We decided to visit Mandela's home in Soweto. He moved into this home in 1946 and lived there until he was forced underground a few years before his incarceration. He returned to it after being freed. When recalling his feelings on that day, Mandel reflected that, "It was only then that I knew in my heart I had left prison." Along with many

others on this pilgrimage, I signed a memorial book and left a personal message. His home also

is located up the street from the home of Archbishop Desmond Tutu, a fact that locals proudly cited because it made Soweto the only place in the world with a street that was home to two winners of the Nobel Peace Prize.

But the problems of today's South Africa never take a day off, as our black taxi driver reminded us as he was driving us to Soweto. As the traffic backed-up on a high speed highway due to road construction, he complained bitterly that the contractors should not be working on this national holiday. Instead, he grumbled, they are getting paid time and a half while the rest of us are stuck in traffic.

## OUR HOSTS

Our education on South African history was immeasurably enhanced by our three hosts.

Unbeknown to us, John Brand, the host for our training programs in Cape Town and Johannesburg, was not just a partner with a century old South African law firm, Bowman Gilfillan, and a leading promoter of ADR in South Africa. John actively opposed the apartheid government within a year of qualifying as a lawyer when he represented hundreds of students arrested in the historic 1976 Soweto student uprising. As a new associate with the commercial law firm where he is now a partner, he represented among other defendants eight of the students charged in the horrific and tragic death of Dr. Edelstein, a white sociologist working in Soweto. The apartheid government was showcasing this trial in an attempt to justify its violent actions to suppress the protesting students. In these cases, John worked with the legendary human rights lawyer, George Bizos, who also represented Mandela, to successfully free these wrongfully charged victims of apartheid.

John also worked closely with the Black anti-apartheid lawyer, Shunmugan Chetty who represented many anti-apartheid leaders including the renowned activist, Steve Biko. He founded the Black Consciousness Movement and was tortured, beaten and died in police custody. John and Shun worked together during the public inquest into Biko's death. Tragically, Chetty had to flee the country in 1978 for his personal safety and then was disbarred for trumped up charges that included stealing trust funds and abandoning clients. In 2006, John successfully petitioned the High Court of South Africa to posthumously reinstate Shun Chetty.

Also unbeknown to us, John is the Chair of the Constitutional Court Trust, an independent trust set up to support the new South African Constitutional Court, initially by funding law clerks for the judges. Because of this connection, John was able to arrange a personal tour of this impressive and unusual courthouse.



**South African Constitutional Courtroom**

When the new constitutional court was first opened in a temporary courtroom on February 14, 1995, newly elected President Mandela said that "The last time I appeared in court was to hear whether or not I was going to be sentenced to death." The permanent structure, an architectural masterpiece that blends symbols of the country's past and future, opened in 2004 on the site of the notorious Old Fort Prisons. The prisons were the site of many of the horrific abuses perpetrated by the





**Entrance to South African Constitutional Courtroom**

apartheid government. Prisoners included Mahatma Gandhi and Nelson Mandela at different times as well as Winnie Mandela. For John, it was the prison that he visited to see his clients charged in the Soweto uprising.

Most of the prison was demolished to create space for the new modern, open courthouse based on a “Justice Under a Tree” theme that focuses on transparency while incorporating reminders of the past. Several of the internal walls were built with red bricks from the destroyed Old Fort Prisons.

Another host was Millard Arnold, a former adjunct professor at Touro. He was recruited by then Dean Howard Glickstein to teach comparative constitutional law and jurisprudence. He lived in Washington D.C. and used to stay at my home when teaching. I recall us talking late into the night about a wide range of subjects. About a year or so later, he and his family moved to South Africa where they have been living since the early 1990s.

I had not seen him in more than twenty years. We had a warm reunion.

Millard has many connections to South Africa and its history, including writing two books about Stephen Biko, the renowned anti-apartheid activist and martyr and serving on the Biko foundation board. Winnie Mandela had sent her two daughters to attend Millard’s wedding while she was in exile due to her opposition to apartheid and advocacy for Nelson Mandela. Millard also served as the first ever U.S. Minister-Counsellor for Commercial Affairs on the continent of Africa. He served in this ambassadorial level appointment in South Africa during Mandela’s presidency when the country was commencing its reintegration into global markets.

Millard attended one of our training programs and then took us around Johannesburg for a day. He made a point of wearing his Touro Law hat during our tour and talked fondly of his year at Touro. And we were able to pick up where we left off, although this time our conversation was more one sided. I primarily asked questions-about his twenty years living through the transition to majority rule.

