

CURRICULUM VITAE

DR. ZIYAD MOTALA

Howard Law School
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CURRENT EMPLOYMENT

Professor of Law and Director Howard Comparative and International Law Program in South Africa, Howard University School of Law 2900 Van Ness St. N.W., Washington D.C. 20008. Tel: (202) 806-8044. Fax: (202) 806-8428. E-Mail: zmotala@law.howard.edu

Primary interests: Constitutional Law, International Law, Comparative Law, Comparative Constitutional Law, International Human Rights, International Business Transactions, Comparative African Government and Administration

EDUCATION

NORTHWESTERN UNIVERSITY SCHOOL OF LAW Chicago, Illinois
Doctorate Degree in Law (S.J.D.) (1991)

Honors:

-Recipient of scholarship from Northwestern University

Masters Degree in Law (LL.M.) - August, 1987

Honors:

-Recipient of full tuition scholarship from
Northwestern University

-Recipient of scholarship from Institute of
International Education (full monthly stipend and air fare from South
Africa)

-Placed on the Dean's List

UNIVERSITY OF NATAL SCHOOL OF LAW Durban, South Africa

Bachelor of Laws (LL.B.)-November, 1985

Honors:

- Winner of 1985 University of Natal **Moot Court Finals**
- Recipient of Butterworths Award for outstanding performance in Moot Court Finals**

Bachelor of Arts (B.A.) with majors in Economics and Industrial Psychology -
November, 1983

WORK EXPERIENCE

- | | |
|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| August 1996-
July 2002 | Professor of Law, And Director Graduate Studies Program and Director Comparative and International Law Program in South Africa, Howard University School of Law |
| August 1994-
August 1996 | Associate Professor of Law, Howard University School of Law, Washington D.C. Director Howard South Africa Program |
| August 1993-
July 1994 | Visiting Associate Professor of Law, Howard University School of Law Washington D.C. |
| July 1992-
July 1993 | Visiting Assistant Professor of Law, Howard University School of Law Washington D.C. |
| July 1990-
June 1992 | Visiting Asst. Professor of Law, Chicago Kent College of Law, 565 W. Adams Street Chicago, Il. 60661 |
| July 1989-
June 1990 | Adjunct Professor of Law, Northwestern University School of Law, 357 E. Chicago Ave. Chicago, Il. 60611 |
| January 1987-
Dec.1988 | Northwestern University Law School, Chicago IL. Research/Assistant - Comparative Law to Professor L. I. Rubinowitz |
| January 1986-
July 1986 | Worked for law firm, De Villiers, Evans & Petit (doing articles of clerkship) -Durban, South Africa |
| Feb. 1985-
Nov. 1985 | Worked as part of student training at the Legal Resources Center , Durban, South Africa |

PUBLICATIONS:

Published Books

CONSTITUTIONAL OPTIONS FOR A DEMOCRATIC SOUTH AFRICA: A COMPARATIVE PERSPECTIVE (Howard University Press 1994).

THE PROTECTION OF HUMAN RIGHTS IN AFRICAN CRIMINAL PROCEEDINGS (1995 Z. Motala with M.C. Bassiouni eds., Martinis Nijhoff and Kluwer Publishers).

CONSTITUTIONAL LAW ANALYSIS AND CASES (with M. Cyril Ramaphosa) Oxford University Press, 2002)

Published Articles:

Human Rights in Africa: A Cultural, Ideological and Legal Examination. (12) Hastings Int'l & Comp L. Rev. 373 (1989)

An Evaluation of the Constitutions and Influence of Soviet Constitutional Law on Afro-Marxist Countries: Has it Provided a Viable Model of Government for African Countries. (19) Cap. U.L. Rev. 187 (1990).

South Africa's Constitutional Options: A Critical Examination of the Plural Paradigm in KNOWLEDGE AND POWER IN SOUTH AFRICA: CRITICAL PERSPECTIVES ACROSS THE DISCIPLINES (J. Jansen editor, 1992).

The Jurisprudence of Constitutional Law, The Philosophical Origins and Differences Between The Western Liberal And Soviet Communist State Law. (8) Dickinson Journal of International Law 225 (1990).

