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This is an interview with Farzana Badat and itâ\200\231s the 27" of January 2012. Farzana, thank you so much for agreeing to participate in the Constitutional Court Oral History Project, we really appreciate it.

It is absolutely my pleasure.

Farzana, | wondered whether we could start in terms of your early background, where you were born, a bit about family, and also what were some of the formative influences that may have led you down the legal trajectory?

(laughs) Thatâ\200\231s a big question. So Iâ\200\231m a Durban girl, KwaZulu-Natal. | was actually born in Pietermaritzburg, 1979. Iâ\200\231m almost thirty-three (/aughter). And | grew up in Durban. | donâ\200\231t know how much of detail you want on my early life, but...

You grew up at the cusp of apartheidâ\200\231s wane, and | wondered whether you could talk about any of those memories?

| actually can, thatâ\200\231s actually such a good (question)...I mean, itâ\200\231s not something | think about much but now that you mention it, | have had lots of first-hand experience. Well, besides the normal, remember the segregated pools and the segregated beaches, and it was just a matter of fact that you canâ\200\231t use this pool and you need to stay away, the white people go there, but we also had...| had a lot of first-hand experience, when | was in primary school. | think for about three years in primary school, we moved to Pietermaritzburg to live with my gran, my momâ\200\231s mom, and we actually lived in the centre of town. And it was the years when there was the fighting between the UDF (United Democratic Front) and the IFP (Inkatha Freedom Party), | think that was. And there were times when we would actually come home and the fighting would take place on the street. | actually remember a few times we would...because we would come home and you would have to go into the parking to get into the building, and there would be stabbed bodies lying on the ground, and it was actually very much a matter of fact, and | remember my grandmother used to say things like, donâ\200\231t wear yellow when you go out, because those are banned colours, and at that time it was such a matter of fact thing, | mean, we never really thought about it as a political issue. There were nights when the gang...well, the inter-party fighting used to happen outside and the stones would come across into our balcony and in terms of first-hand experience that was pretty much it. My parents were not involved in the struggle, anything like that. They were very traditional, conservative, shop owners, and property owners. No one was really involved. In terms of

Int

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educational background as well, | think we were actually...my brothers and I, in my immediate family, were the first generation to actually go to university, maybe even finish school, because | think neither one of my parents actually finished school. So education was very, very, very important in our upbringing. Iâ\200\231ve got two brothers. An older brother and a younger brother. And having grown up in a very kind of traditional community, Muslim Indian community, the one thing that stands out from my mom especially, is she always said "you're doing nothing with your life until you get an education". And for her getting an education meant, going to university.

Farzana, | was very curious about the experiences of witnessing this violence between the IFP (Inkaths Freedom Party) and the UDF (United Democratic Front), slash ANC (African National Party), in KwaZulu-Natal, and | wondered how your family dealt with it and for you as a young child, and also not being...being black, but not being African, how you were positioned and trying to make sense of it?

Well, | mean, thereâ\200\231s two things. The one is if you ask me how was it dealt with in my family? Like | said, we werenâ\200\231t a very political family so, in fact, | donâ\200\231t even think | was very interested or had any idea about what was going on, probably until around the time of the referendum, or when (Nelson) Mandela was released. That | remember very clearly and we can talk about that as well. But when this was happening, it was just...and | think it was a lot of it was my grandmotherâ\200\231s influence, she would just say things like, agh, you know, the black people are fighting again. It was never, thereâ\200\231s a struggle going on and thereâ\200\231s a...so it was not very politicised in my head, it was more , thereâ\200\231s these people and theyâ\200\231re fighting and theyâ\200\231re killing each other, and we need to stay out of it because itâ\200\231s got nothing to do with us. | mean, | had no idea that there were Indians that were part of the struggle; | had no idea we were even in a struggle. And when | say that now, it makes me sound a little bit ignorant, knowing what | know now but we just were not raised that way. We were very, like | said, conservative, traditional Muslim family, you know, more focused on people getting married and having kids, and also very far from the life that | have now. So, to answer your question of how | dealt with it, | donâ\200\231t really think | did because it wasnâ\200\231t an issue really for me. Honestly, it was one of those things. We live in a country where, youâ\200\231re not allowed to go there, youâ\200\231re not allowed to go there, people are fighting, people are dying, thatâ\200\231s it. And | donâ\200\231t think | really questioned much. Again, itâ\200\231s very interesting because thatâ\200\231s absolutely not who | am now. Then in terms of becoming aware that there was this political issue going on, | remember we used to watch the Cosby show, and | loved the Cosby show and we used to record it. And suddenly they stopped showing it on TV. And | canâ\200\231t remember whether it was my dad or an uncle or somebody, and | asked one day, why donâ\200\231t we watch the Cosby show anymore? And someone said, because weâ\200\231re not allowed to because itâ\200\231s banned in this country. Because theyâ\200\231re not...| think they put a moratorium on allowing South Africans to watch that because of what was going on. But again, it was never a question that | asked, it was like,

okay, itâ\200\231s banned, so we canâ\200\231t watch it anymore. And then, when Nelson Mandela was released, it was a Saturday, | think, and | must have been eleven or twelve, or something, and it was my mom, myself, and my little brother, were sitting in the lounge, waited hours and hours, | donâ\200\231t know who | was waiting for, | donâ\200\231t know why | was waiting, | just knew it was this huge big deal. And | think thatâ\200\231s when | started to kind of understand and | would pay more attention to the news, you know, that (Nelson) Mandela was being released and things were going to stop being segregated, and then | remember we actually moved back to Durban, and | was starting standard six. And that was when the referendum happened. And | remember people talking about, well, do you want them to unban, do you want us to have a democratic election? And for some reason | had it in my head, that yes, it was going to be a very good thing. But again, it didnâ\200\231t really come from anywhere. Until then we actually started studying it in history in high school. Because in primary school, when | was in primary school, it was still very much during the time of apartheid, so our books were very much about Jan van Riebeeck and the Republic and the Dutch and the Anglo-Boer wars, and the San and the Khoi, it was not about the struggle. We never learnt about the Rivonia Trials, or Steve Biko or Albert Luthuli, nothing, there were no books. And when | got to high school and | did history, and history was a subject that | really enjoyed, | just...and | have that to this day, itâ\200\231s...| love knowing about the world, | love knowing about whatâ\200\231s happening in the world, | love knowing about why we are where we are, | love learning about what people have done to change things. And we started learning about the National Indian Congress and the ANC (African National Congress) and the Freedom Charter, and again it didnâ\200\231t resonate with me how bad the situation was in the country. | just knew that we were different. And the more | learnt about it, the more | enjoyed it. And then it got time for me to decide...like | said to you earlier; there was no question in my head or my familyâ\200\231s head that | was going to study. Also because | was lucky enough to always do really, really well at school. | was always the over-achiever. It was expected that | always did really well, so there was no question that | would study. | wish | could sit here and tell you that | was born thinking that | was going to be a lawyer. | wish | could tell you | was ten years old and | knew | was going to be a lawyer. | wish | could tell you | was fourteen years old and | knew that | was going to be a lawyer. But | was one of those people that was very, very undecided. Because | have a passion for so many things and because Iâ\200\231m interested in so many things, | would often change my mind. | think Iâ\200\231d gotten to about standard eight or standard nine when | was convinced that | was going to be a psychologist, because | loved hearing about people and people tended to come to me to talk about stuff. But then as | got more interested in history and politics and current affairs, | decided to think about, well, no, maybe this is something that | would enjoy more because | loved reading the newspaper and | think | was a bit of nerd; | remember my cousins laughing at me because during the holidays Iâ\200\231d be sitting and reading the newspaper. And then | said, well, how about this: you like people, you like history, youâ\200\231re not a scientist, you hate maths, you love English...I mean, English was reading and literature and learning about people, why donâ\200\231t you try out law? Literally that was it. It was no conviction.

