



JUDGES MATTER

Judicial Service Commission Interviews

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Free State Division of the High Court

Interview of Advocate P Zietsman SC

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Chief Justice Mogoeng: Good evening Advocate Zietsman.

Advocate Zietsman: Good evening Chief Justice, Commissioners.

Mogoeng: In your own words, very briefly, why do you believe you are ready for appointment?

Zietsman: Chief Justice, I think I am ready, I have been practicing now for 26 years as an advocate, I was there for 7 or 8 years as a magistrate. I think it is time for me to do my best to deliver my part to the judiciary, and I think I have the necessary experience to do that. I am at the age where I need to take a new step in the law.

Mogoeng: On a lighter note, I want you to be warned that I am three months older than you.

Judge President Molemela: You have had several stints at our bench, have you not?

Zietsman: Indeed, I think it is the fourth or the fifth stint I had in the last term.

Molemela: How did you find it acting in our division?

Zietsman: What I can say is that ever since our JP has been appointed, everything was running very smooth, because everything was arranged properly and our roll is

arranged properly. I found it very comfortable to work together with other colleagues who I met at the High Court. Not that previously it was not so good, but it was not as well arranged as it is now. I am getting along with all the judges in the Free State High Court, even the acting judges.

Molemela: On average, how long does it take you to deliver your reserved judgements?

Zietsman: I think the one that took the longest took about two weeks.

Molemela: You had the occasion to do circuit court duties?

Zietsman: I did circuit court duties in Harrismith and Qwaqwa.

Molemela: What was your experience? Did you cope?

Zietsman: I did cope. I have got the necessary experience in criminal cases, although a bit rusty, because I have been long practicing as an advocate. You pick it up quite quickly, it's like riding a bicycle, as they say.

Premier Magashule: I see in 2009 the President of the Republic appointed you as senior counsel for the Republic of South Africa, as a special token of the President's trust and confidence in your fidelity. They say this appointment is indicative of a perceived ability, impeccable standard, mature judgement, membership qualities and respect for your peers. The Black Lawyers Association says indeed you are very competent, but for the sake of transformation at this stage you should not be considered. What is your view, and how will you address those issues?

Zietsman: From the outside, I think the fact that I am a white male will not contribute to the transformation of our Bench. However, I think from the inside and subject to our Constitution and taking what our Constitution says we must do I can bring the necessary experience to the Bench and on that basis I think I can contribute to transformation of our Bench.

Magashule: Before Commissioner Malema poses this question, he has been posing a question as to how many languages can you speak. Can you speak any Sotho or Tswana?

Zietsman: I had Sotho at school as a subject and my wife was also a teacher in Northern Sotho. Although I cannot speak Sotho, I know a lot of words in Sotho and because you do not use the language on a regular basis you do not learn to speak it. So I unfortunately cannot speak it. I am not English speaking either, but that is the reason why I think we need a common language like English to bridge those diversities and to come together in a way. That is also the reason why our Bar has adopted a resolution to make English the official of our Bar in the Free State.

Magashule: Do you know some little simple dumela, greetings and the like?

Zietsman: Yes, dumela, O kae, ke teng. The most interesting and descriptive word I have learnt is tse, especially in criminal cases. It is a descriptive word and the sense you get, especially in rape cases, where the accused would cross examine through his attorney or advocate putting it to the complainant that he had sexual intercourse with her consents and you get the answer “tse!”, then you know it’s not only no, but you are lying.

Mogoeng: Do you have any Sesotho speaking employees?

Zietsman: I have got Sesotho speaking employees and I hear the words, but if you do not speak a language every day you do not learn it.

Mogoeng: I was wondering why you do not speak to him or her in Sesotho, so you can practice.

Zietsman: I should do that and I can practice on that basis.

Commissioner Malema MP: Do you support transformation?

Zietsman: Yes, I support transformation and I think we have proven it at our Bar, that we are busy transforming and doing our utmost to do whatever is necessary to transform.

Malema: As a senior counsel, have you taken black juniors?

Zietsman: Yes I have, I have had Siyaphi Motlounge, at our Bar, I had Lungile Bumela, Lawrence Manye, BS Mene.

Malema: No, not in your Bar. In some serious, complicated cases you have done.

Zietsman: Outside my bar?

Malema: When you are briefed on a case to do.

Zietsman: Yes, then at least three or four times I had black juniors, at my bar, as my junior.