The Record of Federal Constitutions in Africa: Some Lessons For A Post-Apartheid South Africa. (7) ARIZ. J. INT'L & COMP. L 225 (1990).

Independence of the Judiciary, Prospects and Limitations of Judicial

Review in Terms of The United States Model in a New South African Order: Towards an Alternative Judicial Structure Based on the Continental Models. 55 Albany Law Review 367 (1991).

Above article reprinted in 24 Comparative and International Law Journal of Southern Africa (1991).

South Africa's Constitutional Options in Comparative Perspective: Towards a Responsive and Democratic Constitution 2 Journal of International Law and Practice 253 (1993)

Socio-Economic Rights, Federalism And The Courts: Comparative Lessons For South Africa 112(1) South African Law Journal 61 (1995).

Self-Defense in International Law, The United Nations, And The Bosnian Conflict 57 Pittsburgh Law Review 1 (1995)

Towards an Appropriate Understanding of Separation of Powers, And Accountability of The Executive And Public Service Under The New South African Order 112(3) South African Law Journal 503 (1995)

The Promotion of National Unity and Reconciliation Act, The Constitution And International Law XXVIII Comparative and International Law Journal of Southern Africa 338 (1995)

Legal Education in South Africa, Moving Beyond the Couch Potato Model Towards a Lawyering Skills Approach 113 South African Law Journal, 695 (1996)

The Constitutional Court's Approach to International Law and its Method of Interpretation in the "Amnesty Decision": Intellectual Honesty or Political Expediency 21 South African Year Book of International Law, (1996).

The Right to Fair in South Africa Under the Interim Constitution (in The Right To A Fair Trial (Springer-Verlag Berlin. D. Weissbrodt and R. Wolfrum eds. 1997)

Under International Law, Does The New Order in South Africa Assume The Obligations And Responsibilities of The Apartheid Order: An Argument For Realism Over Formalism 30 Comparative and International Law Journal of Southern Africa 288 (1997)

The Constitution is Not Anything The Court Wants it to be: The

Mhlongu Decision And The Need For Disciplining Rules 115 South African Law Journal, 141 (1998)

Africa Isolation or Marginalization, Proceedings of the American Society of International Law Annual Meeting, 2000

Judicial Accountability and Court Performance Standards: Managing Court Delay XXXIV Comparative and International Law Journal of Southern Africa 172 July 2001

The First Amendment and Hate Speech: An Illustration of Why the United States Supreme Court's Approach Represents an Anomaly, 46(3) Howard Law Journal 507 (2003)

The Draft Bill on the Recognition of Muslim Marriages: An Unwise, Improvident and Questionable Constitutional Exercise Comparative and International Law Journal of Southern Africa Vol 37. 327 (2004).

Recognition of Arbitration and Mediation as an Alternative Paradigm for the Recognition of Faith Based Personal Law: Muslim Personal Law (Self Published 2007)

The Use of the Truth Commission in South Africa as an Alternative Dispute Resolution Mechanism Versus the International Law Obligations (45) Santa Clara Law Review 913 (2005)

Constitution Making in Divided Societies and Legitimacy (15) Temple Political and Civil Rights Law Review 2005

Constitution Making in Divided Societies and Equality: Reflections on the Israeli-Palestinian and South African Experiences Howard Law Journal 50(3) 471 2007.

Separation of powers and the relationship between the prosecution service and the executive published in: Legalbrief Today, March 18, 2010

Judicial Independence and accountability published in: Legalbrief Today, June 19, 2012.