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And I said, but let me couple that with something else. So I started out at university and I majored in law and political science. By the end of my first year at university, I knew that law was what I wanted to do. There was no, no, no question.

What made it so evident to you?

Well, there were a couple of things. The one was, I've been talking a lot about my interest in history and why things are the way they are, and in first year you learn about foundations of law and it was so similar to learning about history, but it gave a why to history. History was the theory, this is where you come from, this is what happened, but the law gave context to it. This is why you grew up in this area, this is why you weren't allowed to do that, this is why you had to go with that school, this is why you're now studying in a university with people of other races who seem to know so much more than you, because they had a better education. But I never felt previously disadvantaged. And that's actually something I want to mention later, when I talk to you about my first interview with Albie Sachs, because that actually came up.

So you went to the University of...?

University of Natal Durban. Howard College.

And what were your experiences of the university in terms of what you learnt, was it transforming, did you feel that there was an interest in Constitutionalism as well as Public Interest Law?

My first year, my first six months, were horrible. Because when I look back at it now I realise how sheltered my upbringing was, because...and especially in terms of the race and culture. I'd grown up my entire life in Indian schools, in

Indian neighbourhoods, with Muslim family, with Indian friends, I'd never been...white people were people on TV, or people you saw in places you didn't go to. Black people were dirty or were criminals, you stay away from them. Or they were the maids. So up to that point that was basically my experience with them. When I was in school I didn't have any friends that were not Indian. My first real experience outside of my race, was interestingly enough the first serious encounter I had with a boy, was actually a Coloured boy, and I was still in high school. And that was a huge deal for me because, well, if you grow up in a traditional conservative...I think that's also when I kind of started to realise that I was different, or that I was not what you would expect in the community that I was raised. And I think I started to grow up a lot and I started to question a lot and not take things because people said that they were a certain way. And you also start to realise that your parents don't know everything. My experience in university, like I said, the first six months

were horrible because I was put into this unfamiliar environment, I was forced to interact with people that I didn't want to. On both sides. I was forced to interact with black people, who I was brought up to... I was told were either dirty or criminals or violent. Violent especially. And it was difficult being in the same classes with them. I was surrounded by white people who were so much more articulate, who seemed to be so confident. That was a huge shock for me because I'd always done well in school, so I'd always been pretty comfortable with that. I would do okay. But I would be sitting in these classes with these white people that always had answers for everything, and were so articulate, and it hit me that they seemed to have such a broader view of the world than I did because they seemed to have so many more opportunities. But even then I didn't take it to mean that I had lacked something. For me it was more a failure on my part. Why did I not know as much as they did, and why do automatically people assume that I'm dumber than them? Whereas my whole life I was used to being told that I was very clever, but suddenly I was in classes and interacting with people where they didn't actually want to know what I had to say because I was not white. But again, there was no bitterness...it was just...I think I've always been like that, where if something happens my first port of call is, well, I'm doing something wrong. It's not external. And then we started studying foundations of law and where law came from, and the politics behind it all. And I just...it was an intuitive kinship. I can't even give you a logical answer to why I got interested in it, but by the end of that year, once I had integrated, once I'd made friends in other racial groups and realised that they were all normal human beings and started to enjoy my studying, by the end of that year I said, I'm not continuing with the law political route. I'm going into second year and I am changing to a direct LLB. Because I know that's what I want to do. And then I think from about the second and third year was when I started to get exposed to constitutional law. And this is where I can probably talk about one of my biggest influences from an educational perspective. There are very few teachers in my life that I remember. There are very few teachers that I know that have made an impact. I mean, Albie (Sachs) is one of them and we can talk about that later, but my professor of constitutional law of the University of Natal, had such a profound effect on me because he taught constitutional law not in a textbook manner, he taught constitutional law from experience. He talked about it through events; he talked about it through how it affects our lives. And that class I enjoyed more than anything else. And I would look forward to doing assignments, I would look forward to doing my readings, and I noticed that I was able to apply myself. So when we would get assignments or examinations on problems, I would go through cases and I would find answers and I loved coming up with new arguments. And also I think what appealed to me was how not black and white it was. And I've always been a not a black and white person. For me, there's always, in any situation you've got a balance. There's facts on every side. You've got to create a balance, and what I learned in constitutional litigation and constitutional analysis was no problem has a clear-cut answer. Both sides always have an equally compelling interest. It's about balancing them to see where you will do the most good and where you will do the least harm. And that is actually

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something that's informed my entire life. What I learnt in constitutional law and constitutional litigation is the way I approach any problem in life. It's the way I give advice to anybody. And it's something that's become a part of me.

Was the professor, Professor Devenish, was it Professor Govender?

Professor Govender. Karthy Govender. People used to say I was his pet. But I never argued because I just enjoyed his class so much. And he took a real interest in me as well. And he did, like he spent a lot of time... I think he saw it before I did. Because I just assumed it was another class that I was really good at. But he actually picked on the... I mean, he would make comments and he would make comments to other professors, and when I would answer in class, or when I would give in assignments, he would make comments about how impressed he was about the direction of my thinking, and that got me thinking too well, am I taking for granted that I'm just good at this or am I actually interested in it? And then I won the prize for constitutional law. Which is fine because I've won a lot of other prizes but that for me was, best constitutional law student, wow! It was so awesome! And then the more we started learning about the court, and he would talk about the Constitutional Court and... I think there was somebody who'd left university to start working at the court, and he'd mentioned it a few times, and I would read the judgments and I would think how awesome it would be to work with these people and to be involved. And I had no idea how I would do it. But when it came to final year and it came time to me deciding, do I want to go into practice...because I think I'd gotten to the point where I knew I didn't want to go into practice. I didn't do the law because I liked to be a lawyer, I didn't do the law because I liked to argue and confront people. I enjoyed the law because of the ability to think that it gave me. I enjoyed the law because it gave me a more lateral understanding of everything. I enjoyed the law because I could base it, or I could use it to deal with anything in my life, whether it was a problem, an issue, whether it was politics, whether it was something happening in the news, whether it was a family problem. The way I was taught to think, I always used to say, any person should be taught that irrespective of what your career is going to be. So for me it was not a profession, it was a life path that I chose. It was the learnings and the teachings that I enjoyed. And I'd had experience going...in my final year of going to court and just witnessing how normal courts operate. Not this court. And I would sit and I would think to myself, this is the most boring thing in the world, because all they do is come and do motions and applications. There's no real law or thinking that's happening. I want to be a part of it where you're actually developing law, where you're changing things, where you're being innovative, and ordinary practice doesn't do that. So when it came the end of...well, my final year when I had to decide what I wanted to do, I actually decided to stay and do the constitutional litigation Masters course work. So I decided to get my LLM in Constitutional Law and Constitutional Litigation. And again, it meant having to spend more time working with Professor Govender, because he ran that course. And in that course I got the opportunity to write