Malema: Because of your support for transformation, if you are given a task to choose three people. There are three white, Afrikaner males, two African blacks and one African female. What do you do? Because you are a supporter of transformation, let us not forget that.

Zietsman: Well one must understand that I am at the Bar and I get briefed by attorneys. I do not tell the attorneys who to brief, I must accept briefs from attorneys and then on that basis I would ask the attorney if it is possible to appoint a junior.

Malema: Sorry, counsel you are answering the question I did not ask. I am saying as a supporter of transformation, you are given a task to choose three people, not those things of briefing, for a responsibility, for judges. You are sitting there where the CJ is

sitting, you are given the task, here are six people they have all conducted very successful interviews, they are super. Out of these six, there are three Afrikaner males, two African males and one African female. As a supporter of transformation who would you pick out of these six?

Zietsman: I would choose the most competent black guy.

Malema: No, you must choose three out of the six. Three Afrikaner males, two black males and one black female.

Zietsman: If I have to go for transformation, I would at least make sure the black female is chosen, one black man is chosen and the most experienced white male is chosen.

Malema: Thank you very much. With regard to the Sotho thing the Premier raised with you, will you after this discussion be taking an effort to trying to engage with whoever you come across that is a Sotho speaking person to speak to them in Sotho?

Zietsman: I will do so.

Judge President Mlambo: I just wanted to deal with your transformation outlook. Commissioner Malema has asked you some of those questions. Some years ago I sat as a judge moderator in the National Bar Council Examination Board. My experience throughout the country was that the most people who failed were black, but in particular in the Free State. The Free State always struggled to attract a number of black pupils. Has that situation changed?

Zietsman: That situation has changed and the reason why we did not attract black advocates is that it is especially difficult to start without an income, especially that first year or six months of pupilship. When they have started they do not get paid fast enough, and then get lucrative offers to take up jobs outside. That we tried to change by way of engaging with the attorneys, the law society, with briefing patterns. We have tried to engage through talks with the state attorney and Road Accident Fund, to try to get more briefs to black advocates to make a more lucrative practice and in that way affording their own Bar fees. That I think is starting to work, because the State Attorney is mostly briefing black advocates at our Bar. The RAF is also mostly the black advocates, although they are not always paying fast enough and we have a problem with that. For instance at the law societies' year end function last year, I know that our JP was the guest speaker and she asked the attorneys there to please brief black advocates at our Bar, so we can advance this. At present we can only take four pupils in a year and we presently have one white guy, one Indian guy and two black women as pupils who will finalise their pupilship in the next month. So in the past two years there has been a vast improvement in the last two to three years.

Mlambo: That is good to know. In terms of the areas in which you specialise, do black advocates get that kind of work? You say general litigation, sequestrations and

liquidations, which require an intimate knowledge of the National Credit Act, Consumer Protection Act; you mention other Acts. Does this kind of work go to black advocates?

Zietsman: Presently, not in the Free State Bar, except if you get in a junior and if there is money from the attorney's side and his client's side. That you can get in a junior to get that necessary experience. Unfortunately, the bigger attorneys firms do not engage less experienced persons, never mind if they are black or white, they go for the more experienced persons to get the work done, because it is not easy work, it is difficult work.

Mlambo: So that is why it has remained in white hands?

Zietsman: Ja, mostly, but it is not the end of the world, there is a way forward. There is a way that we can try, if the briefing patterns are stabilised, we can try and get black advocates to join in those ranks.

Mlambo: Have you done pro bono work?

Zietsman: Yes, I do not have statistics with me right now, but I have.

Mlambo: In what kind of areas?

Zietsman: Opinions, and I have given lectures to the University in insolvency law.

Mlambo: Have you accepted work from Legal Aid?

Zietsman: When I was a junior yes, but not in later years.

Comissioner Nyambi MP: Mine is in relation to the last interview with the JSC. Has anything changed which you may want to reconsider and clarify today?

Zietsman: With regard to my previous interviews, I do not think so. There is nothing I can think of which needs to be clarified. At that stage, our Bench was not properly transformed and I accept that that was the biggest reason why I was not appointed at that stage. We are now presently one of the transformed Benches in the country. That is the difference between then and now in my view. It is a fact that transformation is part of our legal fraternity and at our bench it must be performed, but let us not forget that in my view, experience is just as important in that instance. I do not know if there is anything specific you want to refer to?

