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SPEAKER	TRANSCRIPTION
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 Professor Cathi Albertyn who is a professor of law and holds the South African Research Chair in Equality, Law and Social Justice at the School of Law at the University of The Witwatersrand. Prior to joining the school she was the director of the Centre for Applied Legal Studies and headed its Gender Research Programme for ten years. During that time she worked closely with the Women's Movement in seeking to influence the constitutional negotiations and after 1994 on several policy and law reform processes. In 1997 she was appointed a Commissioner on the First Commission on Gender Equality. Welcome to the show!
PROF ALBERTYN	Thank you Amaleya I'm excited to be here.
DR. MALKA	Well you've got a fantastic history; such in-depth knowledge within the law and informing our constitution that we have today. So to begin with, you started your law career in 1982 when you earned your LLB from the University of Cape Town; in 1983 and 1984 you went on to study your masters in Criminology at Cambridge University in the United Kingdom where your dissertation focussed on political oppression and criminal justice in South Africa in the 1960's; thereafter in 1992 you attained your PhD, also from Cambridge University and your dissertation was titled "A Critical Analysis of Political Trials in South Africa Between 1948 to 1988" and in 1991 you were admitted as an Attorney of The High Court in South Africa. Your dissertation topics really speak to South Africa's past, of oppression and inequality; what made you decide to focus on law and pursue this direction?
PROF ALBERTYN	I think several influences. I grew up with parents who had either fought in World War II or had been bombed in World War II, so very much that idea of the big ideas of good and evil and the world fighting back. In the 1970's in South Africa, it was a time of I think, intense oppression but also the emergence of black consciousness and the 1976 Soweto Rebellion and although I lived in a very white world, this being apartheid South Africa, I think that the wickedness of the apartheid system was very apparent. It seemed to me...and you know I think...I read To Kill a Mockingbird, we used to argue intensively in class, it seemed to me from an early age that although the law was a place of...that could oppress people, it was also the place where people fought back, so I can remember in my high school English class debating issues around Steve Biko and political trials that were happening then, so it always seemed then that the law could also be an instrument of social justice and that really was made real during my law studies where the early public interest lawyers in South Africa who were beginning to defend people in political trials, who were working to keep people out of detention, etc., they were amongst the lecturers and the people who came to speak about them and who were very inspiring. So I

	really wanted to use the law to make a difference and when I had to choose a topic and to think about what it was I would study, those topics allowed me to think about the role of law, both as an instrument of oppression, but also as an instrument of struggle and justice.
DR. MALKA	When you talk about struggle and justice, I think what was very interesting, and we spoke about this offline, was your involvement with constitution and looking at that from a woman's point of view with the Women's Coalition at the time; can you tell us more about that?
PROF ALBERTYN	Yes, so I was lucky enough to be a young lawyer in the early 1990's, which I think was a very exciting time for anyone in South Africa because it was the time where we put our lives aside in order to try and make South Africa a better place, to build its democracy, to write its constitution. I was asked to apply for a job at the Centre for Applied Legal Studies to start a women's rights project there in 1992 and I went across and joined Mavivi Manzini who was an ANC woman recently out of exile who had been very involved in women's struggles within the ANC and together with her and with a whole lot of other women I very quickly became involved in a woman's movement, mainly driven by women coming in from exile, but also from women internally, to ensure that women would not be left out of the writing of the new constitution. So that took many forms; mainly we were involved in the development of the Women's National Coalition which was an idea that ANC women had brought back from exile, the idea that we would write a Woman's Charter that would set out women's demands for a new constitution and that drew together women across incredible difference in South Africa, across race, gender, religion, culture, rural/urban location, it was really an attempt to unite everyone around this idea that women and gender equality needed to be institutionalised. So we set up this women's national coalition that brought these women together organisationally and that drove a campaign to draft a woman's charter.
DR. MALKA	It's such an important aspect that I don't think, you know, twenty years on that people probably don't really think about the work that went into it now because we have these rights, we have these opportunities but it was all down to making sure that we were included in that constitution.
