

Faathima Mohamed Constitutional Court Oral History Project

23th January 2012

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This is an interview with Faathima Mohamed and itâ\200\231s the 23% of January, 2012. Faathima, thank you so much for agreeing to participate in the Constitutional Court Oral History Project, we really appreciate it.

Thank you very much, Roxsana, for giving me the opportunity, and a very good morning to you too.

Thank you. | wondered if we could start at the very beginning in terms of your early childhood memories, family background, and also some of the key influences and formative experiences that may have led you down a particular trajectory?

Iâ\200\231m the eldest child in a family of four children, and my parents are still alive, which Iâ\200\231m very fortunate. My dad is an upholsterer by trade, and heâ\200\231s now retired. And my mom has been a housewife, so | think that played a very important role in our development as a family. And the challenging thing about our family history is that my father was unemployed for much of that time. And it was just, | think, a combination of many factors that actually saw us finish high school. And then | went down to study at university. But ja, as far as influences in my life are concerned | think | have to start with my parents. And after that it would have to be my granny, my momâ\200\231s mother. And then it would have been my fatherâ\200\231s eldest brother who took a keen interest in our education and our well-being. So for those early years | think that was what laid the path to where | am today.

| wondered if you could talk a bit about...you mentioned how your parents have influenced you, and your grandparents and family; | wondered what are some of the lessons that you took away from them?

Our family is a very simple family, very principled. We are practising Muslims, so religion played a very important role. And | donâ\200\231t know whether there have been great studies about how when people are impoverished and living below the breadline, whether religion actually plays more of a factor than other things. And | think in my family thatâ\200\231s exactly what happened. So we became, not intensely religious, but it was a focal point in our lives. So we would go to...past one or two oâ\200\231clock, and then go to Madressa classes in the afternoon, and then come back home, and that would be the routine from Monday to Friday. And my mother was fanatic about us going to school and also going to Madressa classes. And these things also presented their own challenges because my sister is a year younger than | am. Then my brother is

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five years younger than me, and then the last one is ten years younger than I am. So there was this sort of stepped development in our family. And as far as my first memories, I think I remember very fondly my father's mother... used to sleep with her, I remember that, that's a very special memory for me. And we actually lived with my father's parents. And my mom cared for my father's

brother. He was cripple; he had an accident. They lived in Riverside in Durban, my father's family, and there was a go-karting accident as kids, and he hurt his spine. So he was confined to bed from an early age. And he never married. So my granny used to look after him and the rest of the children went on, got married. And then my parents got married, and my mother, as the youngest daughter-in-law, took over the responsibility of caring for him.

And in terms of social injustice when you were growing up, what were your experiences and observations, not just of maybe family social injustices but also societal social injustices?

When I was growing up, apartheid was really at its height, although I think it's

not fair to say that because it was really around the eighties. And I would see things on the news, not really understand it. And at that stage I don't think I really conceptualised what apartheid truly meant. I understood that Indians did things differently and went to different places. I remember the Indian beaches very fondly. But really I think the thinking processes actually started very deep into my high school career. Because that was when we were taught to debate and challenge ideas and things like that. So I think it was for the first time then that these things started taking form and shape in my mind. And so...but quite apart from the race injustice...racial injustice, we had to endure here, I think the male and female inequality, and as a Moslem child growing up in a Moslem home, I experienced that first-hand in the sense that, I would hear very often how relatives would challenge my parents about why my sister and I were still going to school, or what benefit there would be for us going to high school, when in fact we should be getting proposed and ready for marriage. And thankfully my parents were quite progressive and liberal minded in that sense that, that kind of thinking was never accepted, so we were pushed to value education.

I also wondered, in terms of choosing the legal trajectory, at what point did you decide that you wanted to become a lawyer?