judgments, | got the opportunity to take constitutionalism to a whole new level. It was awesome. | mean, | would enjoy just reading, and it got to a point where...| was always a reader, growing up, every month | would read at least two books. But it got to a point where the only thing | wanted to read about was human rights and politics and what was going on in the world. And not just South African human rights but universal human rights. What does the UN do? Wars and genocide and | wanted to know real things. And it was all because of what | had learnt, and | was trying to apply it to the rest of the world. And then | thought to myself, well, what is the one thing you want to do more than anything else? And then | had the whole cliché, well; | want to work for the UN, because everyone that does human rights wants to work for the UN. Then | thought, but you can make a real difference and be a part of something. And Karthy (Govender) used to always talk about the Constitutional Court. And | said, the day | see that advert, because | had no idea how | was going to apply, Iâ\200\231m going to apply. And | think it was within... it

was early in my first year of Masters, | was walking the corridors and they put up the sign, Constitutional Courtâ\200\231s calling all clerks, and there was a closing date, and the timing was so tight. Iâ\200\231d seen it a bit late; | was going to leave for

Dubai that day, | remember, the closing date. And | came to Joburg and | think | actually hand-delivered my application. And Iâ\200\231ve never wanted anything more in my entire life than | wanted that. | was...| said to myself...and | applied nowhere else, for nothing else. All | said was, Iâ\200\231m going to do my Masters...oh, because the other natural route...| also started...while | was in my undergrad, | started doing a lot of tutorials. And, well, two of the courses | did were constitutional law and admin law, which were very, very connected. And when | was doing my Masters | also started to act as a junior lecturer. And Karthy (Govender) went on sabbatical for six months and he asked me to take over one of his classes, or two of his classes. Oh, my god! | was in heaven! Except it was all theory to me at that point. So | donâ\200\231t know that if | had not gotten the job at the Constitutional Court | would probably have stayed in academics. But...so | handed in my application form, left for Dubai, forgot about it, came back, got a letter...I think a letter in the mail, or a phone call, | canâ\200\231t remember, saying, youâ\200\231ve been invited for an interview. | had to

come back to Joburg. Up till that point | donâ\200\231t think Iâ\200\231d ever flown, but by then

I'd flown like three times. Came for my...and actually, interestingly enough...this is actually very, very funny... went through six months at university where | used to wear a scarf, because | think | was struggling with my identity. And this was during that period. So when | came for my interview with Judge (Albie) Sachs, | had a scarf on. | donâ\200\231t know why thatâ\200\231s relevant but

it sticks out for me because | remember coming here, and | remember thinking to myself, what is he going to think of me? Obviously not thinking that heâ\200\231s this worldly, you know, heâ\200\231s seen so much and heâ\200\231s...and | was thinking, is he going to see me and is he going to think Iâ\200\231m like this traditional small town girl

that doesnâ\200\231t know anything, and thatâ\200\231s...you know? And it was absolutely not

like that. And | was also very nervous because, | used to always be very nervous about interviews and being put on the spot, because | always thought | was going to fail. So | said, whatâ\200\231s he going to ask me? Heâ\200\231s going to ask me

constitutional law questions, heâ\200\231s going to test my knowledge, heâ\200\231s going to be

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aaah! But | got here and we were interviewed by quite a few judges. | remember being interviewed by Judge (Laurie) Ackermann, and he spoke to me a lot about wine, and that did not resonate with me. So | didn't relate. | spoke to Judge (Pius) Langa, who | thought was very funny. He tried to ask me a trick question, and | think he asked everyone this. He asked something about the Makwanyane ((S v Makwanyane and Another) judgment, the death penalty judgment, and | think he always expects everyone to say to him that, but it was decided on the basis of the right to life. It's a trick question, and | said to him, no, it wasn't, it was decided on the basis of the right against cruel and degrading punishment. And it was a trick question, and I'll never forget it because | got the question right. And | always correct people now when they mention it. It was like one of those things you kind of remember. And | don't even know why | remembered that at that point.

I'm sure he was impressed.

Well, maybe, | don't know (/augh). But it was very funny, and I'm just thinking, in my nervousness, the fact that | actually held my wits about me, was quite cool. And there were a few other judges, | can't... | think | was interviewed by Judge (Kate) O'Regan as well, and that was just a conversation, it was very, very informal. Judge (Albie) Sachs may have been my last interview, | think, and | was tired because it was a very long day, and in my suit and my scarf and everything. A suit that I'd borrowed, it was not my own. And then | met with Judge (Albie) Sachs. And | think from the time we started talking...it's a long time ago, but | don't remember ever feeling reluctant, or not wanting to work with this person, because with Judge (Albie) Sachs you would know, every time he opens his mouth, he says something that you're going to remember. There were a lot of things we spoke about in that interview. There's two things | remember, the one...and | think this is where the scarf made an impact because he did say to me, we deal with a lot of things in this court and have a lot of judgments that we make that may not necessarily be in accordance with your religious views, how would you handle a situation like that? That's the question he asked me. And that question | was prepared for, because | think it's a very natural clichéd question. The other question that he asked me, which is the one | can't forget, which no-one had ever asked me before was, so Farzana, do you know that in this Court when we're getting in clerks we normally have a foreign clerk as part of that group, then we have someone, a clerk that we interview, and we hire on merit, and there's also a requirement that we need to have a previously disadvantaged candidate. Do you consider yourself a previously disadvantaged candidate? Nobody had ever asked me that question before. And | didn't even have to think about it, and | said to him, no, | don't. And he said to me, but didn't you go...your background, didn't you go to this school, didn't you go to that school? And | said to him, you know, maybe on paper I'm a previously disadvantaged candidate, but I've never thought of myself that way because everything that I've done and the fact that I'm here today, has all been done because I've made it happen. I've never asked for help, I've never gotten help.