PROF ALBERTYN	Yes, yes. At a formal level there was an acceptance of non-sexism and gender equality from the beginning, I think it's actually in the first CODESA Declaration, but you had to fight to keep it in, I mean that's what was so amazing, there was never a single victory. You would win something and then something else would come along. One of the big battles in the early 1990's were the traditional leaders who wanted to say well customary law should not be subject to this thing called gender equality, it is foreign to African values and of course African women were standing up and saying no, we want this thing called gender equality and you would have thought that that would have been dispensed within a day or two; this is a democracy, we're going to be equal citizens, but it took us months to actually solve that particular problem and ensure that all women were citizens of the New South Africa and all women would have rights over their lives.
DR. MALKA	Looking back and reflecting on the work that went into it, would you say that our legal system is in the right place, in a space that you would have imagined?
PROF ALBERTYN	You know the constitution has become quite heavily contested in this day and I think has become...a lot of people say that the fault of the problems we see today go back to the constitution. I disagree with that, I think some of the problems we see today go to the political and economic deals around the constitution, but I think the constitution is a profoundly socially

	<p>democratic and progressive document and in many ways we've been able to use that constitution to put in place I think quite important laws and rights and institutions at a formal level. My sense of failure is that we haven't made those work and that's a much more difficult and intractable problem. I'm not sure we have to go back and re-write too much. We might want to expand laws. I think we've got to go and make those systems work, I think we've got to back into government, we've got to into the courts, we've got to become judges, we've got to become prosecutors, we've got to go to those maintenance courts and we have to make those systems work.</p>
DR. MALKA	So it's the implementation side of things.
PROF ALBERTYN	It's the tough question of implementation...but it's not leaving it to someone else, which I think we sometimes do, we think implementation is somebody else's problem; it's all of our problems.
DR. MALKA	You're so right, we are citizens, we make our country work and it's got to...if we want it to work for us we've got to ensure that we're there to enact upon that. Reflecting on the past for a moment, in 1997 you were a commissioner for the First Commission on Gender Equality; can you please tell us about your experiences in that capacity?
PROF ALBERTYN	<p>Yes, ja, I mean I think the experiences are twofold. The one is the excitement of being part of a new institution and the new democracy and being part of building it and having these huge aspirations around building a feminist institution and the realisation as to how difficult that is where twelve very different people go into an institution and have to find each other and define a common programme. I think that we managed in the short time that I was there to do some quite significant things. We were part of quite important cases, we were involved in law reform, we were involved I think also in networking within civil society to build partnerships and to sort of help build a women's movement, but it was quite difficult to find a space to act. It was quite difficult to find a space where the Gender Commission would do something that was different. It was difficult in a world, I think, where we were all very newly in democracy, so there were loyalties and there were histories and there were backgrounds that I think made it difficult to act in all kinds of ways. I think women who had been part of the ANC in exile or inside of the country and now had to be a watchdog on their comrades and government found it quite difficult to do that; quite difficult to call out your comrades immediately. So building independence became quite difficult for the Gender Commission but it was very exciting. What I found, personally, around that commission, was that at some point you have to get a work-life balance and I think what we did in the early 1990's is we set aside our lives and we put everything into the constitution, building these new institutions but I had a...I was pregnant and had a baby, I had a full-time job at the Centre for Applied Legal Studies and I was a part-time commissioner and I think after two years I just said to myself I was burning out and that we can't do everything and that we have to find a more balanced place in life in order to make the kind of contribution that we want to make. So I left the Commission and I went back to the Centre For Applied Legal Studies.</p>
DR. MALKA	And how were you able to negotiate and navigate that balance because I have to say that's one of the hardest things that I find on this programme in having conversations, to be a professional woman, to still look after your home life, how do you manage to negotiate that...or navigate it rather?