So having gone through my past about coming from this family that was really living below the breadline, what happened was that in my matric I decided that I had to, simply had to, further my studies at university, and I understood that it was going to be very difficult in terms of getting finances. We had absolutely nobody in the family who would be able to support that. And I suppose with the intervention of my teachers, guidance counsellor, and that sort of thing, I put in an application to the university. But before I did that, I looked through the various brochures, and I must admit that I actually thought physiotherapy

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was a great career path, and I stupidly read there that you have to have great big hands, and strong hands, and I thought, okay, that disqualifies me completely (/augh). But, ja, having looked through the brochure, law presented itself as an ideal path, mainly because after that four years of undergraduate study, I would have a qualification. Which meant that I could go out, get a job, and start running the family in a sense. Whereas the other choices, like a BA, which I understand intellectually would have been better for my growth and development, just in that sense that as an undergraduate having that degree, I wouldn't be guaranteed a job. Although I understand even with a BProc, I wouldn't be guaranteed a job, but somehow it was a lot further down the line of becoming employable than with just a BA. So in that sense, that was how law became the natural choice. So I didn't have any great big ideas about becoming the LA Law kind of lawyer.

In terms of where you studied and the period you studied in, I wondered whether you could talk about the types of law that you encountered and what interested you in the law?

I studied at the former University of Natal, Durban campus, and I was fortunate enough to get a bursary from a Muslim organisation. And the benefit of it was that they found a sponsor who would carry my studies for four years. So that was an incredible opportunity. And then I enrolled at the University of Natal for an undergraduate BProc degree, and that was in 1992. And I think I found in my first year it was quite an adjustment to make and there were all sorts of things that I had to become used to, because for the first time I had to get on a bus and use public transport and get to university and back, so that in itself led to its own growth and development. And then the pace at which studies were done at the university was also very different, so I had to get used to that as well. And I think the most important part of law that I liked in those early years was family law. It was very immediate and I understood a lot of the concepts very easily. So that was for me very interesting in my first few years. And then towards the latter part of my degree, I was exposed to the practical side of the law like law of evidence, civil procedure, which in itself was quite easy to follow because it was just practice and procedure and you read the rules and that kind of thing. And then I think when...I remember my first lecture in constitutional law was just mind-blowing. Professor (Karthi) Govender was my lecturer, and it was just the idea that, you know, there could be this system of law that changed everything for us in South Africa. So that was incredible, and I just took to it, really literally like a duck to water, and I thoroughly enjoyed that.

And then post your degree, what did you go on to do?

Well, post my degree, BProc, I did a post graduate LLB, also at the same university, and that was for a period of one year. And after that I enrolled for practical legal training school, which was a six months full-time study. And

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again | was fortunate...well, actually my LLB, | didnâ\200\231t even apply. But what happened is it was quite late in the year, in 1996 in BProc, when | had participated...as part of our studies we had to participate in a moot court competition. So as an undergraduate BProc student we were all put together in a professional training class with BProc and LLB students. And after the first round of assessment was done that was the mark for the course, and then the competition proceeded. And | donâ\200\231t know how, but | just proceeded along the various stages, and finally got to the stage where | won the competition.

Wow, congratulations.

Thank you very much. And then | represented the university at the All Africa Moot Court Competition together with a fellow student, and that was also a wonderful experience. So by that stage | had gone in to the deanâ\200\231s office because he had called me about the moot court competition and asking me about my future plans, and | said to him, well, Iâ\200\231m applying for articles and I â\200\231m just waiting to hear. But of course by that stage the rejection letters had already started coming in, which is quite upsetting and frustrating, because bearing in mind that my only thought of coming to the university to do that degree was to get a job and to take responsibility. So that was another challenge. And he said to me that he strongly recommended that | go on to study an LLB and sacrifice a further year. So he gave me details about the Fidelity Fund, the Attorneysâ\200\231 Fidelity Fund, and | applied for a bursary there. And they funded my studies for the whole of the LLB year. So that | was fortunate again. And even with practical legal training, by the end of my LLB year | still hadnâ\200\231t had a job. So then | enrolled for practical legal training and the Law Society of South Africa had a program in place where they funded the six months training. So again I... think throughout | have been very fortunate to be able to get that funding. And the benefit, of course, was that once | was able to enter the job market | didnâ\200\231t have unpaid student loans. And the Muslim organisation that funded my studies were sort of moving in the direction that if | did qualify | had to ensure that my parents and my family didnâ\200\231t end up in the same situation that they had been in before my studies. So all in all it's been a good fairy-tale, | think, in that sense.