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So | would be lying to you if | said to you that Iâ\200\231m previously disadvantaged, and | would be lying to you if | said | think | should get a job because of that, because Iâ\200\231ve never gotten anything on the basis of that. | think any opportunit

y that | had been given, when | was given it, | never felt it was less than anybody else, because for me it was just taking that opportunity and using it to do something. But it was not a matter of being arrogant, it was just always the way itâ\200\231s been. So if you ask me, | should come and work for you because Iâ\200\231m

previously disadvantaged, | canâ\200\231t say yes to that because thatâ\200\231s not wh at | consider myself. | think Iâ\200\231m here on merit, | think if you hire me youâ\200\231d need to

hire me on merit, and | would never consider myself a token appointment. That is the conversation | remember. Anything else about that interview, | donâ\200\231t really remember. And a few weeks had passed, and we used to have a post box in the mall, and my friends and | went to watch a movie and | went to pick up my post first, and | opened it up and hereâ\200\231s this letter, congratulatio ns,

youâ\200\231ve been selected to clerk for...and this was a year in advance, so | knew a year before | was going to work, and | was going to work for Judge (Albie) Sachs. | was so happy. | have...| canâ\200\231t even explain to you...| was not scared, which was very unusual for me. | was just, oh my god, it didnâ\200\231t even hit me that | was going to have to move out of my...away from home, that | was going to be living on my own. | didnâ\200\231t even think about all of that, | just tho ught,

oh my god, the job | want more than anything in the world, Iâ\200\231ve just gotten. So that was that day. And then a whole year passed?

What did you do in that intervening year?

| was still doing my Masters, so | was at university, | was completing my Masters, | was lecturing as well. | used to do a lot of community work, | was very involved in community...| was a studio manager at a community radio station. | did a lot of other stuff as well. So | was pretty busy. And | had excellent friends and very close to my family and so it was a pretty busy year but | always knew at the back of my mind, that a year from now Iâ\200\231m going to do something amazing.

What was the transition like for you, moving from where youâ\200\231d been so comfortable and happy at the university, and coming to the Court, Johannesburg being different, and also making friends with the rest of the cohort?

Well, let me say this up front, the one part that | didnâ\200\231t feel was a transitio n, was Starting to work here, because the moment | got here | felt like | was in the right place. | never questioned that. Moving to Johannesburg...

And this was two thousand and...

2002. It was the middle of...

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It was the Braampark building, not here?

Yes. Thatâ\200\231s actually...| was the last group that stayed there, because the year after | left, the year that |...ja, after | left, was when they moved. So | always say, Iâ\200\231m part of the last crowd that sat in Braampark. Ja, moving to Joburg, that was a transition. The first week | moved to Joburg | cried every day. Because Iâ\200\231d never been one to have been away from home, to be away from my family. | was incredibly close to my friends. Durban was all | knew. Joburg was totally foreign. | was moving in to a new apartment with roommates that â\200\231d never met, that Iâ\200\231d never known. | didnâ\200\231t know how to get a round in

Johannesburg. Iâ\200\231d just gotten my driverâ\200\231s licence six months ago. | was a

nervous-as-hell driver. It was cold, it was freezing cold. First time in my life | bought a hat and scarf. And when | tell you what happened the first day | got here, Iâ\200\231m sure you'll feel sorry for me. Ja, So personally the transition was v ery

difficult, and it was very similar to what Iâ\200\231d experienced when I'd first start ed

university. Because what | didnâ\200\231t tell you is, after the first horrendous six months of university, from probably the end of first year onwards, it was the best experience of my life. | was...I felt like | finally...because | hated high school...| always felt out of place. But it was in university where | started to feel that | actually have a place in the world, you know? And when | got here again, in those first few months, it was difficult. | was not used to being so much alone. And itâ\200\231s funny because | think that probably informed who | am now, because now Iâ\200\231m most comfortable on my own. Iâ\200\231m a lot more confide nt

in my own skin, and | wasnâ\200\231t at that time. Because | have this support system. When | got here on the first day, it was a freezing...either end of June or early July, and Zanele (Majola), who was my co-clerk, who fortunately weâ\200\231d studied together at university, so it wasnâ\200\231t a stranger, but weâ\200\231d started at th e same

time. We got here and we were told, Albie (Sachs) is doing a tour of the prison, you guys need to go across to the hill. It was so cold, it was so, so cold, and here we were traipsing across from Braampark, because this was still a construction site, and they used to do a lot of tours of the prison. And the first day | got to the Constitutional Court was the first day | got a tour of the prison. Which at that time | didnâ\200\231t realise was going to take up a lot of my ti me,

because from then onwards, | was responsible for the court tours. | became Albieâ\200\231s (Sachsâ\200\231) tour guide and | had to learn about the prison and (Ne lson)

Mandelaâ\200\231s prison, and the prisoners, and the artwork. | used to do the art tours as well for lots of foreign...the tourist groups and things like that. So working with Albie (Sachs), and | said this in the speech, working with Albie (Sachs) was not just about being a clerk. You had to be an events co-ordinator, an entertainer, a tour guide, you had to know art, and | know very little about art. But by the end of the year | could tell you every little detail about every piece of artwork that was in that building. Now | donâ\200\231t think | can remember (/augh). And it was all based on one tour that | went on with Albie (Sachs). He is such a gifted storyteller, that when he tells you things itâ\200\231s in such a way that it just sticks with you. And | remember | would always tell the

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stories exactly the way that he would tell them because he would make them so colourful and...ja.

What happened on your first day?

On the day of the...?

The first day of the Court, you said you were concerned...

No, no, thatâ what Iâm saying, we got...it was so cold and we got called across to...

Oh, | see.

And we knew nobody, we didnât even know him very well. And he was busy giving this tour, and he started asking us questions, and it was freezing. | think what | remember is how freezing cold it was. And Iâd gotten sick, as well. So it

was not a good...and Iâm generally not a good first day person, Iâm normally

very emotional on the first day. But, from there it was just uphill...I mean, well, uphill, downhill, it was just...everything then just started to fall into place.

There was a bit of a transition having to deal with the other clerks, because the other thing is, when youâre used to coming from a background, or from wherever you are, where youâre always at the top of everything. Because | was always at the top of the class. And here | was working with a lot of people who were all also at the top of the class. And that was a point in my life where | was still not comfortable offering my opinions and | never actually...there was a part of me that always felt that | was...as much as | was comfortable being here and | knew this is where | wanted to be, | always felt that one day | was going to get found out, that actually | was not smart enough to be here.

