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**PROGRAM NAME: WOMANITY – WOMEN IN UNITY**

**GUEST NAME: JUDGE NICOLINE JANSE VAN NIEUWENHUIZEN – GAUTENG  
DIVISION OF THE HIGH COURT**

<b>SPEAKER</b>	<b>TRANSCRIPTION</b>
DR. MALKA	Hello, I'm Dr. Amaleya Goneos-Malka, welcome to 'Womanity – Women in Unity'. The show that celebrates prominent and ordinary African Women's milestone achievements in their struggles for liberation, self-emancipation, human rights, democracy, racism, socio-economic class division and gender based violence.
DR. MALKA	Joining us in studio today is Judge Nicoline Janse Van Nieuwenhuizen from the Gauteng Division of the High Court. Welcome to the show!
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>Thank you so much and thank you for inviting me, it's a privilege being here.</b>
DR. MALKA	We're looking forward to continuing our discussion on the ladies from the judiciary. So to start with, did you always envision pursuing a legal career?
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>Not really, I think it happened by accident. When I decided to go to university I had a choice between studying accounting and law and decided on law but the moment I started with my studies I just realised that I enjoy it tremendously and it's never stopped. I still up until today I've got a passion for the law, but it did develop, it wasn't there from the start, it gradually grew on me.</b>
DR. MALKA	And can you tell us about some of the milestones in your journey to become a judge of the North Gauteng High Court?
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>I was very privileged to have a mother and father that was very supportive, so when I decided to embark on this journey the family did not have the necessary financial means. I obtained a study loan, studied three years full time and then obtained employment at a deeds office, as a deeds examiner to start paying back my student loan and I finalised my LLB after hours; from there I've always thought I want to do litigation, I want to be in court and I was then a public prosecutor in Boksburg and I was quite right, I enjoyed it tremendously, being a public prosecutor in court the whole day and the next natural progression was joining the Bar; the Pretoria Society of Advocates, colloquial name is the Bar. I joined the Bar in 1994 and it was, yes just bliss, it was the best thing I could do, practice for your own account. I became a Silk; took Silk Status in 2011 and thereafter was appointed to the bench in 2013.</b>
DR. MALKA	And what is Silk Status?
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>Silk Status is your peer group, in other words the other advocates at the Society of Advocates decide whether your practice and yes and the way you conduct yourself in the court, whether that justifies conferring senior status on you. So in other words if one has been in practice for a number of years, normally 10 to 15 years, and then you may apply for Silk, you lodge an application with all your history of the many cases you've done and so forth and then there's a panel or a committee that sits and looks for all these applications. So it's really a peer group review and then it's decided that yes. So it is quite being at the Bar, being an advocate it is a milestone, it is quite an achievement to be...Silk is referred to because then you obtain a silk robe and that's why it's referred to as you're taking Silk, but what it entails is that the president confers senior status on you so then you're a senior advocate. You'll hear from time to time advocates being referred to, for instance, as</b>

	<b>Advocate Smith SC; I don't know whether you've heard that term but the SC is Senior Council.</b>
DR. MALKA	Okay, well thank you very much for elaborating. One of the things that is striking me is the differences as our world is evolving and particularly in a media point of view where media is highlighting prevalent and high profile cases, whether cases are televised or broadcast on radio and with that, they tend...these cases tend to become topical points of discussion amongst the general population, but the issue is the public are not legal experts and when judgements are made that don't suite public opinions, you have these little mini furores that erupt; how do you contend with this?
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>One remains a person, so I had one very specific matter when I drove down the street, or when I drove to work, there were these big banners, you know, at the newspaper which had some rather shocking headlines about a specific judgement that I did deliver and one is taken aback because you are proud of what you do, there's a lot of responsibility and you always want to apply yourself, but after that, once one starts thinking, so that...there is the initial shock, it's not nice to be seen in a bad light whilst you are absolutely trying to do your best, but one reflects on that and at the end of the day the most important thing is to be true to yourself as a judge; to give judgements that is without fear, favour or prejudice and as long as you have done that, then what the public are doing out there and there will always be opinions, it then sort of fall in place, as long as you can satisfy yourself that you did your best, you applied the law to the best of your ability.</b>
DR. MALKA	There's been a very clear thread which has come through in my conversations with your colleagues as well as yourself and that is about the independence...
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>...yes...</b>
DR. MALKA	... and one of your colleagues mentioned that there's an oath that you take as a judge; could you elaborate a little bit more on this with the aspects of "without fear or favour"; I think those are really key points.
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>It is indeed, I think...well first of all maybe I should start again about the work; it is a lot of responsibility. It is very lonely in a sense because you get a case that you must apply your mind to independently and from no outside influences and the "without fear or favour" comes in when one closes your mind to exactly that, to outside influences and you go...well maybe go is not a good word, you almost focus so much on the task at hand on the job you are doing that it happens almost...it happens that you forget about the outside world and I think the biggest thing is...and thats all my colleagues, all the judges, is the passion for your work, absolute passion so when you do your work the outside world falls away. One must be very mindful that one does not, from time to time, impose your own ideas about things that is not what a judge should do; one should simply apply the law. "Without fear"; it does not matter what type of case it is, whether it's a high profile case, whether it's a criminal case, one can never act differently because there is this maybe something in the air, something around there that creates this fearful situation or creates...if one's judgement reads like this it might go in favour of that one and maybe that will be the more popular way that a judgement goes. That is exactly what judges do, you close yourself off from the world, almost and yes, you give your judgements without fear, favour or prejudice.</b>