And then in terms of after your practical legal training, what did you decide to do then?

| had my mind firmly set on articles. And what happened was that | finally got an interview with a small firm of attorneys in Durban. And my articles started in July that year, which was July 1998, and this was after practical legal training had finished. So that that stage, in July 1998, | had already been interviewed by Judge (Zak) Yacoob, for a position at the Constitutional Court as a legal researcher. And that happened in May that year...

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How did that come about?

Well, we were at practical legal training, and Professor (Peter) McQuoid-Mason, who was a professor at the University of Natal Law School, made an announcement in the class one morning that Justice (Zak) Yacoob had been appointed and the court was looking for law clerk applications. And the announcement was made because Judge (Zak) Yacoob had been appointed just after Justice (John) Didcott had...the vacancy created by Justice (John) Didcottâ\200\231s moving off the Bench at the Constitutional Court, so it wasnâ\200\231t in line

with the usual intake of law clerks. So we were all urged, if we had an interest, to apply. So I put together an application and sent it off to the Constitutional Court. And then sometime in May I got a phone call from Justice (Zak) Yacoobâ\200\231s PA to arrange an interview. And that took place in Durban. And I must say I was overwhelmed by the interview, and just the opportunity of meeting Justice (Zak) Yacoob was a phenomenal thing. Iâ\200\231d heard a lot about him and everybody spoke wonderfully well about him as a lawyer and as a blind person, and his achievements. So just to have been shortlisted and interviewed by him was a great opportunity I thought. So that happened in May. And I thought the interview was quite good. I learnt a lot, I think, in that short time. and then I heard nothing further from the court. And then I finished my practical legal training, I was then interviewed for a job in Durban, and then I started articles. And it was only later in September that I got a phone call asking...a phone call from the court asking what I had decided about this job? And so then I said that I hadnâ\200\231t received a letter or any notice from the court. And then the news came that the judge had actually appointed me as his law clerk from January 1999. So I was very thrilled about that. And I said, yes, of course I'll accept, and signed the forms and sent it off as soon as it came. Then the difficulty arised because...before I signed the form I had to discuss it with my principal, who I thought was very generous to give me articles at a time where everybody else was just rejecting my application. So it was a very difficult discussion, because my articles would have had to have been interrupted. And it wasnâ\200\231t a decision I took lightly, but I had set my mind

on the fact that, you know, this is the Constitutional Court, I am getting a once in a lifetime opportunity. And my principal was actually quite accommodating, and he said, that he would release me from my contract, on condition that after my period of clerkship finished at the court, that I would come back to his firm and finish up articles. So...so that was great, everything was just falling into place, and in December that year I finished articles at that firm for six months, and then in January I came to Johannesburg, which was a huge thing for me. I sorted out accommodation with relatives and then I started clerking at the court from January â\200\23199 until December â\200\23199.

What was your experience of being a law clerk during that period?

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It was an incredible experience. I must say that I approached it with the idea that it would be a year of learning, and Iâ\200\231d already committed myself to working hard and to taking away from the experience everything that I could. I must say that it was quite difficult because for the first time I was away from my parents and my family. So that was a very difficult adjustment to make. And then of course I had to learn a new city and bus routes again, and try and find a new routine in this year that was already quite filled with other stuff. And I think I was again quite fortunate because everything just fell into place. I worked out easily how to use the bus. I know it sounds incredibly lame but...itâ\200\231s just like getting into a different city for the first time, leaving home, it was a huge challenge for me.

I also wondered in terms of the dynamics with the other law clerks, what was the atmosphere like, you mentioned you approached it as one of learning, but what was the actual atmosphere like for you?

I remember the first day was filled with anxiety because youâ\200\231re just meeting people...the court was still based in Braampark then, and the welcoming ceremony was held in the foyer. So it was...it was an experience to meet people from literally different walks of life, and I must say that everybody was very warm and friendly, and the senior clerks were also quite friendly and showed us around. And, as Iâ\200\231m show you know, the court has a system of orientation, and we started that programme. And as the orientation proceeded we got to know people a lot better. And I think in that year it was...it was a great experience in terms of building human relationships. I got to know people from...people who ordinarily I would not have met. So there were law clerks that I was close to, and it was a phenomenal experience. What I especially liked were the clerk seminars, which we worked very hard to prepare for. And it was just the intellectual level and the debates that just went on in the seminar, and very often were carried over onto emails, and even after the cases were heard there were still these interactions. And even if we met over tea on a daily basis, weâ\200\231d still be talking about cases and things like that. So in that sense it was a wonderful opportunity.