Because firstly all these judges were super off the wall smart, and all these clerks were so clever. They knew so much and weâd sit in our clerk meetings and they would have opinions and they would be confident, and they would make arguments, and I'd be sitting there thinking, oh my god, Iâm so stupid, theyâre going to ask me to leave. But that was something | give Albie (Sachs) a lot of credit for. At the time it was terrifying, but now Iâm so grateful for it. He

has this habit of...heâs very collaborative in his approach. During every court session, at breaks, whenever he sees you, he always sits you down, asks you directly...well, the one question he would ask us, at every tea break was, so how do you read the court today? Can you tell what theyâre thinking? What do you think about their judgments? What do you think...and he would never tell us what he thought, but he would...and he would actually, he would force us to give an answer. And at that...those were my most terrifying moments, was knowing that Albie (Sachs) was going to ask me my opinion. And | always felt like | was going to mess up. But, | never did. He never once told me | said something stupid or he never dismissed...yes, there were lots of time when he

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didn't agree with what I said, but he always allowed me the opportunity to say it. And during that year when he had to give me a reference, the thing that struck me most was, he'd said in that reference, 'Farzana is an exceptionally intelligent person with...and it went on. And when I read that I thought, oh my god, do you know to have that...and he's not a flatterer. Albie (Sachs) does not flatter people. It is so difficult to get a compliment out of him. And when I read that, and I think I'm going to get emotional now, but when I read that, it was such a proud moment for me because this was a person who I'd learnt so much from, not just about the law but about just his take on the world, his approach. The fact that no matter how serious the issue was, he always kept his character. He was always Albie (Sachs). He had no airs about him. We had to call him Albie (Sachs). We would go to his house and work in his house. It was almost like, he treated us like we were part of his family, which is a huge thing because I always thought, every year he's got two or three new people, but he makes you feel at that point in time, that you are indispensable to him. Even though he made you do stupid things, like he would call you and just dictate e-mails that you would have to write, and he'd make you order lunch, and he made you...I had to babysit a baby the one day, because he had a guest with...

Oliver?

No, no, this was before, he and Vanessa (September) were not married as yet. He'd got a guest the one day, and she came in with this screaming baby, and it was my job to babysit the baby, and at that time I was not comfortable with kids. So I think I spent about two hours trying to make this baby sleep. And I think I had a judgment to review or something. But anyway, I always said, working for Albie (Sachs) you get a lot of life experience because it's not just about site checking and legal research, and I'll always be grateful that he chose me to be his clerk. To this day, it is the best job I've ever had. To this day I would go back to in a heartbeat. I wish it could be a lifetime job. But the nature of it is, you get what you need out of it after a year, and it kind of builds the platform for you to be who you're going to be the rest of your life. And there are lessons I learnt from him actually like, and I say this a lot, informed my approach to everything. To my writing, to the way I speak and articulate and approach things. And I think Albie (Sachs), to this day, is one of the most intelligent people I've ever been in the company of, and I am so grateful to have had that experience. He's a difficult person, he's not easy to please, he pushes you, he pushes every boundary. There's one experience that we had, I think. We were in the middle of a freedom of expression case or something, and at that time I was not a cusser, you would never hear me swear. And the one day he lined us up, and I think he said the word, fuck. And I think I flinched, or we all flinched. It was myself, Zanele (Majola), and we had an Indian clerk there, Deepak (Gupta) from...but he was from the States. And we all flinched to hear him say a cuss word. And I was very taken aback. And then he said, there's absolutely nothing wrong with what I've said, it's a word, it's acceptable language; people use it. Say the word, fuck. And he can be

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terrifying, and the three of us were standing there, and he said, "say the word, fuck". And Zanele (Majola) said it. And Deepak (Gupta) said it. And I looked at him and I said, "I'm sorry, Albie, I don't swear and I don't feel comfortable saying that". And he said, "say the word, fuck". And I said, "no, I will not". And it's one time in my life I remember standing up to someone. I can't believe I did it, but I didn't say it.

Good for you.

And now I'm so embarrassed because I say the word, fuck, all the time (laughter). But that was him. He pushed, and I think he respected the fact that you were able to stand up for yourself. I got such a good compliment from him when, the speech that you mentioned, a few weeks later he had just his own private farewell breakfast and he invited some of the clerks. And at that speech was the first time he'd seen me in a few years, and he came to me and he said, "Farzana, when I look at you, I cannot believe what a poised young woman you've turned into". And I think about the nervous wreck person I was when I joined the Court. I had very little confidence, I was so insecure. I thought I was stupid, I thought I was going to get fired. I would never speak voluntarily, you know, and he was so right because I'd changed so much, but I wanted to say to him, Albie (Sachs), if you only knew, that transformation started because the experience that I had here. For me, the fact that someone of that calibre had that amount of confidence in me, made me feel I could actually do anything, because I was here for a year and I survived. And more than that, I applied for one of the court scholarships and I actually won it. And I went to...

Was that the Ismail Mahomed one?

Ja...was it that one? I went to the University of Michigan. No, it was the Thomas Franklin, because I went to the University of Michigan. And that was what he wrote the reference for me. And it was the first time I knew what he thought of me. And that was already towards the end of my year, and when I read that reference, it was one of the proudest things I've ever seen, because to have known that I'd worked that hard for that year, and I'd been so scared, terrified, almost every time after a court day, because I knew he was going to drill me, and to see the words that he had written about me was just awesome. And the fact that I know he still remembers me... Know, when he sees me, he remembers who I am, and when he talks to other people about me he remembers me, it's something I'm so proud of. And it talks to the calibre of person that he is. It's got nothing to do with what I am. I told you I was going to get emotional.

That's fine.

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This is the one part of my...and itâ\200\231s also the reason why | agreed to do this interview, because that year was so...it was so impactful in everything that Iâ\200\231ve done and the person that Iâ\200\231ve become since then, that | will always s, always have time for any project thatâ\200\231s related to this court. | will always have time for any event or function that requires me to give something of myself, because what | got out of this experience is second to none. Thereâ\200\231s no person that Iâ\200\231ve worked with more that | respect more than Albie (Sachs). Thereâ\200\231s no place | would recommend more than | recommend this place. Itâ\200\231s probably different now because itâ\200\231s a whole different set of people and culture, but the time when | was here was life changing for me. That was life changing, the fact that | got that scholarship and | went to live in the States for a year, all by myself, changed me. It made me a better person, it made me a more confident person. And so that period, the year of me being at the court, and the year of me being overseas at Michigan, were basically my formative years, and | owe it all to this place. So if someone asks me, why are you so passionate about the work of the court, itâ\200\231s because it changed my life. It really, really, really did. And | think it speaks to the calibre of institution it is, the calibre of people that it attracts. And when you read the judgments that come out of this court, they are so incredibly human and they are so, so incredibly moving and compelling, that when you are in this environment, you have no choice but to be touched by it. So, thatâ\200\231s basically my memories of...| know itâ\200\231s not very specific, and if you want specifics we can go into it, but thatâ\200\231s how | remember the place and thatâ\200\231s how itâ\200\231s affected me. Iâ\200\231m actually so glad to be a part of this, just for people to know.

In terms of...you mentioned how youâ\200\231d been a very outstanding student and you came here and you found that others had equally been outstanding, and then really coming together as a cohort, what was the perception of your chambers, for example? You were with Zanele (Majola) at the time, | think...

Ja.