DR. MALKA	Such a noble profession and very challenging.
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>It is but it's very rewarding, very rewarding.</b>
DR. MALKA	Could you share with us a few of your most memorable cases?
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>I...one case that really, well still sticks in my mind and I think more my heart. I did a criminal trial of a...where a fourteen year old girl was an eye-witness to her mother being shot by two...the two accused; it was very...yes they opened the door, her mother lived in the Jeppestown in the hostels, ag her grandmother and she visited her grandmother who sold sweets and stuff to keep the pot boiling, you know, little vetkoekies and stuff like that and she visited her grandmother and the next thing the door opened, it's a one room, and her grandmother was shot and afterwards it appears that there was some or other turf fight about who's selling where, but in any event, she came to court and she testified; she was so, so brave. I mean she saw the two perpetrators, she was testifying in another room through closed circuit, but still, I was so proud of her and that will always, you know, there's this courage of this little girl and she was writing exams as well at that stage so we had to adjourn for a day or two, but she came back and I said to her, you know, your grandmother will be so proud of you 'cause you came back and you testified and you had that courage and that....ja, that always stood out for me. I think that's...the criminal cases tend to be more...it might stand more out because there's more emotion and humanity involved. The civil cases, it is more interesting on an academic level, it is not that attaches one's heart...</b>
DR. MALKA	...the storytelling aspect...
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>...yes, yes, yes, exactly. You do get cases from time to time, medical negligence and so forth but in my experience, in my view, that human story that's being told, that's always been something...I'm a people's person and I've got a lot of empathy and sympathy with people so it's always been...people's stories has been interesting to me always and that really attaches my heart.</b>
DR. MALKA	Thanks for sharing. When I was doing some research on you for the show I came across, admittedly it's an older article now from 2013, which was published in City Press and it stood out for a couple of reasons. Firstly at the time of writing it noted that there were fewer than 30% of our judges were female; how much further would you say the gender dial has shifted in terms of gender transformation in the judiciary today?
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>I think when...just before I arrived for the interview I had a quick look at the percentage in our division, Gauteng division and presently there is 40% female judges and 60% male. I do believe that there is definitely, although slowly, progress is being made in appointing more female judges and the recent appointments there were, out of the four appointments, if I'm...stand to be corrected, three females. Good appointments; strong women, good appointments and so I think it is, yes, moving slowly but surely, in a positive direction.</b>
DR. MALKA	There's definitely an evolution looking at that we say assuming that Gauteng was also 30%, that in five years to grow by 10% and as I understand from Judge Cynthia Pretorius, retirement age is 70, so you kind of have to work out a bit of a generation before you can...
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>...yes...</b>
DR. MALKA	...appoint new individuals...
<b>JUDGE VAN</b>	<b>Oh indeed so yes and it seems to me that the judges that are appointed</b>