Faathima, Iâ\200\231m interested...as each chamber has its own personality, and Zak Yacoobâ\200\231s chambers has a particular personality, I wondered whether you could talk about what the impression was of his chambers?

Well, I was very...this is now when I was a clerk?

Yes, absolutely.

Okay, so when I got here as a clerk, there wasnâ\200\231t too much about Judge (Zak) Yacoobâ\200\231s reputation, so it was just that he was a new judge and...so just, I suppose people just wanted to know, like my former...the senior clerk in my

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chambers, was somebody who was at university with me. She was a few years ahead of me. And she was the senior clerk. So I was happy about that because I knew of her and it was easier to form a working relationship. So that worked out quite well. So I learnt a lot from my senior clerk. But I must say at that stage there wasn't too much about the judge's reputation, but as time progressed, of course it became quite apparent that he works incredibly hard and he has a fascinating keenness for detail. And you just...no matter how much you read and how much you think you understand the issues, there's always something that he would throw at you at a meeting about a case, and you just go, wow, why didn't I think of that? So ja. So at that stage I don't think there was too much of a reputation floating around.

I also wondered, in terms of the cases that came forward during that year, what were the cases that stood out for you in terms of particular issues?

Well, there were two big cases that came through that year. The first one was the New National Party (New National Party v Government of the Republic of South Africa and Others) case, which was the one about the bar-coded IDs, and their relevance. And Judge (Zak) Yacoob was the writing judge. So that was very immediate and very relevant in terms of what was happening in the country because it impacted directly on the national elections. So I must say I felt very excited to be part of something as big as all that, and as relevant to democracy as anything could be. You know something that impacted on the national elections in that very immediate sense. So that was good; it was also the first time that my judge was writing a judgment while I was a clerk in the chambers. So it's just the level at which I was expected to interact and engage with the papers and question him. And I think that's the one thing that I appreciated a lot, is the feedback that I got from him as the judge in chambers. And I could ask anything, even on his drafts and even on memos that my co-clerk had prepared if I didn't answer. So there was a...if I didn't understand, sorry...so there was a free exchange of ideas. I'm not saying that I got anything right, it was a very difficult time in terms of intellectually grasping all the issues at a level of...at which this court does. So it was a fascinating experience. That was the first thing. And then the second case was the SARFU (President of the Republic of South Africa and Others v South African Rugby Football Union and Others) case, which was the President's appointment of a commission of inquiry. And that too was challenging because it was an area of law, which dealt with administrative law in the main. There were other issues about costs and recusal and all of that. But again it was something that was also of great magnitude because it involved the President's appointment, but more importantly there were a lot of issues in the media about the President being called as a witness in the High Court proceedings and then there were all sorts of legal challenges to that. Ja, and to actually see the Court pull all these things together, was another amazing experience.

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| also wondered, besides Judge (Zak) Yacoob and clerking for him, what were your interactions with members of that first Bench? Albie Sachs, and Kate Oâ\200\231Regan, Justice Arthur Chaskalson...?

| must say that, one of the things that | was just completely surprised about was how human the judges were. And we met a lot of the judges during the orientation programme. And once that had completed, the judges that we hadnâ\200\231t met, we actually had to go and meet in chambers. And when | talk about the judges being human, it was the level at which they interacted with us as clerks. And | remember them just saying to us that they donâ\200\231t sit in ivory towers and dispense justice, itâ\200\231s about really being part of the process. And that really came through. Even if you saw a judge in the passage, and | remember that they took the time to ask how we were, so that was quite nice.

| also wondered, in terms of the way in which judges worked, did you find that very different from, for example, having done articles and not had any other experience, | wondered whether you found that interesting, like the way they conferenced and spoke about judgments, and whether there was a similar opportunity to do that with Judge (Zak) Yacoob?

