



CONSTITUTIONAL COURT OF SOUTH AFRICA

INVITATION FOR APPLICATIONS FOR FOREIGN LAW CLERKS

MARCH 2019

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 July 2019.

Background

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

As the country's highest court, the Constitutional Court is the guardian of that promise. It has, in a range of ground-breaking decisions, given content to the Constitution's guarantees. The Court has found the death penalty unconstitutional, upheld full equality for gay and lesbian people, declared that resident non-citizens are entitled to social benefits, ordered the government to make anti-retroviral treatment available to pregnant mothers living with HIV/AIDS and mandated full equality for those disadvantaged by past discrimination.

In 2012, Justice Ruth Bader Ginsburg of the United States Supreme Court, said she would not commend the US Constitution to those drafting a constitution, but rather "*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. Working alongside two South African law clerks, each foreign law clerk assists 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 or researchers elsewhere in the common law world. Foreign law clerks conduct extensive legal research and writing and assist in the formulation, drafting, and editing of judgments. The Court itself is highly collaborative, allowing for substantial engagement between clerks from all chambers.

Foreign clerks are usually appointed to serve for only one six-month term. However, some may serve for longer subject to agreement by the judge or may serve more than one judge.

Foreign law clerks are not remunerated. They have to secure their own funding to cover their expenses for the duration of the clerkship, 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 be in their final year of study. They must also be fluent in English, the primary language of the Court.

Applicants should demonstrate an interest in constitutional, comparative and international law. Academic excellence, research experience, and one to two years' work experience are all preferred. Clerking in another court is a particular advantage.

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

Application Process

Applications by foreign clerks are considered on a rolling basis. However, most applications are considered in May. Though there is no cut-off, foreign clerks should preferably submit applications before 31 March. Two groups of law clerks begin work at the Constitutional Court each year (January and July). Foreign applicants should indicate their preferred starting group (including the year). Proposed start dates should be before December 2020. All applications will be kept on file for one year.

Applications must include:

(1) a cover letter that describes the applicant's interest in the Court's work and that includes a proposed start date (or range of start dates); (2) a full curriculum vitae; (3) copies of all post-secondary academic records (unofficial transcripts are permitted); (4) a legal writing sample of about 6-12 pages; and (5) names of at least two referees (one academic and one professional), though attached reference letters are preferred.

Applications should be submitted to Ms Elizabeth Moloto, who will acknowledge receipt:

<u>Post</u> Constitutional Court of South Africa Attn: Ms Elizabeth Moloto Private Bag X1 Braamfontein 2017	<u>Email</u> Ms Elizabeth Moloto emoloto@concourt.org.za
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Further details are on www.constitutionalcourt.org.za. Applicants are welcome to contact Ms Elizabeth Moloto via email (emoloto@concourt.org.za or +27 11 359 7444).

Testimonials from Past Foreign Clerks

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 education.”

– 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)