PROF ALBERTYN	I've been very lucky in that I've had a partner who has believed in real equality in the home, so I haven't...I mean I grew up in a very traditional household where the father was the breadwinner and the mother was the

	<p>homemaker. I didn't really want to live that kind of life because I wanted to work and I wanted to contribute in different ways, so when we decided to have children, it...I'm not even sure we even discussed it, it was really on the basis that this would be a kind of co-equal parenting and my partner and I have always shared childcare, we've always shared domestic chores. For a while my husband worked from home when the children were very young, so he could fetch them from school and then pop back home again and I was then I think Director of the Centre for Applied Legal Studies. So I've been lucky in that sense, but even with that kind of help, even with that kind of balanced partnership, it's still difficult, you have to give up certain things and you often have to give up things in your career, so your career does slow down for a while and you do...as an academic you give up on things like international conferences and publications because you have to be at home for the children. But in the end why do we see it as giving something up, I mean maybe it's just a choice we make because we gain from raising children. So it slows you down against the test of the male breadwinner but maybe the male breadwinner is actually not the panacea, maybe somebody who's seeking to balance work and life and is progressing in that sense is the kind of model that we should be following.</p>
DR. MALKA	<p>I think often we're always confronted with rising up the corporate ladder or rising up the academic ladder and it's about the time that you invest into that, the hours that you spend almost being seen at work, which are big contributing factors....</p>
PROF ALBERTYN	<p>...yes...</p>
DR. MALKA	<p>...where I think it's about the value of the input....</p>
PROF ALBERTYN	<p>...it's about the value of the input but it's also not...it's this notion of the male norm in the same way as the white norm, we test ourselves against this...can we say a "white male norm", which is the man who has a wife to look after his home and is able to devote his entire life to his work but that shouldn't be the norm these days, we should be transforming the workplace to take account of a different kind of norm.</p>
DR. MALKA	<p>Unless we all had extra wives....</p>
PROF ALBERTYN	<p>...yes....</p>
DR. MALKA	<p>...or husbands....</p>
PROF ALBERTYN	<p>...yes....</p>
DR. MALKA	<p>In the introduction I mentioned that you hold a national research foundation South African Research Chair's Initiative (SARChI) for Equality, Law and Social Justice, which you received last June in 2018. SARChI is an intervention by the government of South Africa designed to significantly expand the scientific research base of the country in a way that is relevant to national development and in support of making South Africa an internationally competitive global knowledge economy. What does this award mean for you and what will you use it for?</p>
PROF ALBERTYN	<p>Well it's wonderful; I call it my retirement plan, which is a little unfair. It's a wonderful recognition and I'm going to do two things with it and these are things I have to do because there of course there are conditions of getting the chair. The one really is to build a postgraduate community. So part of what we are expected to do is really provide not only bursaries, which we can, but also support and assistance and an environment for postgraduate students, so I have a wonderful community of students working in a range of areas relating to equality, law and social justice and</p>

	<p>that I hope will increase over time. The second one is a research project that for me talks particularly to voices of the South. So constitutionalism and human rights is often dominated by voices of the North and my particular interest is really bringing together South/South exchanges. So women and men in Africa, in South America, in Asia to talk around human rights and women's rights and social justice and the experiences of constitutionalism from a southern perspective and I have a whole lot of plans around conferences and projects there.</p>
DR. MALKA	<p>That sounds incredibly exciting and have you started the developments there or still on the planning phase?</p>
PROF ALBERTYN	<p>So I have two plans that are in the development, the one is to think around the colonial legacies of gender equality which is really to look at gender discrimination and gender inequality through the kind of colonial gaze, so what is it about the colonial history that has produced inequality and how can we deal with it and what would be the kinds of universal and indigenous responses to it. So it's trying to locate our work on women's human rights and gender inequality within the global south. The second one is to think about the role of constitutions and inequality, so that's really going back to the debates that we've had in South Africa about is it the fault of the constitution that we have ongoing inequality in our country and is it the fault of the Indian Constitution or the Brazilian Constitution that they have those kinds of problems. So it's to bring together scholars to talk about what constitutions do to reproduce inequality but also what constitutions can do to enhance equality and women's rights. Those are quite abstract ideas now, I know, and hopefully they'll become more concrete as we go forward.</p>