| think it was a different experience, because Judge (Zak) Yacoobâ\200\231s chambers operated on the basis that we could comment on memos received from other judges, and we could go to our judge with our comments. And very often he would, in our meetings, because he has a system of meeting his clerks before a case, or if heâ\200\231s writing a judgment then obviously the meetings become more frequent and then he directs research on certain points. And this is quite apart from the other research that we would be expected to do in terms of case preparation. But ja, | think it was different in that sense. | donâ\200\231t think that all clerks had that benefit of that kind of free exchange of ideas. So it was a different experience. | must say that | felt oddly more comfortable engaging with judgesâ\200\231 memos than | did when my principal sent me something. | felt that here there was the space to say to my judge at that stage that | donâ\200\231t understand Judge X is saying this, when in fact the papers say that. And then he would actually say what Iâ\200\231d missed in that process. Whereas in a law firm, there isnâ\200\231t that space. Youâ\200\231re just expected to know everything and to know the right answers and just to run with matters. But here thereâ\200\231s more space to think and ask questions and that was a great learning experience.

| also wondered, Faathima, in terms of working with someone who is blind, | wondered what your experiences were and what were some of the initial difficulties and challenges that you had to overcome?

| must say, Roxsana, that | never felt any challenges. | think that I...it didnâ\200\231t even occur to me that it would be very different. For me just the experience of being at the court and the opportunity to work here was something that |

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actually valued. So Judge (Zak) Yacoob's blindness, I didn't even think of it as

anything different. And once I met him in my interview, in May 1998, you know, he just came across as a normal person because there wasn't anything that he did or said that made him different, or...ja. So when I got here as a clerk, there were things that were slightly different, in the sense that I became used to the idea of seeing him read Braille, which was a fascinating thing. But the other thing was that how he was able to just internalise so many things so quickly, and he has a fascinating memory for detail. So I remember that he would...you know, obviously in his case preparations, when I was a law clerk I wasn't really involved as a hands-on, in his case preparation. But I remember that we were in court in the New National Party (New National Party v Government of the Republic of South Africa and Others) case and counsel had made some submission. And Judge (Zak) Yacoob just said to him, but then how does that affect a concession that was already...sorry, not a concession, but an argument made in the affidavit, in terms of evidence presented in the affidavit and how that concession now made it the hearing would affect that. So it was something that, you know, it just got my attention, like, how does he remember these things? So as a law clerk it's definitely...I didn't find anything different, but I was just fascinated about how he remembered things and how prepared he was.

As you said, he was new at the time that you clerked for him, but he has a reputation, having interviewed other people, for working extremely hard but also being very warm and generous.

Yes.

And I wondered whether you'd experienced that as a law clerk particularly?

Yes, I did. I did. He had this way in chambers of involving everybody. It wasn't

something that...there's no hierarchy in his chambers, so everybody has worth and has a contribution to make, and no matter what it is, he'll listen. And

if he disagrees he will say so and if he accepts, then he accepts, but he's not somebody who will come across as babysitting you in chambers. You've got to carry your own weight. And if he has a particular view and your view is different to his, as a clerk I found that he didn't just impose his views on us

. We were free to ask him questions and if we were wrong, and if we had made mistakes perhaps in not reading the papers properly, or forgetting a detail in an affidavit, then we had to accept that. So there was this healthy respect, if I can call it that.

After that year, what did you go on to do?

I returned to Durban. I was quite happy to be back with family, and I returned to the law firm at which I had started my articles. Ja, so then I just got involved

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in articles for the rest of that year. And then I finished articles and I went on to be admitted as an attorney and I think I finally left the law firm in January 2001, at the end of January 2001.

And then how did you then come to work again for (Justice) Zak Yacoob?

