



## 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 July 2014.

#### **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, 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, six to ten 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 generally appointed to serve one six-month term. Some may, however, serve for longer and sometimes in more than one Chambers.

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

Professor Charlton Copeland of the University of Miami School of Law, who clerked for Justices Richard Goldstone and Catherine O'Regan in 2004-2005, expressed this view:

*“The day-to-day work of a foreign law clerk at the Court was not very different from that of an appellate clerk in the United States. . . . I was not relegated to being the U.S. law expert for comparative purposes.”*

## Requirements

Foreign law clerk applicants must be in possession of an LLB degree (or an equivalent) or in the final year of study for such 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 recommended.

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

## Application Process

Applications for foreign clerks are accepted and considered on a rolling basis. Applications must include: (1) a cover letter describing the applicant's interest in the Court's work, indicating the time frame 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 10-25 pages; and (5) a list of three referees (at least one academic and one professional). Reference letters are preferred.

Applications should be submitted to Mr Mosala Sello in the Chambers of Justice Johann van der Westhuizen, who will respond with an email 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, or wishing to confirm receipt of their application, may also 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. Their comments include the following:

*“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, Binder Clinical Teaching Fellow, UCLA Law.  
Clerk to Justice Yvonne Mokgoro and DCJ Dikgang Moseneke (2008/09).

*“Living in Johannesburg was the very best. . . . The diversity of people, experiences, and cultures made it a wonderful gateway for to southern Africa. South Africa draws people from all over the country and the region in a wonderful melting pot. The cultural life was always thriving.”*

– Professor Charlton Copeland, University of Miami School of Law.  
Clerk to Justices Richard Goldstone and Catherine O’Regan (2004/5).

*“For me, the job was the professional experience of a lifetime. Having clerked in the American federal court system, the Court offered an exciting opportunity to think critically about many of the rules and principles of law that I obtained in the United States. Evident in the Court’s handling of its case load is a creativity of thought in using constitutional interpretation to promote social change. That creativity is understood as a virtue among the Judges, and I think that this consensus invokes a special collegiality within the institution and the highest respect from those parties whose disputes are resolved by the Court. The hallmark of the Court is that virtually all of the work is a product of collaboration among the Judges, the clerks and the administrative staff. As South Africa moves further in its effort to achieve its goal of development and transformation, the Court will be a diligent guardian to assure the protection and promotion of the Constitution.”*

– Professor Kareem U. Crayton, University of North Carolina-Chapel Hill.  
Clerk to Chief Justice Sandile Ngcobo (2003).

*“[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, Judge Advocate General in Training, U.S. Air Force.  
Clerk to Justice Johann van der Westhuizen (2013).