Nyambi: Maybe if you can take us through the doctrine of separation of powers.

Zietsman: The Constitution makes provision for the separation of powers, in so far as the courts, the executive and Parliament. The Constitution defines precisely which entity should do what, it is all subject to the Constitution and none of those parties are supposed to do anything unlawfully, if it is against the Constitution. On that basis, there must be a separation of powers. So the courts can for example look at what

Parliament is doing, but on the other hand Parliament can look if the courts are doing their job.

Nyambi: Do judges make law?

Zietsman: Yes, judges make law.

Nyambi: In what way?

Zietsman: The Constitution makes provision for that the common law must be extended or expanded.

Mogoeng: Developed.

Zietsman: Developed is the right word, according to the needs of the day and that for instance is one part where courts make law. Courts have to interpret Acts and in that instance it also makes law. It establishes the Common Law and on that basis it makes law, but it does not make Acts or statutes.

Nyambi: Is it right for politicians to criticise judges?

Zietsman: If it is fair criticism, then it might be according to the Constitution as far as it is fair comment, everyone has the right to his own comment. But if it is unfair, obviously it boils down to a contempt of court, which sometimes happens and I do not think it is then to be allowed.

Nyambi: Is it possible to clarify it in the form of an example?

Zietsman: If a politician makes a comment on a judgment without having the facts before them, that will be a contempt of court. If he does have all the facts and differs in the interpretation of the facts, it may be different issue. If he differs on the conclusion in law or in other words if he does not have the facts, he would not be entitled to comment on the judges judgement.

Commisioner Motshekga MP: Did you study the history of law?

Zietsman: I did I studied at UNISA, years ago in 1980 until 1989. I studied all the subjects there, including the history.

Motshekga: I also studied history of law at UNISA and came to the conclusion that English common law is a collection of the customs of the English people. Roman Dutch law is a collection of the customs of the Romans and Dutch people. African law is also the collection of the customs of the African people. Can you tell me why, when we talk about English we talk about common law, Roman Dutch Law, but when we come to Africa we still say customary law. Is that not discrimination in the status of the laws?

Zietsman: I never thought about it on that basis and do not think it is discriminatory, it is only a question of how it was called. It is not a question of customary law not being common law.

Motshekga: Do you believe in transformation?

Zietsman: Yes I do.

Motshekga: Then why do you not want to transform African Customary Law to law and leave out the customary?

Zietsman: We can do that and we can call it common law as well. That is part of the development of the common law, which the Constitution makes provision for.

Motshekga: Have you studied indigenous African law?

Zietsman: I did have a subject on it at UNISA.

Commissioner Ndoni: In your last interview you spoke of a buddy system which was meant to assist junior counsel. For the benefit of the commissioners, could you please explain what the buddy system was?

Zietsman: We still have that system where we put the ten most junior advocates on a list, black and white, and then we call that the buddy system. Each time a senior advocate is involved in a difficult matter, in which he needs a junior advocate, but the attorney does not have the money to pay for a junior as well, then they will contact the junior on the list, not at random, we mark it down and the next one is chosen, to assist the senior advocate at a portion of the senior advocate's fee, which is normally 5%. That was because the senior advocate needed help on an investigative basis, but also to help teach the junior advocate to get more experience in whatever the junior advocate is doing.

Ndoni: Is it still in place?

Zietsman: It is still in place and it is working. I must say since about two years ago as I pointed out earlier the RAF and State Attorney are presently engaging in briefing black advocates at our Bar which made a huge experience. That is an even better situation for transformation at our Bar, than the buddy system.

Ndoni: Currently how many advocates do you have at the Bar?

Zietsman: I think it is 69.

Ndoni: And how many of those are black?

Zietsman: I think it is 12 or 13.

Ndoni: What are the constitutional constraints on the powers of the judiciary?

Zietsman: I am not sure whether I understand the question correctly, but the Constitution makes provision for the courts to look after Acts of Parliament which are unlawful, that is the High Court as well as the Supreme Court of Appeal, as well as to any law which is unlawful or contrary to the Constitution. I do not know if I understand the question correctly.

Ndoni: The question is whether as the judiciary there are any constraints to the powers of the judiciary?

Zietsman: I do not think so, because the Constitution makes provision for those powers. I cannot think of any constraints.

Ndoni: So judges are above the law?

Zietsman: No, judges are not above the law, everyone is equal before the law.

Ndoni: Are they constrained by the same Constitution they are using to guard the other arms of government?