What happened was, in that time, while I was back in Durban, I still kept in touch with the judge and his chambers. And he mentioned towards the latter end of that year that his PA's contract was coming to an end. And I was at the stage, in terms of my own development, where I was questioning what the future held in store for me as a practitioner. And there were lots of ideas floating around in my head, because I mean, I had just finished a year here, at the court, and I'd just finished articles just after that. And there were all sorts of questions arising about which direction my career should take. And I remember discussing it with Judge (Zak) Yacoob about whether he would consider my application to serve as his PA. And I remember that he wasn't keen initially, and he said to me that he didn't think I could benefit from that process, because the lawyer in me really needed to go on to do other things and not be his PA. And I think I'd set my mind on it because I was...I just refused to accept that all I could take out of the experience was just a year clerking at the court. And I thought, being his PA would give me invaluable experience as a practitioner in the years to come. And I think...I'm not sure if I said it to him directly but I had the view that once admitted, I could always go back to practice because the qualification is there. And I just thought that if the opportunity presents itself, and I can make a contribution I obviously I'd have to do the work, but if I can make a contribution and remain involved in the work of the court, then I would welcome that. So that was how I got appointed as his PA, and I started work 1 February, 2001, as his professional assistant.

I also wondered...so 2001...so coming in as the PA, how did you make that adjustment, having been a law clerk, having had a law background and then having to adjust to being a PA?

Well, I must start off by saying, that being Justice (Zak) Yacoob's PA is very different from being, if I may use the term, a regular PA, to a judge at the court. Because of Judge (Zak) Yacoob's blindness there were certain things that I had to do. So for example, one of my duties would be to drive him to and from work, to drive him to out of office meetings, and that sort of thing. So there were a lot of other responsibilities and I think it was only truly once I had become his PA that the distinction you asked me about earlier, about how his blindness affected my work, once I'd become his PA, that became more relevant. Because literally then I was his eyes. And so, when I took the job I had to accept that, and I had to accept that a key part of the job was that it had to be flexible. There was nothing written in stone about what my duties were. It could not be an eight to four job. And then there were a whole range of duties that I had to fulfil which I hadn't done as a PA...sorry, as a law

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clerk...and primarily that was Brailling. And that opened up a whole new area for me because it meant a lot of work in terms of understanding Braille software, understanding the actual Brailling process, putting together a document for him, and putting it together in a form that was accessible to him. So that...I must say some of that training I got when I was a law clerk, because his PA would sometimes send something to the printer and ask us clerks to take it out and put it together for the judge. So that kind of basic training I got when I was a law clerk. But I didn't do too much of it. Then when I became his PA, Brailling became a core component of my job. And it was something I had to understand from start to finish, because I was the only person in the building literally, who could do it. And I must say, Judge (Zak) Yacoob wasn't impatient in the sense that if there was a problem with the software or something like that, he would take time to explain it to me. But of course there wasn't space to explain too much because I had to just get on with it. Because of the urgency with everything that presents itself in this court. So that was something that I had to learn, and learn quickly. The other thing I had to learn was, how to access electronic copies and make them available for him, either in electronic format, or in Braille format. And thankfully with the support of our IT (Information Technology) department here, that went off quite well. And that also meant that I had to develop my skills in terms of sourcing things. Like for example, in those days we needed...well, we still do, High Court judgments, or judgments from the Supreme Court of Appeal. But thankfully now with technology having grown and data bases having grown, and it's more...it's accessible in almost no time. But in those days SA FLII (Southern African Legal Information Institute) didn't exist. So we had to look elsewhere, or I had to look elsewhere on the net and try and find those judgments. And if I couldn't do it, then the registrar staff would get involved, so ja, so from...that too was another area in which I...was new to me in another way.

I also wondered, in terms of being his PA, what your experience has been over the years, you've now worked for him for eleven years, is that correct?

Yes, end of the month will be eleven years.

It's a long time. I wondered what your experience has been about managing the chamber with the different law clerks that come in, and really creating a sense of a work ethos that really kind of has garnered you that reputation of being the hardest worker.

(laughs) Thank you very much. I think it's a phenomenal responsibility. But like I said earlier, Judge (Zak) Yacoob doesn't work on the basis that there's any hierarchy in chambers. And he runs his chambers on the basis that each person plays an important role. And so everybody has to carry their weight. So the clerks are told from day one, that everybody works together as a team. He has an open door policy in terms of being accessible and available to

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discuss issues. Whether it is of case related or chambers related, and that seems to have worked very well.

| also wondered, you mentioned that your duties are different from other PAs in that sense that you do take on additional responsibilities, and | wondered what tensions that may create or challenges for you, in having to manage yourself, your work, as well as having to do extra duties for the judge?