DR. MALKA	<p>I'd love to hear how they develop. Throughout your career you've demonstrated your commitment to transformation, the promotion of gender equality and some of the titles in your publications include "Getting it Right in Equality Cases"; "The Evaluation of Positive Measures"; "Groups and Subsidiaries in Solidaritat Versus Minister of Basic Education"; another title is "Claiming and Defending Abortion Rights in South Africa"; "The Stubborn Persistence of Patriarchy"; another one was the "Gender Equality and Cultural Diversity in South Africa" which are, you know, these are all points which really touch on women's rights and development and quite diverse.</p>
PROF ALBERTYN	<p>Yes, well gender holds them altogether I guess, gender equality and also I think the idea that as a good feminist lawyer you have two roles, the one is to expose bias and inequality in law, so looking at the law as it is and the law as it is, is often biased against women and the second one is to look at the law as it ought to be. So how do we change the law and what should law look like; what should a law that improves the position of women look like? So a lot of my work has been around law reform and changing the law and so I've been very interested...I was very much part of bringing in the new choice on termination of pregnancy act in South Africa and then understanding why it doesn't work in practice. Together with a colleague I was involved in reform on customary law and understanding that but also trying to understand that not from a western perspective but an internal cultural perspective. So that's reflected there, also how do we think about the idea of equality and discrimination in a way that helps law begin to dismantle structural inequalities, that's a difficult question. But a lot of my work has been directed at that, how do we interpret the law in a way that begins to really put women first, put the LGBTI community first, put rural women living in customary law first and to make sure that their experiences are recognised and dealt with by the law.</p>

DR. MALKA	That goes back to that very first statement that you said when you were growing up about “the law for social justice”.
PROF ALBERTYN	Yes, yes. I’ve always believed in that and that’s what I’ve always tried to teach my students.
DR. MALKA	Taking into consideration the various challenges, as well as the successes that women’s legal rights have had over the last few years, do you think that 50/50 gender representation can be achieved if more women, for instance, entered the political arena or the judiciary space where laws are made?
PROF ALBERTYN	Yes, so, two...I think two parts to my answer to that question. I think firstly without doubt we need women in public institutions and we need women in public institutions because it’s a matter of justice, fairness and equality. At that level it doesn’t matter who those women are but young girls growing up need to see that women can be judges and lawyers and presidents and prime ministers of country. So there’s that formal level at which numbers matter, but more important than that are the kinds of women and men that we put in place in those institutions and that’s about people going in there who want to shift their institutional culture, who understand the plight of gender inequality or LGBTI inequality and who want to bring about change, because in the end it’s not going to help us if we have 50% of women who are unsympathetic to women’s causes, it’s only going to help us if we have the right people there and then we have to hope that the 50% of men are really on board on those kinds of projects.
DR. MALKA	What areas do you think we still need more attention with regards to women?
PROF ALBERTYN	Everywhere...that would be the answer. I suppose...I’ve always...the core area of my advocacy in many ways has been around women’s bodies and women’s autonomy and it’s...
DR. MALKA	...when you said bodies do you mean physically or looking at it more from a movement....?
PROF ALBERTYN	...so no, women’s physical and mental and psychological bodies. I think that intuitively I believe that women are not respected at the most fundamental level and that is that their decisions are not respected and their bodies are not respected and that means that women are unable to take decisions around sex, around reproduction, are subject to forms of gender based violence because a lot of the norms and cultures...a lot of the norms and values in all of our values and religions tell us that women are objects of others and not subjects of their own being. So I think that’s fundamental and of course it links to things like poverty and inequality but to me, for people to respect women’s choices, to trust women’s choices, to trust women’s agency, to respect women’s bodies is the most important thing.
DR. MALKA	And that goes for everyone, it’s not just about women, it’s about....
PROF ALBERTYN	...of course it goes for everyone, LGBTI....
DR. MALKArespect....
PROF ALBERTYNit goes for men as well because of course men are vulnerable, you know, the hierarchies are not just male/female, the hierarchies are much more fluid and complicated than that.