Free Trade, the Washington Consensus, and bilateral investment treaties the South African journey: A rethink on the rules on the rules on foreign investment by developing countries 6 (1) American

WORKS IN PROGRESS

International law and human empowerment: Moving beyond a paradigm of subordination (forthcoming 2016-2017)

Constitutional Law Analyses and Cases (work in progress - update to book published by Oxford University Press in 2001)

Freedom of religion, a comparative perspective from the United States, the European Court of Human Rights and South Africa (article in progress)

Comparative Constitutional Law (work in progress - an exploration of separation of powers, judicial review, freedom of speech, religion and equality in a select number of countries)

OP-ED PUBLICAIONS

1. *Judgment in the Hlope matter and independence of the Judiciary***

Published as:

- i. *Judge selection is not state meddling The JSC and the president must be sensitive to issues of public trust and confidence, Cape Argus (South Africa) p.13, July 1, 2009 Wednesday, E1 Edition*
- ii. *Daily News (South Africa) p.15, July 2, 2009 Thursday, E1 Edition*
- iii. *The Star (South Africa) p.15, July 3, 2009 Friday, E1 Edition*
- iv. *Humpty Dumpty assertion amounts to colonial mindset, Pretoria News (South Africa) p.13, July 3, 2009 Friday, E1 Edition*

2. *"Judge Kriegler flying on wax wings"*

Published as:

- i. *Judge Kriegler is flying on wax wings; He and other liberals claim they know best what the constitution means*, Cape Argus (South Africa) p.25, September 12, 2009 Saturday, E1 Edition

3. *Asmal's intellectual honesty on granting amnesty is the question*

Published in:

- i. The Sunday Independent (South Africa) p.14 January 24, 2010, E1 Edition

4. *The Relationship Between the NDPP and the Executive: Let's Move Beyond Hyperbole and Distortion***

Published as:

Many ways to separate powers; It is possible to disagree on policies and jurisprudence without racial animus, The Sunday Independent (South Africa) p.15, February 14, 2010, E1 Edition

5. *Someone needs to inform Fred Khumalo and the Sunday Times that Journalists are also bound by the Constitution*

Published as:

- i. *Dignity should be protected* Sunday Times (South Africa) OPINION & EDITORIAL, November 7, 2010, Review Edition

6. *The Hajj and the Apartheid Train: Where Is the Muslim Outrage?*

Published as:

- i. *The Hajj and the Apartheid Train: Where Is the Muslim Outrage?* Huffington Post, December 10, 2010, 11:09 pm EST. Updated: May 25, 2011, 6:20 pm EDT

7. *Religion and the State, the Case Against the Muslim Personal Law Bill***

Published as:

- i. *Beware state hand in issues of belief; Bill on Muslim personal law endangers the most*

sensitive of rights, Cape Argus (South Africa)
p.17, February 05, 2011 Saturday, E1 Edition

8. *Is There a Right to Publish Destructive Messages*

Published as:

- i. *Is there a right to publish regardless?*
- i. Sunday Tribune (South Africa) May 30, 2010, E1 Edition

9. *The Cape Bar Council Versus the Judicial Services Commission*

Published as:

- i. *Thin Line between law, politics*, Cape Argus, October, 2011
- ii. *Cape Bar seeking to cling to privilege*, Legalbrief Today, November 26, 2011, Category: General Issue No: 2934

10. *Glenister: A Low Water Mark in Our Constitution Jurisprudence*

Published as:

- i. *Divination through a strange lens* Sunday Times (South Africa) OPINION & EDITORIAL, March 27, 2011 Sunday, Sport Edition

11. *Judge Mogoeng: The double standards of some of his detractors***

Published in:

- i. Weekend Argus, September 11, 2014
- ii. Legalbrief Today, Monday September 12, 2011

12. *The bifurcated legal profession, an archaic and elite based system not compatible with our new constitutional ethos*

Published in:

- i. Weekend Argus, 20 November, 2011
- ii. Legalbrief Today, November 22, 2011

13. SCA: beware politics masquerading as law

Published in:

- i. Sunday Times (South Africa), December 11, 2011 Sunday, Sport Edition

14. When a court Makes Politics law

Published as:

- i. *When a court turns politics into law* The Witness Blog, December 19, 2011
- ii. *When a court turns politics into law* Legalbrief Today, Sunday December 11, 2011, General Issue No: 2944

15. Archbishop Rowland's Comments Why are Muslims not Worthy of Equal Protection

Published in: Muslim Views

16. Religion and the State, the Case Against the Muslim Personal Law Bill

Published in: Muslim Views

17. Criticism of court decisions is part of democracy

Published as:

- i. *Taking on judiciary doesn't mean separation of powers threatened*, Argus Weekend (South Africa), February 05, 2012, E1 Edition
- ii. *Criticism of court decisions is part of democracy*, Sunday Tribune (South Africa) p.35, February 05, 2012
- iii. *Of judges and inversion of truth*, The Sunday Independent (South Africa) p.18, February 05, 2012
- iv. No Headline, Pretoria News Weekend (South Africa), February 04, 2012, E1 Edition

- v. *Criticism of the judiciary doesn't undermine democracy...*, Legalbrief Today, Monday February 6, 2012, General Issue No: 2968

18. *Discussion document on the transformation of the judicial system***

Published as:

- i. *Discussion document on the transformation of the judicial system* Weekend Argus March 4, 2012
- ii. Legalbrief Today, Monday March 5, 2012, General Issue No: 2988

19. *The SCA's journey on another political field trip***

Published as:

- i. Ruling involving Zuma ignores international democratic practice, Sunday Tribune (South Africa) p.35, March 25, 2012, E1 Edition
- ii. *Ruling involving Zuma ignores international democratic practice.* Argus Weekend (South Africa) p.21, March 25, 2012, E1 Edition
- iii. *SCA ruling another political field trip* Legal Brief Today, March 26, 2012, General Issue No: 3002

20. *Questioning the Judges*

Published as:

- i. *Judgments are open to debate; Constitutional interpretation often involves intersection of law and politics:*
- i. Daily News (South Africa) p.16, April 19, 2012 Thursday, E1 Edition
- ii. Legalbrief 17 April, 2012

21. *Free speech: our constitution is not rugged individualism*

Published as:

- i. *Free speech and rugged individualism; The concept of ubuntu has been ignored in the*

fevered debate, Cape Argus (South Africa),
May 26, 2012, E1 Edition

- ii. *Free speech and rugged individualism*
Legalbrief Today, Monday 28 May 2012
- iii. *Legal tightrope of rights*, Sunday Tribune
(South Africa) p.39, May 27, 2012, E1 Edition

22. *The Legal Practice Bill***

Published as:

- i. *No Headline in Original* The Sunday
Independent (South Africa) p.16, July 15, 2012,
E1 Edition
- ii. *Legal Practice Bill - too long in the making*
Legalbrief Today, Sunday 15 July 2012,
General Issue No: 3078

23. *SCA validates private discrimination*

Published in:

- i. Sunday Times (South Africa), October 7, 2012
Sunday, Sport Edition *Race-based bursary
belongs in the past*
- ii. Legalbrief Today, Monday October 8, 2012,
General Issue No: 3136

24. *Lonmin and economic betrayal*

Published in:

- i. The Sunday Independent “The Absurdity of our
Inequality” September 2, 2012
- ii. Legalbrief Today, Sunday September 2, 2012,
General Issue No: 3112
- iii. Sunday Tribune (South Africa), September 02,
2012, E1 Edition

25. *Judicial nominations and the JSC***

Published as:

- i. *Harms cannot be the arbiter of what is right for democracy* The Sunday Independent (South Africa) p.17, November 18, 2012, E1 Edition
- ii. *No Headline In Original Argus Weekend* (South Africa) p.25, November 18, 2012, E1 Edition
- iii. *Judicial nominations and the JSC* Legal Brief Today, Monday November 19, 2012

26. The JSC confronted by minority rule in different guise

Published as:

- i. *Judge Harms may have crossed line* Sunday Times (South Africa) OPINION & EDITORIAL, November 25, 2012, Express Main Edition
- ii. *Minorities attempting to rule the JSC* Legalbrief Today, Monday November 26, 2012,

27. Gauntlett: Legal Formalism and Conservative Jurisprudence

Published as:

- i. *Legalbrief Today*, Monday December 3, 2012, General Issue No: 3176

28. The Gauntlett Saga Revisited

Published as:

- i. *“Perpetuating the privilege of a legal elite”* The Independent March 3 2013
- ii. *Legalbrief Today*, March 3, 2013