Zietsman: Yes. Sorry, I did not understand the question correctly, but they are.

Commissioner Semanya: There is an Advocate Mkoko, who is a member of the Kimberley Bar. I am told that he came to apply for membership at the Free State Bar, to which you are the chair. As the story goes, and if it is wrong please let me know, he was initially accepted for membership. The membership was later rescinded on the basis that you held there was a disciplinary process against him in Kimberly. He went back to Kimberley, and Kimberley said they have no such knowledge of a disciplinary matter pending against him. He came back to you to say so and to enquire whether you are able to give the nature of the complaint alleged against him. Your response was that since he was not your member, you are not going to entertain that request. He must go back to Kimberly. Is there truth therein?

Zietsman: There is a part truth therein, but not the whole truth. Mr Mkoko is a member at the Kimberley Bar, he applied for dual membership at our Bar, not to leave Kimberly. We informed him that it is in order, that he can start becoming a member as soon as we get a letter of good standing from the Kimberley Bar. That letter was outstanding for months and I was informed by the chairperson of the Kimberley Bar, Mr Johan van Niekerk, that there are two or three pending investigations against Mr Mkoko. At that stage those investigations were not finalised, and I again contacted Mr van Niekerk, and he informed me that one or two of the pending investigations were withdrawn by them, and that a letter of good standing would be issued as soon as Mr Mkoko pays his Bar fees, which he did. I received a letter of good standing from Mr van Niekerk, who informed Mr Mkoko that he was now free to take up membership as from the 1st of September this year. On the 26th of August this year, Mr Mkoko appeared in the Bloemfontein High Court while I was acting, before another acting judge, against another member of the Free State Bar, and during that appearance I received a letter from Honey and Partners

attorneys, with serious allegations as to his conduct. I referred the letter to the Kimberley Bar, because he was not a member at our Bar as yet. I informed the attorney's firm, as well as the Kimberley Bar, that there is a letter complaining about Mr Mkoko's conduct which is of a serious nature, amongst others that he misled the judge. That was the allegation, and obviously when this was sent to the Kimberley Bar to say that while there was a pending complaint they would not issue a new letter of good standing, until that complaint is finalised. I informed Mr Mkoko after my whole Bar Council decided, including Mr Manye and all the Advocates for Transformation members, to write a letter indicating that he could take up membership as soon as that complaint was finalised against him, but because he was not a member with us, it must be investigated by Kimberley. That is what I informed him, but then Mr Mkoko started threatening me, sending me an email stating that if I do not accept him as a member this information would be conveyed to the JSC. Then again my Bar Council sat on it, I withdrew myself, because I was one of the candidates to sit here today. I withdrew myself from the Bar Council at that stage, which decided to take him in as a member on the basis that if he is found guilty of the complaint his membership will terminate. That is from 1st October 2016, so presently Mr Mkoko was accepted by my bar council on that condition.

Semenya: What could be the explanation for the Free State Bar Council to interrogate a complaint in respect of a person who is not their member? The meeting from which you recused yourself, and could you also explain why another judge in the Free State would place with you a complaint in respect of a member who is not a member of the Free State Bar?

Zietsman: We did not entertain the dispute, that is the reason we said he must go back to the Kimberley Bar, so that they can entertain the dispute or complaint. Whatever they find we will accept, and then he can become a member. He was not a member at that stage, we informed him that he could become a member from the 1st of September, and so he was not a member of our Bar Council when the complaint was laid, and therefore I referred the complaint to the Bar where he was a member, being the Northern Cape or Kimberley Bar.

Semenya: I have a personal motto which says that democracy works when we mete out the fairest treatment to the worst of amongst us. Would you associate yourself with that motto?

Zietsman: Yes.

Semenya: One of the useful purposes of High Court judgments is that they guide the magistracy in matters of law. I have had an occasion to read your judgement in the Gagiano matter, one of the cases you attached to your application. It is written in Afrikaans, but surely that would make it of limited use to the magistrates in the Free State, who are not Afrikaans competent?

Zietsman: Indeed it will, and that was written in 2011 if I am not wrong. All the parties before me were Afrikaans speaking, and all the pleadings were in Afrikaans. I therefore deemed it necessary to give their judgment to them in the language which they speak. I do agree that it would not be helpful for magistrates, or even if it went on appeal, for someone who understands Afrikaans. I did try from that stage onwards, except for one or two occasions where I gave an Afrikaans judgment, having been asked by the parties to do that, gave my judgement normally in English. So that that possibility can be excluded that the judgement must be translated for appeal purposes or that it is not helpful for magistrates. I do take the point and only attached it to refer to the fact that I can give an Afrikaans judgement, and secondly I think it was an interesting type of case.