DR. MALKA	You spoke about the prominence of having women in roles, which for me are really important roles on leadership, so whether they are in the judiciary, whether they are presidents, whether they are prime ministers, because they’ve got a strong role modelling effect and influencing factor; as someone who’s been in the legal system your entire career, what would be your advice to young women and girls who are perhaps facing gender challenges?
PROF	So...without question young women are going into the legal professional to

ALBERTYN	a profoundly patriarchal system and in some places it's much worse than others. I think that from just gender bias in the way people are treated to predatory sexual behaviour is present throughout the legal system, so my advice to young women is be aware that that's what you're going into, that should not stop you going into it, but you really immediately need to be seeking support, mentorship, advice, you need to be talking to your peers, you need to be finding mentors within and outside the system, you need to be aware of your rights, you need to be challenging things that happen to you and there are a lot of very sympathetic and good people in the legal system, I'm not trying...I'm not trying to say that this...it's a predatory system that you're going into and there's no hope, of course there're wonderful people and good judges and good lawyers, you need to find those people and you need build networks with them and you need to stand up and complain and you need to stand up and be counted.
DR. MALKA	But it's a space where you've got opportunity to drive change in the right direction.
PROF ALBERTYN	Yes, I think it is and I don't think it's always easy to do that and I don't think it's always easy to be the one who complains or who stands up, but I think it's very important that women find the courage to do that.
DR. MALKA	Today we're talking to Professor Cathi Albertyn who is a Professor of Law and holds the South African Research Chair in Equality, Law and Social Justice at the School of Law at the University of The Witwatersrand. We would love to receive your comments on Twitter:@WomanityTalk.
DR. MALKA	Now turning a bit more towards personal perspective, I wanted to ask you about some of your personal journey. We have had guests from a myriad of disciplines on this show who have all achieved in their respective fields and one of the questions I always ask is about what they feel have been some of their core drivers or factors to success . So some people speak about perseverance; a particular person, so could you share with us what would you say have been some of your key drivers?
PROF ALBERTYN	A number of them. I think growing up under apartheid in South Africa has to be one of them, growing up in a system that you increasingly see is an unfair and unjust system drives you to think about how to change it and to make choices around the careers that you will get involved in, so that at a systemic level has been very important. I think there have always been very important people in my life; my grandmother who came out as a sort of post-war immigrant, not refugee, she came out as an immigrant; out of a depressed England to make a better life...or should I say Whales...to make a better life for her family and the kind of strength and courage and determination of that woman and then I think teachers. Christian National Education was a very repressive system and I thank God for the brave teachers who would talk about sex and politics and religion in the classroom and who would alert us to what was going on in the world around us and made us aware, I think they were very important drivers in my life and then the kind of fundamental instinct that women have a raw deal and that that needs to be fixed. I think that's also all of my life been something that I've...that's driven me to try and make a difference.
DR. MALKA	Well you've managed to do something about it, it's not just having the idea and the ambition and the want but you've actually managed to drive that change.
PROF ALBERTYN	Well, thank you.
DR. MALKA	Now looking at your life growing up, I mean we all tend to be moved by particular experiences that forge who we are; what would you say have been some of the pivotal moments?

PROF ALBERTYN	It's very difficult to say, I mean I think again, high school, the...and I've spoken about that – teachers – being in matric in 1976 during the 1976 Soweto Rebellion, being in this very privileged school in Cape Town and being aware that really across a couple of highways this...the townships were on fire, metaphorically and often literally, I think that was quite a pivotal moment, a sense of the divide in the country and the opportunities.
DR. MALKA	How did that make you feel?
PROF ALBERTYN	Well in hindsight it was probably my first understanding of white privilege but I think that feeling only, I suppose, has been given words quite recently. This notion that your positionality and where you are in a society really determines your opportunities. So it was a sense of that, it was a sense of the privilege of being white and the inequality of being white, if that makes sense and how unfair it was that people on the so-called other side were having to fight for things that I took for granted.