What was the perception of your chambers in relation to other chambers, what were some of the discussions?

(laughs) Why do you guys always have to come up with something thatâ\200\231s so off-the-wall. Because that was Albie (Sachs). He always had...it wasnâ\200\231t that he was always dissenting, but he always came up with something that was so off-the-wall, and Iâ\200\231m trying to think of something that he did. But the one thing that stands out, when | was here we worked on the Phillips (Phillips and Another v Director of Public Prosecutions and Others) case, which was the one about the strip club. And | cant remember the details but thereâ\200\231s this famous quote of Albieâ\200\231s (Sachsâ\200\231) that comes out of that judgment, which | typed because | was part of that, was the nipples and tittles, a place for nipples and tittles, or something like that. And itâ\200\231s something that Albieâ\200\231s (Sachsâ\200\231) often quoted on. And it just actually shows how as serious and as

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much gravitas as there is in this place, Albie's (Sachs's) contributions were always from left field, but if you sat down and analysed them, they had such substance behind that. But that was...but I know that was generally the approach during our meetings, was either, okay, so we've read the draft that Albie (Sachs) sent, why does he have to come up with that now? But people would sit down and think about it. It was about unravelling all his neuroses and actually getting down to what he was saying. Which always made so much sense. It always made a lot of sense. Even if you didn't agree with that, you could always see where he was coming from. And I think it was refreshing. I enjoyed being part of his chambers because when I used to listen to the types of conversations the other clerks would have with the other judges, they were always very austere, they were always very...always totally work related, always very...I mean, someone like Judge (Sandile) Ngcobo, for example, I would not have been able to manage in those chambers because he was very serious and structured and...you know. And yet, in Albie's (Sachs's) chambers we would talk...! mean, the 'fuck' example is one, but we would talk about the most random things. He was just such a gifted storyteller.

In terms of the work ethic, and the life lessons, what did you take away from working with Albie Sachs?

Ooh, we shouldn't go into that one. Okay, maybe that's the one thing that I didn't really...it was very unpredictable. Because Albie (Sachs) works...he's got his own schedule. And he expects the rest of the world to be on the same schedule. So you could be working until twelve at night, you could be working...or you could be sitting here the entire day not doing anything because he's got other stuff. Because he always had other stuff going on. But if he wanted something done, it must be done right now; you will drop everything and you will do this. This will be your life, this will be your...so there wasn't a lot of structure. And what that taught me was to be adaptable and flexible, because to work with Albie (Sachs), you can't be someone who likes routine and organisation, because he's not that type of person. His thoughts are all over the place. He would give you handwritten notes that you would figure out. The one day he was writing a judgment and he says to me, 'there's this citation, there's this article in this journal that says this, please go and find it'. So I said, 'okay, which journal?' 'In that legal journal that came out that month on that thing'. But those were the words, it wasn't...he said, it was this journal that came out the other month on this issue, please go and find it. Do you know how many journals there are in the library, and I had to go and look for this? But that was him. He had a thought, you had to learn how to understand him and manage him. And it's a good life lesson because what you learn from that and what I learnt from that is, whenever you're working with people, interacting with people, you deal with them and manage them according to who they are, and not who you are. Because otherwise it will never work. If you're an organised, structured person, and you're working in Albie Sachs's chambers, and you expect him to be organised then you will fail

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miserably. But you need to actually learn that you need to be more flexible. And itâ\200\231s actually something thatâ\200\231s helped me a lot. Itâ\200\231s helped me a lot in my career now where Iâ\200\231ve got a lot of counselees, a lot of young people that | have to coach and mentor where you realise that thereâ\200\231s standards that you set for yourself and expectations that you set for yourself, but when you are in a mentoring and coaching position, you canâ\200\231t impose that on people. Youâ\200\231ve got to deal with them according to what they know and what they understand. And in a lot of ways with Albie (Sachs)... you had to be...you had to keep him calm and you had to keep him, you know, without making him see that you were doing it. But to get to that point you had to be...you had to understand him. And it was very different then because he went away for a sabbatical for a while and that was when Judge (Dikgang) Moseneke first started. So Zanele (Majola) and | actually clerked for Judge (Dikgang) Moseneke during his first term. Which was a completely different experience from working with Judge (Albie) Sachs, for a number of reasons. One, because Judge (Dikgang) Moseneke is totally different. And heâ\200\231s very much a dignified and everything must be done like this and, you know, blah blah blah. But also because with Albie (Sachs), he was our teacher, because he was a part of the institution, he was a part of the struggle, we were learning from him. Judge (Dikgang) Moseneke, we were the teachers, because heâ\200\231d come in from a High Court background, the way he wrote judgments was very different. His approach was very singular, very...you know, he didnâ\200\231t have the human rights thinking, the constitutional thinking that we were used to with Albie (Sachs). So we did a lot of coaching for him. So it was actually good to have those two experiences. Because on the one hand youâ\200\231re coming into an environment, and youâ\200\231re learning from one of the best teachers, but then youâ\200\231re applying all of that to someone whoâ\200\231s brand new in the environment. And when | hear things now about Judge (Dikgang) Moseneke being Deputy Chief Justice, and being moulded and | always sit back and | always think, | knew him when he first started. And | knew more than him about the way the court operated (laughs). But itâ\200\231s very interesting, | mean, those two experiences were so, so interesting. So | definitely learnt a lot more from Judge (Albie) Sachs. But | got to assess how much | actually knew through my interactions with Judge (Dikgang) Moseneke and making him comfortable and making him...and now heâ\200\231s a part of the furniture as well. So that was a very good experience just seeing the differences between the two.

What did you go on to do?

Well, then I...

You went to Michigan?

Ja, | went to Michigan. | did my Masters there, | did it in quite a few things. | continued doing human rights law because they did international human rights. | did international criminal justice, refugee law, | did quite a