Semenya: Even more so by parity of reasoning, it would seem to me if litigants were Sotho speaking as was the presiding officer, and keep the conduct of the matter in Sesotho, it may even exclude you in understanding judgements of your court.

Zietsman: I do take the point.

Commissioner Notyesi: Last time you indicated that because of your experience in commercial law, some judges would even call you and seek advice in deciding their cases. Is that still the position, and are the judges still calling you in relation to the matters they are doing there at the Free State?

Zietsman: That is not the case anymore. Last time I was here, the Chief Justice indicated to all the commissioners present, as well as Judge Musi who was the Judge President at that stage, that it was unacceptable for a judge to call an advocate for advice. It did not happen thereafter, they took the point and I think you were correct. However, I was in a situation where you normally cannot say no when a judge is asking you questions. I always would try to be helpful, but everyone took the point that the Chief Justice made at that stage and it never happened again.

Notyesi: So if they call you, you chase them away?

Zietsman: Well I have never been called again, and if someone were to phone me again I would inform them of the Chief Justice's view on it.

Notyesi: You also indicated that a big chunk of work in the Free State is mainly commercial?

Zietsman: A large part of my work yes.

Notyesi: There are no black junior advocates which you rope into your work. You have already indicated that.

Zietsman: Unless it is on the buddy system, but normally not.

Notyesi: There is a view that whenever you communicate as the chairperson of the Bar, you always communicate in Afrikaans, even in instances where there are those who cannot speak Afrikaans.

Zietsman: That is not totally true, as I have indicated we took a decision and it is part our policy as the Bar Council of the Free State that our communication is always in English. Between Bar Council members, between the Bar Council itself and between members themselves. That is the situation since October last year, when I became the chairperson. Before that, there was complaints about it, I know. But we took the decision at that stage and since then, all communications are in English.

Commissioner Gcabashe: You have told us that you believe in transformation, yes?

Zietsman: Yes, I do.

Gcabashe: You would agree that understanding the social condition and living experiences of your fellow South Africans, and in particular black South Africans, informs how you implement transformation. You would agree with that?

Zietsman: Yes.

Gcabashe: I am making the assumption that your social circles do not necessarily include associating with black persons, so that you can learn to understand that social condition or those living experiences.

Zietsman: Not so much as an advocate, but as a judge it more occasionally happened when I acted, because then we were colleagues and we would at various times have lunches together and even functions over weekends sometimes. So it happens on the Bench.

Gcabashe: I will then still make the assumption that you really do not understand the social conditions of people in townships, in squatter camps etcetera. Given that there is a vast amount of knowledge about these social conditions that has been written about, you know I am just trying to turn this thing around a bit, and understand what somebody like you an aspirant judge would try to do to understand the experiences of black folk. My question is, do you then inform yourself by reading publications by black authors, be it Mandla Langa, be it Khaya Dlanga, Sihle Khumalo, you know people, who write about black lives. Do you collect books like that?

Zietsman: I have not got books like that. If I become a judge and the need arises, then obviously I would engage myself in reading up on that. But I am a South African citizen, I know the socio-economic and social conditions, although I was not born and raised in a settlement. I do have the necessary experience, you must remember I am almost 55 years old. I have been in South Africa since I was born. I know black people, I know their conditions or some of their conditions. If necessary then obviously I would engage myself in reading up more fully.

Gcabashe: I was really just curious about how you just set about informing yourself of those particular persons who you interact with, or who you intend to interact with somewhere in the next 20 years. I was just trying to turn this debate around and say that books are sources of information, radio shows are sources of information. How many white South Africans bother to buy books by black authors who write about our social conditions, who write about our day to day experiences? Because I am trying to understand how you inform yourself of the transformation imperative, that you say you believe in.

Zietsman: What I can say is that since October last year, when I became chairperson of our Bar, I have had to convince, together with my Bar Council, my whole Bar to adopt a new constitution. For this purpose we had to engage with black advocates from our Bar and even other Bars. On that basis I interacted with them the whole time and got to learn their way of thinking, their background where they come from. That is as far as the advocates are concerned, I am not talking about earlier years. I am engaged in those talks and I do understand their problems and socio-historical problems, and we do get along very well. Especially on my Bar council, because half of it is AFT members and we have had no problems since the new constitution was adopted in April this year.