DR. MALKA	You mentioned your grandmother as being an important role player in your life; who have been some of the other women that have been key influences?
PROF ALBERTYN	It's difficult to think about individual women who have been key influences; I think would be the honest answer. I can't say to you this particular woman or that particular woman has profoundly influenced my life. I think that I have always been influenced by strong women; by women who stand up for themselves. I've also been influenced by kind women, I think kindness is an underrated value and I think the women that stand out the most for me are the women who care, who take time to be kind, so I think that characteristic has been very important to me and I've also been influenced by outspoken women, I think women who have been prepared to stand up and call it in the most difficult circumstances. So women who at personal cost will nevertheless stay true to what it is that they believe, I think those kinds of peoples have also influenced me but I can't think of an individual person who would epitomise any those of qualities, those are just qualities that I've always been attracted to.
DR. MALKA	I think it would probably be very rare to get one person that exhibited all of them at once.
PROF ALBERTYN	Yes, that's probably true; they would have probably won the Nobel prize by now as well.
DR. MALKA	That's for sure. Given your career up 'til date, your lived experiences, what would you say has been the best lesson you have learned?
PROF ALBERTYN	The best lesson I have learned I think has been twofold. The one has been to trust my instinct, my intuition, I've not always trusted my intuition, it's often right and I don't listen to it, but it's sometimes wrong. So the second lesson I have learned is the power of reflection, so that combination of one's own internal intuition and then reflecting on what it is that you do and contemplating the possibility that you might be wrong and that you might need to change has also been another powerful lesson. I think that second lesson has been particularly powerful in the last few years, particularly around being in a university environment, The Fees Must Fall protest, the way in which we were all challenged to think differently around the past twenty years and to reflect and to be open to different points of view, I think that became very, very apparent in the last few years.
DR. MALKA	The Fees Must Fall was a really significant movement that you know caught on globally, although from a South African point of view, this is where we really felt the student protests happening. What changes have been put in place in the institution since those events?
PROF ALBERTYN	Ah it's a difficult....so that's a difficult question to answer. At a formal level there have been very important changes. So I mean we know that

	<p>Zuma gave more money to students although it's certainly not enough it doesn't touch the students in the missing middle...WITS I think has raised more money than any other university to assist students with funding and with accommodation. The problem is that it's never going to be enough, so there are those kinds of things. I think what we've failed to do enough though because the other demand of students was to decolonise education and some people think decolonising education is adding a few black authors to the reading lists and then you've done it, but I think it's a much more profound change than that. So I think that's an ongoing challenge, changing the institutional culture, thinking what it is to be an African institution in an African environment, its part of what my research chair wants to do with the idea of equality.</p>
DR. MALKA	<p>Yes, 'cause you mentioned about this taking in the northern hemisphere and your focus on the south.</p>
PROF ALBERTYN	<p>Yes, so I think that's an ongoing challenge and I think we're often in danger of sitting on our laurels because we can tick a list of things and say we've done a, b and c, but it's those more intangible things around culture and norms and the way in which we see things and the way in which we take things for granted and the way in which we don't reflect on the perspective of the other; I think those are the real challenges of the here and now.</p>
DR. MALKA	<p>And lastly as we close out our conversation today, could you share a few words of wisdom or inspiration to young ladies listening to us on the continent?</p>
PROF ALBERTYN	<p>Yes a couple. I think the first one would really be to trust yourselves, I think women are so often taught not to trust themselves and that they're wrong by the social...by the societies in which they live and maybe by individuals, so the first is to trust yourself and to believe in yourself. The second one is to be kind, I'm coming back to that, maybe it's because I'm getting older but I'm coming back to that notion of being kind to others and the third one I think is to seek out mentors. Male and female I have to say; I've had some very good male mentors in my life as well as women, so, seek out both.</p>
DR. MALKA	<p>I think those are very important words of advice, thanks for sharing and thank you so much for joining us today.</p>
PROF ALBERTYN	<p>Thank you, it's been a great pleasure.</p>
	<p>PROGRAMME END</p>