few...American, | studied the American legal process and stuff like that. And then when | got back from Michigan | was kind of like, what do | need to do. And | thought going back to teaching, because | thought that that was my...so | accepted a position at Rhodes University to be a lecturer. And | hated it. But | think it was because the transition of coming from Michigan and the States and going to this god-awful small town, Grahamstown, and being away from everything | knew for so long and then immediately going into an unfamiliar environment, | didnâ\200\231t like it. | didnâ\200\231t like teaching for some reason, which was weird, because that was my passion by the way. That is what | always thought | would end up doing, is teaching or being a lecturer. But | didnâ\200\231t like it. | wanted more. And also | wanted to come back to Johannesburg. So | then became a legal advice...but | wanted to do it in an area that | knew. So, you know, socio-economic rights, human rights, something involving government and changing something. So | actually took on a position as a legal advisor for the Gauteng Department of local and provincial government. And there was a lot of socio-economic and service delivery, and things like that, built into it because it was a monitoring and evaluation role of oversight of how municipalities were delivering to their communities. The problem though, and | think | was there for maybe a year or so, but the problem with being a legal advisor for government was there was too much politics involved in it. | mean, for example, | would give in briefs to the MEC or write legal opinions, and | would be told, well, we donâ\200\231t really care how good the opinion is, does it actually advance the politics of the day? And that went against everything, everything that | learnt here, and everything that | was passionate about, so | couldnâ\200\231t actually reconcile myself in that role. And then | was very lucky. Let me tell you, when | was at university, if you told me | was going to end up at an audit firm, | would have died laughing. But KPMG were actually looking for someone with a public sector legal experience, because they needed someone to consult on local government issues and things like that. And | got a Call...it was very unexpected, | got a call from a recruiter saying that they were interested, and | got that job. And | started out there doing advisory work for government, for public entities. | did a lot of work for big government departments, doing policy frameworks, you know, doing a lot of drafting and things like that. When | did my first Masters degree at Natal, | also did it in IT law, and Iâ\200\231m one of the very few people in the country that has postgraduate experience in IT law. And as our business, KPMG, was expanding, that became a niche area and they needed experts in that. And like | said, thereâ\200\231s very few people. So | started expanding into that. And that actually almost brought me full circle, because now what | do is, | run the service line centred on privacy, and that kind of ties back to my whole...itâ\200\231s not every human right, but itâ\200\231s a human right and itâ\200\231s basically advising companies, organisations, government on how to ensure when they deal with peopleâ\200\231s information, they respect the personâ\200\231s right to privacy, and giving them advice obviously on other things and on IT legal and compliance issues. But | try to keep my human rights stuff somewhere in there through the privacy work that | do. Itâ\200\231s not as meaningful and itâ\200\231s not as meaningful as working at the court, for example, because at the end of the day you get distracted by budgets and deadlines and making money, because a lot of my role is bringing business

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for KPMG. So there are days when I ask myself, what am I doing here? But I am good at what I do, I enjoy the people that I work with, I enjoy the fact that I interact with so many different companies and organisations, and I've dealt with senior political people, I've dealt with CEOs, CFOs, you know, Excels, and things like that. But, my heart and my passion was always the work that I did here. So that will always be my first love and still the best job I've ever had. So ja...so where I am now it's fine, it's professionally it's fine, I've got a good job, I've got financial security, I've got all of that, but it's not my passion. This was my passion. And I think that with the way I've spoken about it, I think you can see that. But I'm grateful because the lessons that I've learnt here, and the learnings that I've taken from here actually inform everything that I do. So, you know...so that's ja...anything else.

I'm curious about some of the key cases that may have come while you were a law clerk, and what were the issues of the day for you?

The big one was...normally when you start working at the Court, you enter during recess, so you have an easy transition. Didn't happen with us, because when I started it was during the floor-crossing issue: the members of the parties that were crossing the floor, and that was a huge issue, and Court had to come in during recess. And the first case I was a part of was to decide the constitutionality of floor-crossing legislation (United Democratic Movement v President of the Republic of South Africa and Others (African Christian Democratic Party and Others Intervening; Institute for Democracy in South Africa and Another as Amici Curiae), which was a hugely complicated issue. It was something that wasn't really dealt with in South Africa before. It was three days of hearings, to us who were brand new to the Court, and it was highly, highly contested. That was the one huge case that I was involved in. I learnt a lot about the political process through that as well. The other big case that was going on was the TAC (Minister of Health and Others v Treatment Action Campaign and Others) case. And there were lots of AIDS activists that used to come in and out. I think I was actually here when the verdict was announced, and I remember the cheering in the court. And I think Zackie Achmat came once or twice to the court as well. That as a huge case that went on. The Phillips (Phillips and Another v Director of Public Prosecutions and Others) case, like I said, the one about the strip club. I was also involved...the Jordan S v Jordan and Others Sex Workers Education and Advocacy Task Force and Others as Amici Curiae) case, the prostitution case, had occurred the session before I started, but I was here during the drafting of the judgment, so I had a lot of input into the site checking and the research that went into Jordan S v Jordan and Others Sex Workers Education and Advocacy Task Force and Others as Amici Curiae). Grootboom ((Government of the Republic of South Africa and Others v Grootboom and Others), I wasn't here when Grootboom (Government of the Republic of South Africa and Others v Grootboom and Others) took place, but I was involved because I would go with Albie (Sachs) to a lot of speaking engagements, and he often spoke about that case. And in fact, when I was

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here, | think we went to an environmental and sustainability conference and he delivered this paper on the Grootboom (Government of the Republic of South Africa and Others v Grootboom and Others) case and the impact on socio-economic rights and things like that. The other memorable one was, that was when the ICC match-fixing allegations first started, and Albie (Sachs) was appointed the independent head of...and that was not court related work, but he was appointed to actually head up the investigation, to go through the files, and | remember sitting in my office with all of the ICC, the match-fixing evidence and the files, so | had to research that for him. What other issues went on during that time? The Prince ((Prince v President of the Law Society of the Cape of Good Hope and Others) case was over. The Prince (Prince v President of the Law Society of the Cape of Good Hope and Others) case, which was the marijuana case, that was over by the time Iâ\200\231d started but there was still remnants of it. There was the freedom of expression (Laugh it Off Promotions CC v South African Breweries International (Finance) BV t/a Sabmark International and Another) ? case. | canâ\200\231t remember the name of the case. But like | said, the big issues during that year was the floor-crossing (United Democratic Movement v President of the Republic of South Africa and Others (African Christian Democratic Party and Others Intervening; Institute for Democracy in South Africa and Another as Amici Curiae), the TAC (Minister of Health and Other v Treatment Action Campaign and Others) , the Phillips (Phillips and Another v Director of Public Prosecutions and Others) case...Iâ\200\231m sure there was something else...

Farzana, since youâ\200\231ve left the court, have you kept a close eye on the Court, in terms of its cases, its judgments?

Initially | did because especially when I...my Masters dissertation for the University of Michigan, | had to do a dissertation, and it was on the...Iâ\200\231d done a course in Islamic Law, and we were given a mandate to write on something that we know. And my dissertation was actually on reconciling Islamic Law in a constitutional state, and that was during the time of the...is it the Daniels judgment?)Daniels v Campbell and Others) Oh, Iâ\200\231m going to get caught out here now. Basically the judgment on the legality of Muslim marriage in this country. And | followed that very, very closely because it formed a huge basis of my research paper. Since then | followed it not as closely as | would like to. | followed it in terms of | know when thereâ\200\231s something big happening at the Court, | try to attend the functions as much as possible. And when thereâ\200\231s legislation, because legislation impacts my work a lot, when thereâ\200\231s legislation thatâ\200\231s sent for certification, then | do follow it. But to be honest, | wish | could be more involved. And this is probably going to sound like a huge cop-out, but the nature of the work that | do, itâ\200\231s incredibly difficult to do it, but | try as much as | can. | mean, | make sure | subscribe to the legal newsletters and constitutional updates, just so | kind of know whatâ\200\231s going on. But | really wish | was better at that.