NIEUWENHUIZEN	these days tends to be younger people. In our previous era the judges that were appointed, for some or other reason, were all judges that almost finished with their practices and they were older men. The appointments weren't necessarily of young people and I think it's a good thing that younger people gets appointed because...
DR. MALKA	...good energy...
JUDGE VAN NIEUWENHUIZEN	...yes, yes and I think it's one...well that's maybe not a good...but if one tends to get older you sort of...your world becomes a bit more secluded, closed, maybe not in all instances, but younger people like you say, vibrant, you're still out there and you're living and you're seeing things, so I think a good balance. There should be wisdom and experience and there should also be this new energy.
DR. MALKA	And the second element that I wanted to remark on from that article was that one of the questions that Chief Justice Mogoeng Mogoeng asked was which candidate the Judicial Service Commission should recommend when faced with two women: one who "makes it her business to make the situation better for women and (the other), who is just a woman with good legal qualifications" and I thought about that and I considered a male candidate will probably never be asked a question like this and at the same time it seems to be harder for women to open doors and we also have a duty to keep the door open for other women; what's your view?
JUDGE VAN NIEUWENHUIZEN	<b>I did find the question rather curious. First maybe I should give a bit of background. I...I've always prided myself of doing my work to the best of my ability when I was still obviously at the bar and I treated all my colleagues with respect and I was...I got the same respect, you know, it was vice versa, it did not matter whether it was male or female. One...as a woman I do want to empower other women so I did, when possible, one could appoint a few senior council, junior councils and which were women and then one could send work, if you've got too much work you can refer and attorney. Let me put it like this; I was always very proud of who I am and what I have achieved and like I say I was...I've always been in a world where there's respect and so this question on a personal level first was the first time in my life that I felt I failed as a woman and that was...or as a female, that was quite...that was my first reaction, I failed you know I did not achieve this that was expected of me. I did not know that that would be a requirement or one of the things that I had to do. Thinking in hindsight, it was obviously important or it is important for the Chief Justice that women do seem to be doing things for other women which I do not think is a bad thing, but when you...as you've pointed it out now, it is curios that male candidates are not asked the same question and at that time I never thought of that angle but now you've mentioned it, it's...I can only say it is interesting that males do not need to tell or convince the Judicial Commission that they've actually promoted other males and that is why they should be appointed. It's a curious question.</b>
DR. MALKA	Well one that you passed because otherwise you wouldn't be here today. Gender quotas in the workplace tend...well sometimes they're not universally accepted and it goes for everything that we've been speaking about now, on being posted on merit, on who you are and what you bring to the table, but when you've got a society which in certain environments have been male dominated, it almost restricts access and I, after doing these conversations for going on five years and hearing different perspectives, I am of the opinion that in order to promote equality and increase the ratio of women in decision making roles, that we do need quotas; what's your view on the role of

	legislation to drive behavioural change?
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>Well I can only answer that question from where I am in the legal fraternity. My sense is that it is more public perception that hampers women succeeding. My...as I've indicated, at the time I was at the bar there wasn't a difference whether I was male or female. I did my work, I worked extremely hard because it's my passion and I succeeded. What did become more difficult when I obtained senior status is the quality of work, my male colleagues then tended to get the better quality work, but what I realised is that it's not necessarily their fault or the fault of the attorneys, the public decides which type of advocate they want to appoint, normally. There are attorneys who also have their favourites and so forth but if you think high profile cases that's been televised and that's been in the news for what, the past ten/fifteen years, that is what the public see. No big corporation, no government department, no-one who appoints council in high profile cases appoints female council, so the public perspective out there is that look, males do a better job, which is absolute not...absolutely not so. There are very competent female advocates, SC's, it's just I think if public...in our profession, to have a quota system will not work, it might give women, some women who do not necessarily get exposure, it might give them exposure to progress but at the end of the day, and that is my view, it is public perception out there that is hampering women in the law to progress.</b>
DR. MALKA	Because it's their...it's their call; it's their choice of who they want as representation.
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>Indeed.</b>
DR. MALKA	That's interesting and I think that part of where we...one of the questions that we just spoke about earlier was about the media exposure and prevalence and if you have more women in more visible roles, in the same way that watching a television series, you are influenced,....
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>...yes...</b>
DR. MALKA	...or you've got an awareness around you...
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>...no definitely.</b>
DR. MALKA	You are listening to 'Womanity – Women in Unity' on Channel Africa, the Voice of the African Perspective, on frequency 9625 KHz, on the 31 meter band, also available on DSTV, Channel 802.
DR. MALKA	Today we're talking to Judge Nicoline Janse Van Nieuwenhuizen from the Gauteng Division of the High Court. We would love to receive your comments on Twitter:@WomanityTalk.
DR. MALKA	In the previous segment of the show Judge Van Nieuwenhuizen spoke about her early developments in her career as she migrated into the field of law; we also spoke about some of her cases and experiences within her career as a judge.
DR.M ALKA	Judge Janse Van Nieuwenhuizen, one of the things that I've encountered with our world is that it is becoming increasingly smaller, we are far more networked and connected which sort of brings this global environment in; from my understanding legal is...and the law profession is very country specific; could you expand a little bit more on that and if we have any influences beyond our immediate geographic jurisdiction?
<b>JUDGE VAN NIEUWENHUIZEN</b>	<b>It is in indeed so that different countries have totally different legal systems. Our legal system is based one hand on the Roman...still the Roman Dutch System and on the other hand on the English law. We as</b>