29. The legal profession and discontent separating fact from fiction

Published as:

- i. *Bar still untransformed 19 years on* The Sunday Independent (South Africa), April 21, 2013, E1 Edition
- ii. *The legal profession and discontent: separating*

fact from fiction Legalbrief Today, Sunday
April 21, 2013, Practice Issue No: 3258

30. *Criticize but don't dehumanize*

Published as:

- i. *Criticize but don't dehumanize.* Legalbrief Today, Monday June 10, 2013, Practice Issue No: 3292
- ii. *Old-world ideologies rule* Argus Weekend (South Africa) p.16, June 09, 2013, E1 Edition

31. *When conservative ideologues burn with anger***

Published as:

- i. *Criticism of chief justice is hysterical* Sunday Tribune (South Africa) p.22, July 21, 2013, E1 Edition
- ii. Sunday Independent Our Chief Justice Speaks the Truth July 21, 2013 p.16, July 21, 2013, E1 Edition
- iii. *The Chuckles and distortions of a pathological elite* Legalbrief Today, Monday 22, July 2013, General Issue No: 3321
- iv. *Chief Justice is target of |those who once had it all; Criticism does not match facts of appointments, writes Ziyad Motala* Cape Argus (South Africa) p.15, July 23, 2013 Tuesday, E1 Edition

32. *When Conservative ideologues burn with anger***

Published as:

- i. *When Merit Means 'racism'* City Press 12 August 2013
- ii. Legalbrief Today, Monday 5, August 2013, General Issue No: 3331

33. *Anecdotal bits on certain media coverage of Chief Justice Mogoeng Mogoeng and Paul Hofmann: A call for more critical analyses of media coverage*

Published in:

- i. Politicsweb on 20 November 2013. Cited as <http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71619?oid=460491&sn=Detail>

34. *When Judges judge on whims or misapplication of law***

Published as:

- i. *Zim human rights ruling goes too far* Mail and Guardian, December 6, 2013
- ii. *When judges judge on whims or misapplication of law* Legalbrief Today, Friday December 6, 2013.

35. *Here we go again: a narrative with more smoke and mirrors on judicial appointments***

Published as:

- i. *Enlarge JSC to give more people a voice* Sunday Tribune (South Africa) p.33, February 16, 2014, E1 Edition
- ii. *Selecting judges is not a technical exercise* The Sunday Independent (South Africa) p.16, February 23, 2014, E1 Edition
- iii. *More smoke and mirrors on judicial appointments* Legalbrief Today, Monday February 17, 2014, General Issue No: 3454

36. *Response to Sergent***

Published as:

- i. *When anonymous, it's easy to stand for everything and nothing* Mail & Guardian, February 21, 2014

37. *When our Judiciary becomes obtuse, irreverent and misinformed***

Published as:

- i. *A fair call that the judiciary be accountable for performance* Argus Weekend (South Africa), February 23, 2014, E1 Edition
- ii. *When our judiciary becomes obtuse, irreverent and misinformed* Legalbrief Today, Monday 24 February 2014, General Issue No: 3459

38. *A Cynical View of Democracy: Moseneke Get's it wrong*

Published in:

- i. Mail and Guardian Friday 28 November 2014 as "Out of tune with worlds democracies"
- ii. Legalbrief 1 December 2014. Issue No: 3651

39. *UCT's Revised Admission Policy*

Published in:

- i. Cape Times, Thursday 26 March, 2015
- ii. Weekend Argus Sunday March 29, 2015 "UCT protects white privilege"
- iii. Sunday Tribune March 29, 2015 "UCT's policy does not fit with international practice"
- iv. Legalbrief 30 March 2015 "UCT admissions policy a lesson in deceit"

40. *A Tale of Two Leaders: The Contrasting Messages of Pope Francis and King Salman.* Patheos October 1, 2015.
<http://www.patheos.com/blogs/altmuslim/2015/10/a-tale-of-two-leaders-the-contrasting-messages-of-pope-francis-and-king-salman/>

41. *Brexit, the election of Donald Trump and state capture in South Africa: An opportunity for reflection*

Published in:

- i. The Sunday Independent November 20, 2016 "State of capture nothing new to South Africa"
- ii. Weekend Argus November 20, 2016 "Trade Policies Failed the Poor"
- iii. Legalbrief 21 November 2016

SELECTIVE PUBLIC ADDRESSES AND PROJECTS

I have spoken at many meetings and symposiums on various topics pertaining to human rights, comparative law, international law and South Africa. Following is merely a sample of a meetings, appearances and projects I have worked on or am currently working on.