Gcabashe: Part of trying to invert this discussion is also about how you interact with young white advocates, who need to understand the things you believe in and you believe in transformation. So it is not only for your own purposes that you understand black people and their living conditions.

Zietsman: It is also about -

Gcabashe: Excuse me, I am almost there. It is also about you as a leader within society, within the Bar, what you do to encourage young people you are able to influence to buy books. The former Deputy Chief Justice Moseneke is about to publish a book. Are you saying to young advocates that you must buy that book when it hits the shelves? That is the kind of thing I am trying to explore.

Zietsman: What I can say is obviously if I know such a book was coming onto the shelves, I would encourage people to buy it. Young advocates, especially white advocates. Going back to the stage where the Bar Council and I had to decide to amend or adopt a new constitution. I had to convince 46 advocates at the Free State bar to adopt that constitution, because the previous constitution entailed that there had to be at least a two thirds quorum, so I had to convince at least 46 advocates, including white advocates, to vote for that new constitution. I sent out memos on a weekly basis to try and convince them. I do not know if I have answered your question commissioner, but I am doing my utmost to teach young advocates, white advocates as well that transformation is the right way to go.

Gcabashe: And the students you lecture, I am looking at your question 10 on your questionnaire. The question is, what would you regard as you most significant

contribution to the law and the pursuit of justice. So these are two different issues. Your answer is “commercial law, inter alia, insolvency and company law, see CV” and your second answer is presenting of lectures to final year students at the University of the Free State in insolvency law. Are you taking these insolvency law lectures out to the township, because the question is not only the significance in relation to the law, but the pursuit of justice. Now insolvency is a big issue, certainly where I come from. Do you take these lectures out to those communities that need your expertise in dealing with their day to day insolvency issues?

Zietsman: I gave those lectures for three years at the university. At our university I think the composition was 70% black and 30% white, in those classes, because the English and Afrikaans classes were put together for the purposes of those lectures. Those lectures had to be in English for obvious reasons. I did not take it out to the townships, I did give it on invitation at the university and I think it reached at least the final year students. It was not only insolvency, they also asked questions like how is it to be at the Bar and to be an attorney. What would you suggest and what would you advise? It was not only insolvency, it was a general lecture from the Bar’s side and those classes which included about 70% black students.

Commissioner Schmidt MP: There was a reply by you to I think it was Commissioner Malema which stuck with me somewhere. But it is a very conventional, if not conservative view to take on a question on who you would appoint, that you would appoint the most experienced candidate of the three white candidates. The reason why I am asking, is either it is a glib approach to who you think should be appointed, or it is a failure to understand what the criteria should be, because it would inter alia be experience, knowledge of different fields of law, technical skills, it would require the ability to write good judgments, whether you have outstanding judgments, whether you have the potential to become a good judge, most importantly whether you embrace the values of the Constitution. So either it is a very glib approach or a lack of fundamental understanding. My hope is that it is not a conservative approach, because of the way the Bar Council treats its members in terms of seniority from one to whatever and therefore the more experience is normally the higher placed individual and should therefore be appointed. I am giving you the opportunity to give your considered view to what I think was a glib approach.

Zietsman: As far as the last issue is concerned, it does not work at the Bar that the most senior guy becomes the chairperson. I am not the most senior guy, I am fourth or fifth on rank. I was put in a situation by Mr Malema, to answer a certain scenario and in my view the Bench should firstly transform by way of colour and gender, secondly you must remember that there must also be experience and that is why I answered it on that basis. We cannot sidestep the experience part, that is why I answered it like that, but it is also important that we have transformation and gender equality.

Schmidt: Without entering into a debate, experience in itself, there are people with a lot of experience who have made very little contribution to the development of the law. So experience on its own is not the alpha and omega and that is the reason I raised it. It is the most suitable candidate under the present circumstances that should be appointed.

Zietsman: Well experience in the law is what I meant. Obviously, my answer is that there must be experience firstly in the law and also transformation and gender equality. Luckily, I am not the JSC so I do not have to choose tonight. All I am saying is that those are the criteria and that is how they should be chosen.

Mogoeng: Thank you Advocate Zietsman thank you for your time, you are excused.