	<p>Common Wealth countries have the same legal system than New Zealand for instance and Canada and in that sense if one wants to expand, well first of all practising law, it is possible; Australia the same one can legally train people that's been admitted in South Africa and even in England one can do your pupillage there and be admitted to the Inn which is there, they've got a barristers and a solicitors. It is more difficult with the European countries such as France, Spain, Portugal, well for that matter Asia countries as well...Asian countries and in that sense one is then more...maybe more, a little bit more prohibited but yes, we...there is the African court as well and so our judges with their capabilities, there's international criminal court where from time to time South African judges are appointed to. So with the knowledge, the skills, the legal principles that South African judges have, it does happen from time to time that we're not only bound to South Africa, but are <b>appointed to other different forums.</b></p>
DR. MALKA	<p>And if there is an instance or a case that occurs in one country or say it happened as a South African committed something, is there a deportation to be tried within SA courts or do South African citizens have a right to be tried in a South African court?</p>
JUDGE VAN NIEUWENHUIZEN	<p>It depends on what exactly the nature of the...I don't know whether you refer to criminal conduct or whether you refer to maybe a car crash and there's damage, or rather a car accident. Normally, and that's the first point of departure, so the country where the offense occurred, that country will have the jurisdiction, whether you're a South African citizen or not. So what will happen is when a person did commit a criminal activity in another country, and that criminal comes to South Africa to hide here basically, then there will be extradition, if there are treaties between the countries and so forth. So it is almost more that if there is a South African criminal or persons who allegedly have committed criminal activities that the South African government would then ask the country to which these persons have decided to go to extradite the people to fact, it's a law in our country, where they've committed the crime, or, yes.</p>
DR. MALKA	<p>So the nation where an act has been committed is the legal jurisdiction, so whatever offense has occurred that's where the responsibility sits.</p>
JUDGE VAN NIEUWENHUIZEN	<p>Indeed and according to those...the legal system of that country, what happens often, not often but it happens, that tourists go to a certain country...</p>
DR. MALKA	<p>...yes...</p>
JUDGE VAN NIEUWENHUIZEN	<p>...in the East and they're not aware of what is accepted because they're not used to the legal system and the tourist could do something totally innocent, not meaning to offend or not meaning to commit a crime, but in terms of the laws of that country it is a crime and there has been warnings and one should be very careful, if you visit a country and you're not sure of what is acceptable or not, to make sure because your government can't do anything for you, if you've committed that crime in that country, the laws of that country apply and you are going to be dealt with accordingly.</p>
DR. MALKA	<p>And they've got, you know, looking at the East and my limited knowledge they have got severe penalties in place for infringements.</p>
JUDGE VAN NIEUWENHUIZEN	<p>They do and also a big problem is the, once again, well not all females, that do the drug carrying or .....</p>
DR. MALKA	<p>...yes....</p>
JUDGE VAN	<p>....to other countries and then end up there where they only wanted to</p>

NIEUWENHUIZEN	earn some extra money, they end up there in prisons that's got horrific conditions, they have family at home, some of them children and one should be very careful and always bear that in mind when you go to another country; be very mindful that it does not matter what our legal system is, it is that legal system that applies.
DR. MALKA	Well thank you for sharing that very educational point; I think that it's a really significant point on understanding where you are, the environment you're in and the context of what you do. Now turning towards more of a personal perspective, one of the questions that I ask all my guests on the show who've made significant achievements in their respective fields is about the factors that they consider have contributed to their success. So some people will speak about hard work or perseverance or a particular person; what would you say have been some of the factors that have contributed to your success?
JUDGE VAN NIEUWENHUIZEN	<b>First of all I am a very positive person so any challenge that would arise or did arise in my career I would attack or deal with it in a positive manner. I do not tend to get depressed or to get...to be downhearted when there is a challenge, I rather try to use that to my advantage, so that on the one hand, it's a personal....what I am like and then the hard work. The work is not hard if you have a passion for what you are doing, then you want to do it. As I've said I've got a lot of empathy and sympathy of people so what I did enjoy when I was still in practice is to assist people out there that's grass root level and to see the absolute change it makes in their lives. So that...those factors I think cumulatively; positiveness, want to be there for other people, hard work definitely, but also overcoming obstacles, not being...not overly sensitive and not to allow obstacles to be bigger than you. You must do what your heart tells you to do and it's been my experience, anyone can do anything as long as you're passionate and the drive that you want to do that is the most important thing.</b>
DR. MALKA	I completely agree with you there, I think if you've set a focal point, that no matter what, you can overcome those challenges and you can make it happen.
JUDGE VAN NIEUWENHUIZEN	<b>Yes and that's...and maybe a day or two or sometimes a situation arises that one feels a bit taken aback and that is normal, that is totally normal, it's more the way that you the move forward. What did you learn from that and how am I going to get over this. That is personal growth and it's also growth in one's career, it is what I experienced.</b>
DR. MALKA	And who would you say have been some of the key women or strong women in your life?
JUDGE VAN NIEUWENHUIZEN	<b>Look my mother; we've got very strong women in the family; my mother, my maternal grandmother. My father had two....well I still do have to aunts, so the women in my family growing up had a big influence on my life. Also the males, it was...I was not raised in a male dominant family, we...I was raised in a family where males and females were equal, so they all treat each other with respect and nothing was impossible, it didn't matter whether you were a girl or a boy, we learnt to go and pursue what you want to do. So definitely the women when I grew up, the close family members and as I got older and focused on ones career, I can't really isolate one single person, I think the women that has done...there are so many strong women that has done so much that it's hard for me to really isolate someone since I've now started practicing and being more...moving upwards in my career.</b>
DR. MALKA	And can you share with us a few of the pivotal moments in your life growing up?