Well, actually | think...if | have to think about it consciously then | can draw that distinction between whatâ\200\231s extra and whatâ\200\231s not. But usually on a normal working day | donâ\200\231t draw that distinction, | just do what needs to be done. So for example, | would say my typical day would start with driving the judge to work. And then once he goes off to conference, well obviously, then Iâ\200\231ve got to prepare his documents for conference. And then thereâ\200\231s other things that | do, quite apart from usual secretarial stuff. So | would do Braille as you know, then Iâ\200\231ve got to have a case management diary. Iâ\200\231ve got to keep track of dates on which argument is due to be filed, and once that is filed then | Braille it. And thereâ\200\231s also a level of priority that becomes important in managing those kinds of things. And then thereâ\200\231s of course the judgeâ\200\231s diary, in terms of non-court related stuff. And Judge (Zak) Yacoob, as you know, plays a leading role in many blindness welfare...sorry, in most blindness welfare work, and he takes that very seriously and heâ\200\231s deeply committed to that. So thatâ\200\231s also an extra thing. And then thereâ\200\231s also the usual travel and accommodation things that have to be done when he has to attend meetings. But apart from that | think the other component of my job, which | truly enjoy, is that the lawyer in me is still developing, and thatâ\200\231s great. Because Iâ\200\231m still given the space to read papers, and in addition to the clerks, to make input on cases and new applications, and comment on draft judgments and those sorts of things.

So you really have kept your foot in the law, so to speak.

Yes.

And have you noticed differences from the time you started as a law clerk to now in terms of the range of judgments that have come, the types of judgments and how theyâ\200\231re written, etc, have you noticed a steady difference?

| think the volume of work has increased. Thatâ\200\231s for sure. And | think the court is slowly...is slowly...maybe slowly is the wrong word. | think the court is now becoming more established in terms of the jurisprudence. And in those early years when | was a clerk, it had just been newly formed, there was still...well, | suppose there still is, it's always a new area of law when an argument or when a case comes before this court. But | think quite apart from the physical changes that have happened, like for example, in those years the court was housed in Braampark, occupying, | think, just three floors of office space, and

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now we have this fantastic building, and a very elaborate and established legal database of judgments. | think there has been a growth and | think that ties in with how the jurisprudence has developed over the years.

| also wondered, in terms of the fact that your job is going to come to an end now that the judge is retiring...

Yes.

And what your plans would be in terms of...would you stay on at the court or would you go into the legal field? What are your plans?

| must say that | have been very fortunate as far as my career is concerned. Iâ\200\231ve never really taken any firm decisions about which way Iâ\200\231d go. So as you see, somehow good things have happened. And | think, if | think about Judge Yacoobâ\200\231s retirement now, at this stage | feel as if | would then want to go back and practise law. | think the training and the benefits that Iâ\200\231ve had from being at the Court, means that | can now go back to practice. So | think that for now is where | am. That | would go back to Durban, because Durban still remains my home, and Iâ\200\231d want to go back and practise as a lawyer there.

Faathima, in terms of...you mentioned that youâ\200\231ve benefited from being at the Court, | wondered whether if you could distil that?

Sure.

What are some of the lessons youâ\200\231ve taken away from working at the Constitutional Court, and how do you think the range of arguments and judgments that have come through, have in some ways sort of developed you as a lawyer?

| think itâ\200\231s been highly beneficial. Itâ\200\231s an opportunity that is really priceless. | know these sound like clichÃ@s but they really are...they really describe what | feel. | remember when | was a clerk here, towards September/October that year, we were asked to fill in a questionnaire about how the experience had been at that stage, from the time weâ\200\231d started. And when | did that assessment, | had to accept at that stage that one of the key things for me was the level at which | could read cases, just in that short space of time. | mean, | could read a judgment and understand where to look, and how to rationalise the judges or the courtâ\200\231s reasoning. And Iâ\200\231m not just talking about a Constitutional Court judgment, Iâ\200\231m also talking about an earlier courtâ\200\231s judgment. So that had happened already when | was a law clerk. But | think now with my work being more hands-on, in terms of the work that | do as

