



## CONSTITUTIONAL COURT OF SOUTH AFRICA

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### INVITATION FOR APPLICATIONS FOR FOREIGN LAW CLERKS

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The Justices of the Constitutional Court of South Africa are pleased to invite applications from outstanding recent law graduates and young lawyers interested in serving as foreign law clerks. Candidates may be appointed to start as soon as 1 April 2015.

#### **Background**

South Africa continues to be regarded as one of the most intriguing and compelling examples of constitutionalism in the transition to democracy. Its Constitution is viewed as one of the world's most progressive founding charters.

The Constitutional Court, the country's highest court, is the guardian of that promise. It has, in a range of ground-breaking decisions, given content to the Constitution's guarantees by, for instance, ruling the death penalty unconstitutional; upholding full equality for gay and lesbian people; declaring that resident non-citizens are entitled to social benefits; and ordering the government to make anti-retroviral treatment available to pregnant mothers living with HIV/AIDS.

A highly respected commentator, Justice Ruth Bader Ginsburg of the United States Supreme Court, stated the following in the context of a discussion of new democracies:

*"I would not look to the U.S. Constitution, if I were drafting a Constitution in the year 2012. I might look at the Constitution of South Africa. That was a deliberate attempt to have a fundamental instrument of government that embraced basic human rights [and] had an independent judiciary. . . . It really is, I think, a great piece of work that was done."*

#### **About the Position of a Foreign Law Clerk**

Each year, 15 to 20 young lawyers from around the world serve as foreign law clerks to the Constitutional Court. Working alongside two South African law clerks, foreign law clerks assist a specific judge in performing his or her duties.

The responsibilities of foreign law clerks are essentially the same as those of their South African counterparts and similar to judicial clerks elsewhere in the common law world. These include extensive legal research and writing, as well as the formulation, drafting, and editing of judgments. The Court itself is highly collaborative, allowing for substantial engagement among clerks from all chambers.

Foreign clerks are usually only appointed to serve one six-month term. However, some may serve for longer subject to agreement and, at times, in more than one Chambers.

Foreign law clerks are not remunerated by the Court. Therefore, it is essential that they seek their own funding to cover their expenses, including food, accommodation, travel to and from South Africa, visas and travel to and from work daily.

## **Requirements**

Foreign law clerk applicants must be in possession of an LLB degree or an equivalent degree (such as a JD) or in the final year of study for such a degree. Further, they must be fluent in English, the primary language of the Court.

Applicants should also demonstrate an interest in constitutional, comparative and international law. Academic excellence, relevant research experience, and one to two years of work experience (especially clerking for another court) are all preferred.

Substantial knowledge of South African law is not a prerequisite, but familiarity with South Africa's history and contemporary affairs is highly valued.

## **Application Process**

Applications for foreign clerks will be considered on a rolling basis subject to some important deadlines. Applications for the first round of 2015 hiring will be accepted from 1 February to 31 March 2015. Applicants should propose start dates that would begin prior to December 2016. The Court will also accept applications during a second round of hiring from 1 July to 31 August 2015, at which time existing applicants are welcome to revise or supplement their applications. Due to the high number of applications, the Court will only respond to successful applicants.

Applications must include the following: (1) a cover letter describing the applicant's interest in the Court's work that must specify a proposed start date (or range of start dates) for which he or she would like to be considered; (2) a full curriculum vitae; (3) copies of all post-secondary academic records (unofficial transcripts are permitted); (4) a legal writing sample of approximately 6-12 pages; and (5) at least two reference letters (at least one academic and one professional). Please note that applicants may either have references send the letters directly to the Court or applicants may compile the letters and send a complete application to the Court themselves.

Applications should be submitted to Mr Mosala Sello in the Chambers of Justice Johann van der Westhuizen, who will respond with an email in due course acknowledging receipt of each application:

<u>Post</u> Constitutional Court of South Africa Attn: Mr Mosala Sello Private Bag X1 Braamfontein 2017	<u>Email</u> Mr Mosala Sello <a href="mailto:sello@concourt.org.za">sello@concourt.org.za</a>
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Further details on the programme may be found on the Constitutional Court website: [www.constitutionalcourt.org.za](http://www.constitutionalcourt.org.za). Applicants requiring additional information are welcome to contact Mr Sello via email ([sello@concourt.org.za](mailto:sello@concourt.org.za)) or telephone (+27 11 359 7427).

### **Testimonials from Past Foreign Clerks at the Constitutional Court**

Past foreign law clerks have generally found their time at the Court to be very rewarding:

*“Clerking significantly improved my analytic legal reasoning and writing skills. More importantly, it taught me a lot about reconciling complex legal problems with even more complex social, political and economic realities. . . . I count my clerkship as one of the most profound personal and professional experiences I have ever had. It changed the way I understand the role of law in society and it gave me a better sense for the kind of lawyer I want to be. . . . My clerkship was valuable substantive preparation for . . . all other human rights related work I have done since.”*

– Tendayi Achiume, Assistant Professor of Law, UCLA School of Law, Clerk to Justice Yvonne Mokgoro and Deputy Chief Justice Dikgang Moseneke (2008-09).

*“Clerking at the Constitutional Court . . . was an immensely rewarding experience, professionally and personally. It was an opportunity to learn from and engage with some of the world's brightest legal minds – Justices and fellow clerks alike – and make a real contribution toward social justice. Unlike my first clerkship in Israel, where I interacted mostly with my judge, collaborating with the Constitutional Court's community of clerks was an invaluable way to deepen my understanding of South African law, history and society, and to strengthen critical thinking and writing skills in a warm and supportive environment. The South African clerks were very welcoming and gladly helped mitigate the challenges foreign clerks face being in a new city and new country. South Africa is a beautiful country and the joy and wonder of exploring it . . . produced some of my most cherished memories.”*

– Orly Rachmilovitz, SJD, University of Virginia School of Law ('12), Clerk to Justice Johann van der Westhuizen (2014).

*“[T]he Court's jurisprudence represents one of the world's most impressive bodies of legal authority on human rights, including the rights to housing, healthcare, food, water and educations.”*

– Shaunik Panse, Attorney, Sullivan and Cromwell LLP, Clerk to Justice Johann van der Westhuizen (2013).

*“Clerking at the Constitutional Court has been an extraordinary experience. I have learned so much about the intricate factors that go into a decision . . . . Working in a foreign jurisdiction taught me to be flexible and quick on my feet. It also helped me better understand some of the assumptions underpinning aspects of my own legal system that are not universal. But mostly, I just love my job. The Court is a fantastic place to be a young lawyer. It's*

*inspiring, challenging, and important work. Being surrounded by such dedicated and sharp judges and clerks is an honour. And living in Johannesburg and exploring the rest of South Africa has been a treat.”*

– Catherine Baylin, JD, PhD Candidate, Department of History, Stanford University, Clerk to Justice Edwin Cameron (2014-15).

*“Through my clerkship, I have expanded my knowledge of the South African legal system as well as the inner workings of its judiciary. As a clerk, I have been asked to perform extensive research tasks on socio-economic rights, including research on international and regional instruments as well as comparative jurisprudence. I have witnessed how international law is used as a powerful legal tool for the development of South Africa’s human rights jurisprudence. It has also been a wonderful experience living in Johannesburg – a city that has so many different faces, a city in the midst of great transition. I love the energy and vibrancy of this place and it has taught me so much.”*

– Lucy Geddes, Researcher at the University of New South Wales, Clerk to Chief Justice Mogoeng Mogoeng (2014)