Delivered a paper at the AALS Convention in San Antonio in January 1992 on Forum on "Ending Apartheid in South Africa: Shaping a New Constitution".

Delivered a paper at the World Jurist Association Biennial Conference on the Law of the World held in Barcelona Spain in October 1991 on "Constitution Making In Africa".

Served as the coordinator of a one week seminar on the Protection of Human Rights in Africa conducted by the International Institute of Higher Studies in Criminal Sciences Conference in Conjunction with the United Nations Crime Prevention and Criminal Justice Bureau and the United Nations Centre for Human Rights held in Siracusa, Italy in July of 1992. I was responsible for bringing together leading jurists, ministers of justice, attorney generals and academics from the European Community, Inter American Commission and participating African countries.

Delivered a paper on Human Rights at the Siracusa seminar.

Keynote speaker at the Washington Bar Association Founders Lecture Series, October 1992.

Appeared on various radio and television programs to provide expertise on comparative and constitutional law.

Delivered a paper at the Max Planck Institute in Germany in January 1996 on the "Right to A Fair Trial Under the New South African Constitution. The meeting in Germany brought together 35 of the eminent jurists from around the world to deal with the issue of the right to a fair trial with a view to drafting a new international treaty for the protection of the right to a fair trial.

Panelist at symposium at University of Michigan on "Constitution Making in South Africa" (March 1997).

Delivered a paper entitled "Political Instability and the Struggle for Constitutionalism in South Africa "at the meeting of the International Law Students Society at the University of Iowa in October 1998.

Worked with the American Bar Association Head Consultant on Legal Education, on a reform of legal education project in South Africa.

Chaired a panel at the American Society of International Law Meeting in April 2000 entitled "Africa Isolation or Marginalization".

Delivered a paper on Foreign Legal Education at a meeting of the Association of International Educators in Chicago in April 2001.

Delivered Frank E.A. Sander Lecture at the plenary of the American Bar Association Section of Dispute Resolution Conference in New York in April 2004.

Delivered paper on The Pressure on Civil Liberties in the United States Since September 11, 2001 at the Istanbul Conference on Democracy and Global Security in June 2005.

Delivered paper on educational exchange programs in Africa at meeting of American Association of Law Schools (ASIL) in April 2008 in Washington DC.

Chaired two panels on Islamic law at meeting in Salzburg, Austria in November 2010.

Chaired panel on constitution making a conversation between James Madison and Nelson Mandela at a seminar in Montpelier in March 2012.

Participated in a seminar on the ruling African National Congress one hundred year celebration at Howard University in September 2012.

Delivered a paper on judicial accountability and performance standards in June of 2012 at a meeting sponsored by the National Association of Democratic Lawyers and the Black Lawyers Association in Cape Town, South Africa.

Participated in meeting advising Egyptian officials on constitution making in April 2012 in Washington DC.

Delivered a paper to lawyers from Bahrain on constitution making and negotiations towards a democratic constitution in June 2013.

Delivered keynote address at Multiculturalism Seminar in Luzern Switzerland, November 2013.

Delivered speech in Shanghai, China, December 2014 on globalization and the internalization of the legal curriculum.

Delivered paper in February 2016 in Alexandria, Egypt at the Arab Institute, on the subject of international trade policy, investment law and bi-lateral investment treaties and recent developments in South Africa and the developing world.

OTHER PAST ACTIVITIES

Secretary of Isipingo and Natal Surf Life-Saving Union.

PROFESSIONAL AFFILIATIONS

American Bar Association

American Association of International Law

Various interest groups of American Association of Law Schools