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Judge (Zak) Yacoobâ\200\231s PA, as far as studying legal papers, | think itâ\200\231s an amazing process, because | really see a matter progress from the dates lodged until judgment is issued. And in that process, the thing that Iâ\200\231ve learnt the most is understanding how issues remain relevant for adjudication. | think the fact that this court sits as an Appeal Court, obviously it means thereâ\200\231s a lot of reading involved, in terms of understanding how the case has developed before the previous courts and how there remain still issues like for adjudication in this court. So | think initially when | was a law clerk, it was just too much of information. | didnâ\200\231t understand how the issues were no longer relevant to the appeal. And now | can understand, having looked at a record, and then looking at the papers here and looking at the written argument here, how some issues no longer present themselves for adjudication, but others do. And itâ\200\231s easier then to go back, once you read the papers that are lodged in this Court, to go back and see how the evidence was led in relation to these issues. And | think that for me has been a core component of my development.

Some would say to you...Iâ\200\231m sure when you go off into the legal world, many people will say that it was a curious choice, having gone through a legal degree, having done articles, and also having been a law clerk at the Constitutional Court, that you chose to be a PA for Justice (Zak) Yacoob. | wondered how you would explain it?

Well, | know it looks curious, but | think that it...itâ\200\231s given me a wonderful opportunity, because firstly as a young lawyer, as a young woman lawyer, itâ\200\231s given me an opportunity to be involved in a small way, in the very important work that this court does in relation towards developing and entrenching our democracy. So that remains a very useful thing for me, and | think that itâ\200\231s a matter of national pride for me, that Iâ\200\231m actually involved in that. Itâ\200\231s not so much the glamour of being at the Constitutional Court, because itâ\200\231s a lot of hard work. It takes a lot of commitment. So | think that being part of that process and doing things that makes our democracy work, is a fascinating experience, and Iâ\200\231ve been privileged enough and given the opportunity for eleven years now to be part of that process. So | think that has been something | canâ\200\231t really describe. And | donâ\200\231t think itâ\200\231s really something that has prejudiced my career, | think it can only be beneficial. And thereâ\200\231s lots of skills that Iâ\200\231ve picked up, like | say, case reading, analysing papers. But quite apart from all of that, | think just being part of this process, and now Iâ\200\231m getting back to the type of people that | work with, and obviously interaction with the judges and with all the staff members here, quite apart from the law clerks, | think we have developed over the years a sort of a family environment. We truly come to see each other on a daily basis and everybody here becomes part of that extended family. And if | think about the time that | leave here | would actually...Iâ\200\231d be very sad to see that | would no longer be part of this environment. Really, | mean, everybody takes their job seriously, and the nice thing about it is, we can interact as colleagues, as professionals, and there can be a day when | could go to admin and say, you know, Iâ\200\231m

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sorry, but I need this. And really, the kind of collegiality that's present at that level is amazing. Because everybody understands that it's really a team effort. So I wouldn't be able, for example, I wouldn't be able to Braille something if I didn't have Braille paper. And although our procurement office has particular hours at which they would dispense stationery or provisions, if I sent a request through at one o'clock, or even at ten past one, they would still accept it from me, and they would not only accept it, they'd process it and make the thing available. So it's that kind of commitment and dedication to the work. So that really helps me. So when people say I'm hardworking, it actually means that I'm part of a team that works hard as well. So it's not really an individual effort.

Faathima, based on what you've just said, I wondered whether you have any concerns and fears for the future of the Constitution, and the Constitutional Court?

Absolutely not. I think that we have a vibrant democracy. I think the Constitution is worth a lot. And I don't think that its actually...it's place can be underestimated and I think it is claiming its rightful space, and I think it will take a lot for it to lose that.

Faathima, I've asked you a range of questions, is there something I've neglected to ask you that you'd like included in your oral history?

I can't think of anything.

Thank you so much, it's been a pleasure to meet you and I've really appreciated the opportunity of interviewing you.

Thank you very much, Roxsana.

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