

# **RETIRED CHIEF JUSTICE S. SANDILE NGCOBO**

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## **Education**

Retired Chief Justice S. Sandile Ngcobo was born in Durban on March 1, 1953. He received his primary education at Chesterville Junior Primary and Ifafa Primary School; his Secondary and High School education at Pholela High School; and his undergraduate B. Proc degree from the University of Zululand in 1975, earning distinctions in constitutional law, mercantile law and accounting. He received an LLB degree from the University of Natal, Durban in 1985. After completing an orientation course on the United States' legal system offered by the International Law Institute at the Georgetown Law Centre in Washington, D.C., in 1985, he attended Harvard Law School and received an LLM degree in 1986, concentrating on constitutional law, labour law, international legal process and international human rights.

## **Scholarships and Fellowships**

Chief Justice Ngcobo was the beneficiary of a scholarship from Barclays Bank between 1973 and 1976; a Fulbright Scholar in 1986; and the recipient of a Harvard Law School Human Rights Fellowship.

## **Legal Career**

His career was interrupted for one year in 1976 when he was detained and held in solitary confinement following the student uprising in 1976.

Upon his release, he worked briefly as a clerk in the magistrate's office, before joining the law firm of KK Mthiyane and Company in 1978, firstly an articled clerk and then as an associate attorney. In 1982, he joined the Legal Resources Centre, a public interest law firm in Durban, as a staff attorney. There he tried public-interest civil and criminal cases involving issues such as the ejection of tenants from townships; the forced

removal of black communities to homelands; influx control laws; police torture and assault; wrongful detentions; labour disputes; and the eviction of black squatters.

Then, from July 1986 to July 1987, Chief Justice Ngcobo spent a year as the law clerk and research associate of the late Honourable A. Leon Higginbotham, Jr., the former Chief Judge of the US Court of Appeals for the Third Circuit. He also worked on research focusing on the role of the law in the US and South African societies, in particular, its use to perpetrate and later eradicate social injustice. Chief Justice Ngcobo was a teaching assistant in a seminar on "Race Values and the American Legal Process" at the University of Pennsylvania, Harvard Law School and Stanford Law School.

From August to November 1987, Chief Justice Ngcobo was a visiting foreign attorney at Pepper, Hamilton & Scheetz in Philadelphia, Pennsylvania where he specialized in labour law. At the beginning of 1988, he returned to South Africa and took up the post of acting director of the Legal Aid Services Clinic of the University of Natal, Durban. From August of that year, he taught a course on race legislation, also at the University of Natal. From December 1988 to November 1989, he practiced as an advocate in Durban. But in December 1989 he returned to Pepper, Hamilton & Scheetz in Philadelphia, where he was an associate attorney. He specialized in labour and immigration law. In 1992, Chief Justice Ngcobo returned to South Africa and practiced as an advocate in Durban. His focus was labour and employment law, constitutional law and general practice. In 1994, he lectured part-time on constitutional litigation at the University of KwaZulu-Natal.

## **Judicial Career**

In 1993, he was appointed as a part-time presiding officer in the Labour Court, which was then known as the Industrial Courts. In 1994, he was appointed as presiding officer of the Independent Election Commission's Electoral Tribunal, during the first democratic election in South Africa. In April 1996, Chief Justice Ngcobo was appointed a judge of the Supreme Court, Cape of Good Hope Provincial Division. In 1997, he was appointed a judge of the Labour Appeal Court and held a dual appointment as a judge of the Supreme Court and the Labour Appeal Court. Chief Justice Ngcobo was also appointed to serve on the amnesty committee of the Truth and Reconciliation Commission in February 1998. In 1999, Chief Justice Ngcobo was appointed the acting Judge President of the Labour Courts and Labour Appeal Court. In August 1999, he was appointed to the Constitutional Court and as Chief Justice of the Republic of South Africa in 2009, a post he held until his retirement in 2011. Upon retirement, he has been serving as Acting Judge of the Supreme Court of Namibia at the request of the President of the Republic of Namibia as well as a commercial arbitrator.

## **Judicial Reforms**

Chief Justice Ngcobo had been campaigning since 2003 for judicial reforms and during his short period as Chief Justice piloted many of these reform initiatives. These include the establishment of the Office of the Chief Justice (OCJ) in 2010 as a national department located within the Public Service to support the Chief Justice as the Head of the Judiciary and Head of the Constitutional Court and paving the way for the establishment of the OCJ as an independent entity outside the Public Service. Another milestone was the hosting of the Access to Justice Conference in July 2011, which yielded programmes to improve access to justice throughout the country, including the rural areas of South Africa.

## **Publications**

His publications include "Sustaining Public Confidence in the Judiciary An Essential Condition For Realizing the Judicial Role", *The South African Law Journal*, Vole 128, 2011; "The South African Transformative Constitution: Towards an Appropriate Doctrine of Separation of Powers", *Stellenbosch Law Review* Vol. 22, 2011 at 37; "Truth, Justice and Amnesty: Sins of the Past and Lessons for the Future", *Ius Gentium (Journal of the University of Baltimore Center for International Law*, Vol. 8 Fall 2002 at p 1: "the Meaning of Article 4(1) of the UN Convention on the Elimination of Forms of Discrimination Against Women: A South African Perspective" in *Temporary Special Measures*, Edited by Boerefijn and Others Published by Intersentia, New York; the "Delivery of Justice: Agenda for Change" delivered at the Judge's Conference in 2003, and subsequently published in *The South African Law Journal*, and an article on *de jure* housing segregation in the United States and South Africa, written with the late Honourable A. Leon Higginbotham, Jr. and Professor F. Michael Higginbotham, published in the *University of Illinois Law Review* (1990).

## **Teaching**

In 2001, he was a Visiting Scholar at New York Law School and attended the Yale Law School Seminar on Global Constitutionalism. He has been teaching a course and a seminar on the Role of the Judiciary in the Enforcement of Socio-Economic Rights in the US since 2006 to the present. He was the Samuel Rubin Visiting Professor of Law at Columbia University School of Law in the U.S in 2006, a visiting Professor in 2007 and 2008; an Archibald Cox Visiting Professor of Law at Harvard Law School 2012 and a visiting Professor in 2007, 2008 and 2009; a visiting Professor of Law at Cornell Law School in New York in 2014 and in the Fall of 2015.

## **National and international Commissions**

He is presently chairing a panel of experts that is conducting a Market Inquiry into the state of competition in the Private Healthcare Sector. He is also the chairperson of the **Presidential Remuneration Review Commission of Inquiry, which looks into Remuneration and Conditions of Service in the Public Service.** In 2013 he chaired a Three Member Panel of Retired Chief Justices which conducted a High Level Fact Finding Mission into Crisis in Judicial Leadership in the Kingdom of Lesotho at the request of the International Commission of Jurists.

## **Personal**

He and his wife, Zandile, have three children: a daughter, Nokwanda, and two sons, Ayanda and Manqoba.