JUDGE VAN NIEUWENHUIZEN	That's a good question. I grew up very balanced and without much turbulence. It was a very typical family orientated upbringing, school years there was nothing exception or nothing that really stood out or any upheavals, so in that sense I do not know whether one is privileged because I think the more challenges that you have the more you are prepared for adult life. So I've really...one should almost say have had a very boring life, very privileged but....
DR. MALKA	...I think your life's far from boring especially with what you do now, it's incredible...
JUDGE VAN NIEUWENHUIZEN	...I think more than....yes, I'm more talking about my years as a child, you know, I was just happy and I was in this family unit there is warmth and...
DR. MALKA	...safe...
JUDGE VAN NIEUWENHUIZEN	...very safe, very safe and so nothing really transpired during my, you know, my years as a child that would...that changed me in any way.
DR. MALKA	So looking at that as family life, going through, evolving to the point that you're at today; what would you say have been some of the best lessons that you've learnt in your career?
JUDGE VAN NIEUWENHUIZEN	Well first of all never be over confident. Always, always if...every matter...and law and I think it applies to all the work one does, doesn't matter what you do, carefully consider what you're doing, prepare properly. Go almost the extra mile and the lessons I have learned is was times where I was over confident, where I did not apply my mind to a case and that was when I was still practicing and the result was that I missed a point or two, so I think that's a lesson that I've learnt and that I've applied since. Always be prepared, make sure that you have applied your mind already before you go into court. Other lessons, yes, it's maybe not a lesson I've just always believed in kindness and respect for people around you and that have stead me well my whole life, so it's not necessarily a lesson it is just the way that I...
DR. MALKA	...they're good values...
JUDGE VAN NIEUWENHUIZEN	...yes and that is absolutely my parents first of all, my father more. I grew up, we were learnt that there's no-one better than you, we are all just who we are. It doesn't matter where you are in life, it doesn't matter whether you are this CEO of a big corporation, that's what you do, but who you are is inside you and that is important, if you meet someone it's the integrity that's important, not...we are all the same, no-one is better than anyone else. You judge someone on their integrity, so I did grow up and I'll always be thankful to my father and it always stood me well, you know, all these years to be able to live that life and it brings...just brings a lot of joy.
DR.MALKA	And it's a fantastic foundation that you...it's almost like that one says as a reference point or that's something that you can rely on because those are what values are. And finally, as we close the conversation today, could you please share a few words of wisdom or inspiration that you'd like to impart to young ladies that are listening to us?
JUDGE VAN NIEUWENHUIZEN	Yes I would be very privileged if I could inspire any of the young ladies listening today, my advice would be make sure what you want to do, it is not a problem if you are not sure, then you carry on and you do other things, but once you are sure what you want to do then you pursue that. It is possible. It is possible for anyone to do anything they want, as long as they put their heart into it and work hard and pursue, do not stop, do not be disheartened, pursue what you want to do and you will be successful.

DR. MALKA	Thank you very much for that strong message, I'm sure it will motivate people that are listening to us and we really appreciate you taking your time out today to share your life story with us.
JUDGE VAN NIEUWENHUIZEN	<b>It was really a pleasure, thank you for having me.</b>
	<b>PROGRAMME END</b>