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Farzana, you were saying that you haven't kept in touch with the Court, I'm

just very curious, because given that your outstanding, both academic and experienced track record on constitutionalism, how you have somehow negotiated not being involved with the Court or with cutting edge constitutional issues, I'm just very curious (/augh)?

Ja, you know, that's such a good question, and I went through a lot of time feeling like I was a big sell-out.

No, not at all, that's not my intention, I'm just curious.

No, no, no, no, but it's a personal...personally that's how I felt for a long time.

But I think I kind of made peace with...your life takes you where you need to go and somehow I've managed to find myself in a position where I've made a

financially secure life for myself but while keeping elements of what I love to do, and yes, it's not perfect, but I try to keep as much of that as possible. Trust me, if I was given the opportunity to go back to what I love doing, but...and the reason I keep using the word financial security, is because I've always had to be self-reliant, and for me it got to a point where I had to think about my financial security before anything else, because I don't have a fall-back. I mean, I don't come from a wealthy family, I'm not yet married, I don't

have...so the way my career has taken me professionally is to where I am now. I would love more than anything else, if somebody could tell me right now that I could get back into this world if there's an opportunity for me, I have

no question in my mind that I would take it. Because I know how meaningful and how happy I would be doing it. I know I would enjoy it a lot more than what I'm doing now. But it needs to be the right opportunity and I'm a very,

very big, big believer in, like I said, life takes you where you need to go. And maybe I needed to go through what I've been through or where I am, because I can tell you personally and professionally who I am now is also because of the work and the experience I've had so far. The fact that I can sit here so comfortably and talk to you is because of the experiences that I've had in the business world. I wouldn't trade that for anything, because I now have a bigger understanding of the world. Yes, I love the law and I love human rights, but sometimes when you sit here, you're kind of removed from what's going

on in the world. I can now talk to you about human rights, but I can talk to you about it from a realistic basis. I can tell you what's happening in business, I can tell you what's happening in the economy, I can tell you what people really, really need on the ground. And that I wouldn't have gotten if I'd stayed

on the academic path. So while I didn't...it wasn't my first choice, my life took

me there because that's where I needed to be. And I always believe in, if you're doing what you love to do, you need to do it properly and have every tool at your disposal. And what the business world has given me is a sense of realism and practicality that I wouldn't have had if I had stayed in academics, and it's something I can only say in hindsight. I may not have chosen to come to where I am, but I'm glad I have. Because it's given me an insight, it's given

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me an ability and itâ\200\231s given me a perspective that | wouldn't have gotten otherwise, and a confidence that | wouldnâ\200\231t have had. A confidence because | dealt with real people and real issues and helped them solve instead of writing papers and writing theoretical things, so thatâ\200\231s how | look at it. Or maybe | choose to look at it that way, because you always have to look at why did things turn out the way that they did? And thatâ\200\231s what | take from it.

Farzana, in terms of core issues facing South Africa, | wondered whether you have any concerns for the independence of the judiciary and the future of the Constitutional Court?

| have had issues about the future of the Constitutional Court, mostly because...and | donâ\200\231t even know whether this is the forum to say it, because iâ\200\231s...itâ\200\231s a very personal feeling that | have, and it comes from...we talk

about...| know when Zanele (Majola) and | talk about it, we talk about old school Constitutional Court and new school Constitutional Court. And this is not an indictment on the current judges on the court, because | donâ\200\231t know them well enough and | donâ\200\231t know their judgments well enough. But | know the pioneers, | know what this court was, | know what it stood for, and | knew the judgments that came out of it, and | knew the calibre of people. And | always wish that if the court could be in their hands forever, South Africa would be on such an amazing path. What worries me about the future of the court, besides the independence of the judiciary, because there have been a lot of issues, particularly in the past two or three years, where politics have kind of entered into it. But what worries me is whether the current and future judges on the Constitutional Court will have the same level of...Iâ\200\231m looking fo
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the right word...the correct level of insight, understanding, and the benefit of knowing where it is that we came from, and where weâ\200\231re going and what our objective is. | feel like the judges that | worked with were so much involved in the struggle that they know what the kind of South Africa that we are meant to be fighting for. And as much as we need to change with the times | donâ\200\231t want the current and future judges to be so blindsided by the economics and the politics of whatâ\200\231s going on now, and lose sight of the struggle and what the foundation was. And that is what worries me. Whether itâ\200\231s justifiable or not, | donâ\200\231t know, but it is a concern. | mean, the day that | heard that Judge (Arthur
r)

Chaskalson was retiring, | almost cried, because | felt like it was the changing of an era. It was...| didnâ\200\231t want this court to become the same as any other court. And | think that is what stood the CC (Constitutional Court) apart from any other court when we were a part of it. The people, the experience, the background, and the insight and the wisdom that was here. And now, especially with people...with judges coming up through the High Court system, itâ\200\231s a very different system from the Constitutional Court. The priorit
ies

are very different, the judgments are very different, the considerations are very different. Itâ\200\231s less about public interest. And this court is meant to be about public interest. So that is what worries me, is that we lose the foundation and the core, the things that came out of the judgments of Judge (Arthur) Chaskalson, and Judge (Albie) Sachs, and Judge (Kate) Oâ\200\231Regan,

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and, you know, the people that lived and breathed this. They had passion for it. And Iâ\200\231m not saying the current judges donâ\200\231t have passion for it, but | hope they will continue to have that same level, and not to be swayed by...thatâ\200\231s what | was saying earlier about not to be swayed by what the politics of the day demands. But the end of the day you are the guardian and the custodian of one of the most innovative and progressive human rightsâ\200\231 instruments the worldâ\200\231s ever seen. Donâ\200\231t denigrate that or donâ\200\231t do that a disservice by letting your judgments be clouded by what the politics demands or what the ruling party demands, or what the opposition demands. Remain objective and remain true to the core values. So in a nutshell, itâ\200\231s losing the core, thatâ\200\231s what | hope doesnâ\200\231t happen. In terms of the independence of the judiciary, | think the media need to take a lot of responsibility for that as well. | think that the media tries to play one side off against the other side, and perhaps makes the judiciary look a lot less impartial than they are. Or perhaps makes politicians look a bit more powerful than they are. So | think thereâ\200\231s a lot of different variables. But it would be absolutely tragic if the judiciary continued to play those games. Iâ\200\231m trying to do it as PC as possible (/Laughs), without getting myself into trouble.

Farzana, Iâ\200\231ve asked you a range of questions, Iâ\200\231m wondering what Iâ\200\231ve neglected to ask you which you'd like included in your oral history?

| think weâ\200\231ve covered everything, hey. | think thereâ\200\231s little that we.. Iâ\200\231m surprised at how much we managed to cover. We can leave out the part that | cried. That would be nice. No, | think...

Okay. Farzana, it was nice to meet you, thank you so much.

Thank you.

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