Our third host was my niece, Rebecca Hershow, who works for Grassroot Soccer, an international NGO that educates youth about HIV prevention through soccer-based programming in urban townships. The HIV prevalence in South Africa still remains among the highest in the world, especially among youth.

Nelson Mandela was late in confronting the growing AIDS epidemic. He gave no meaningful attention to it during his presidency. But even his critics recognized that he was occupied with the complicated challenges of leading the country toward a peaceful majority rule.



**Reunion with Millard Arnold**

The turning point for Mandela began a year after his presidency at a divisive 2000 International AIDS Conference in Durban, South Africa. At the conference, a group of scientists presented evidence of the connection between the infectious virus, HIV, and the deadly disease, AIDS. These scientists were challenged by their host, Mandela's successor as President, Thabo Mbeki and others who were denying any connection, claiming AIDS was a disease of poverty and other factors. Mandela, when delivering his closing speech to the conference, publicly recognized that a large number of people are suffering and dying from AIDS on this continent and called on the scientists and governments to work together to save lives, now. Soon afterwards, he gave the most famous number in South Africa to a global HIV/AIDS prevention campaign, the prison number he was assigned at Robben Island, 46664 (466th prisoner to arrive in 1964). His transition to an HIV/AIDS spokesperson, activist, and fundraiser was cemented when he stunned the country in 2005 with the announcement that his son just died of AIDS. His public statement went a long ways toward destigmatizing HIV/AIDS.

By putting his moral leadership behind the cause, he helped move HIV/AIDS prevention toward the top of the public agenda for action. But, the country has much catching up to do, and Grassroot Soccer is one of many valuable programs in South Africa trying to help.

Rebecca took us to see a Grassroot Soccer event at a soccer tournament in the largest black township near Cape Town, called Khayelitsha. The young players received bonus points for their teams if they took an HIV test, and several trailers and tents for testing were set up within the fenced soccer field. It seemed to be a successful event, as we saw many players lining up to be tested. In her time in South Africa, Rebecca noticed that girls were not offered the opportunity to play soccer, so she helped organize a girls' soccer club to empower girls in the battle against HIV/AIDS. We watched her team play. The team is called RV United with the R standing for Rebecca. The team won the championship this year and was being promoted to a prestigious regional league. She is now fundraising to buy a van so the team of girls can safely travel to the games next year.

Rebecca also gave us a tour of the township where many residents still lived in primitive corrugate metal shacks with outhouses and young, impoverished children wandered the streets unattended. We were greeted by several friendly and energetic children who simply wanted some attention, an encounter that became one of our most memorable experiences.



**Rebecca with the girls' soccer team  
she helped organize**



### AN EXTRAORDINARY AND MULTI-TALENTED PERSON

Each of these hosts gave us a different perspective on apartheid and post-apartheid history although all discussions lead toward the life story of Nelson Mandela.

His full and extraordinary life is beautifully examined at the Apartheid Museum in Johannesburg. The exhibit explores Mandela's life through six towering themes: character, comrade, leader, prisoner, negotiator, and statesman. The forward to the catalogue reads that: "The exhibit traces how Mandela built a new nation from the fragments of conflict, making full use of his 'weapons' at his disposal: persuasion, forgiveness, and acute political acumen-with a fair amount of self-deprecating humour sprinkled in for good measure."

The section on Mandela as negotiator emphasized that he viewed armed struggle as a tactic to get the apartheid regime to the negotiation table. He believed that ultimately apartheid would be defeated through a negotiated resolution. This section got me thinking about researching an article on how Mandela, while confined indefinitely in prison, negotiated the unbanning of the African National Congress, his release, and the dismantling of the apartheid regime.

As an accidental witness, my understanding of how Mandela changed South Africa was animated by many personal accounts we heard although one by Millard's 19 year old son, Tarris Lue, haunts me. He identified himself as a member of the "born free" generation. Reflecting on Mandela's sacrifices, this young man marveled that Mandela spent more years in prison- 27, than he had yet spent on this earth. Whether black, colored, or white, we heard similarly moving stories about Mandela's transformative impact on individual lives as well as the political and cultural shape of modern South Africa.

This country is no longer the pariah of the apartheid era, thanks to the courageous deeds of many people and especially the deeds of this special human being. People of South Africa are deeply proud of their country even as the country struggles to secure its post-apartheid aspirations. It was a privilege to be a witness to the closure of the historic Madiba period. I look forward to my next visit.