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PROGRAM NAME: WOMANITY – WOMEN IN UNITY

GUEST NAME: LABOUR COURT – JUDGE ZOLASHE LALLIE

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 on the line today, for our series on Women in the Judiciary, is Labour Court Judge Zolashe Lallie. Welcome to the show Judge Lallie!
JUDGE LALLIE	Thank you.
DR. MALKA	Judge Lallie, your career in the legal sphere seems to have been focused on labour as well as workplace issues. Some of your prior roles include being a member of the Industrial Court, serving as the Convening Senior Commissioner of the Commission for Conciliation, Mediation and Arbitration, otherwise known as the CCMA, as Head of the Eastern Cape Provincial office, you have also run your consultancy which addressed labour law and in 2012 you were elevated to the Labour Court Bench. Please tell us more about some of the functions of the labour court as well as its jurisdictions.
JUDGE LALLIE	The labour court deals exclusively with labour issues. In terms of Section 157 of the Labour Relations Act 66 of 1995, the labour court has exclusive jurisdiction in respect of all matters in which labour legislation and any other statute requires the labour court to adjudicate, so it is a legislation that determines our jurisdiction. So if a piece of legislation requires that certain cases be adjudicated by the labour court, those cases are adjudicated by the labour court exclusively. We have also concurrent jurisdiction with the high court over cases which involve alleged and threatened violation of any fundamental rights entrenched in Chapter Two of the Constitution, which arise from employment and labour relations. We have jurisdiction over the constitutionality of acts and conduct of the state as an employer, some of our functions include reviewing decisions of the CCMA and bargaining councils, we adjudicate cases involving discrimination and unfair dismissal of employees. I think those are most...that covers most of the cases that we deal with.
DR. MALKA	Thanks for giving us that perspective. Reflecting on your career as a judge; can you tell us about a few of the cases which have stayed with you the most or had the biggest impact on you?
JUDGE LALLIE	One of the cases that has had an impact on me is a case which involved a vulnerable employee, a farm labourer, who got dismissed for conveying his fellow employees' dissatisfaction with the manner in which their supervisor was supervising them; he got dismissed for threatening that supervisor. When the case came before me on review, it became clear that the employee who had been dismissed after twenty-three years of unblemished service had in fact not threatened either the supervisor or the farm owner when conveying the message from his fellow employees. So as the labour court, we have an obligation to ensure that the rights entrenched in the constitution, which include the right not to be treated and dismissed fairly are protected, so in ensuring that that right was protected, I had grounds to review and set aside the decision, finding the dismissal of that particular employee substantively fair. Another matter

	<p>that I think is of importance involved a sub-editor of a newspaper who was shot as she was arriving home from work during a car hijacking. She was left paralysed from the waist down and wheelchair bound. When she resumed her duties after her ordeal, her employer failed to accommodate her disability, the employer refused to increase her income for three consecutive years, as a result her disability benefits were reduced. The Employment Equity Act 55 of 1998 and the Code of Good Practice for employment of People with Disabilities requires employers to reasonably accommodate the needs of people with disabilities. The aim is to reduce the impact of the impairment on the person's capacity to fulfil the essential functions of the job and the applicant in that case proved that the employer had discriminated against her in that the employer did not render the necessary support and because she had proved her case, I awarded her maximum compensation in terms of the Employment Equity Act, which is equivalent to twenty-four months pay. I further awarded her her actual financial loss which resulted from her employer's failure to accommodate her disability, as well as the costs for her case, her legal costs.</p>
DR. MALKA	<p>As you were talking I was getting goose bumps on the impact that happened to this poor young woman of her life being forever changed from her incident and then being further compounded by the fact that she was discriminated against by her employer for not providing reasonable accommodation, given her impairment and I imagine that there must be so many cases like this, where if it wasn't for the labour court, that people's cases would fall through the cracks and justice wouldn't be served.</p>
JUDGE LALLIE	<p>Certainly, because we have exclusive jurisdiction to adjudicate their cases.</p>
AD BREAK	
DR. MALKA	<p>Today we're talking to Judge Zolashe Lallie of the Labour Court. We would love to receive your comments on Twitter: @WomanityTalk.</p>
DR. MALKA	<p>Judge Lallie you mentioned the Employment Equity Act and one of the points which has been raised in several conversations that we've had with leading women from different fields is that of gender pay gaps and I know that there was an amendment to the Employment Equity Act, which was to incorporate equal pay for work of equal value. Interestingly, in 2018 in Iceland, Iceland became the first country in the world to make it illegal to pay men more than women for doing the same job and I think that it's astounding that unequal pay is such a reality around the world and that the only way to help rectify this scenario seems to be criminalise it; please can you share some of your views on how we can close gender pay gaps.</p>
JUDGE LALLIE	<p>I wish to suggest that affording women equal opportunities early in their lives places them in a position to compete with men. It is my view that we need to remove the distinction between men and women when it is unnecessary. So when women are afforded the same opportunities, they acquire the same qualifications and skills to perform the same jobs as men and the justification of paying a man more falls away. So we need to empower women, we need to remove the discrimination between women and men very early in people's lives and where the pay disparities exist, we need to remove all the reasons that justify them. If we have to give women more skills, more education and more opportunities to perform those duties that men perform in order to earn particular salaries, then let's ensure that women are placed at the same level as men.</p>
DR. MALKA	<p>And Judge Lallie what role do you think employers should play in this, because one of the arguments that I have is that they are completely aware of</p>

	what they're paying to their staff, their workforce, that they need to take some responsibility and action on being able to level the playing field.
JUDGE LALLIE	In the civil service, when salaries are determined, that determination is based on the position, not on the person, so when a person is employed, their gender then becomes irrelevant. I think that in the private sector therefore, the same principle should be used because it assists to eliminate pay gaps, so that a person can be paid based on the position that that person holds, irrespective of their gender or sex.
DR. MALKA	I think that's an excellent suggestion; that it really should be about the role and not necessarily the person that is occupying the role. Judge Lallie, staying with the view of women and men and gender; worldwide women tend to undertake most of the unpaid labour, which is essential to sustain households and economies, whether that's from cooking, cleaning, raising children or even to subsistence farming. According to UN Women, women carry out two and a half times more unpaid household and care work than men and as a consequence of this they actually have less time to participate in paid labour or to work longer hours; how do you think we can promote a more equitable distribution of unpaid work between men and women?
JUDGE LALLIE	The problem is a problem of our society and norms. As societies we create norms and as societies evolve, we need to change those norms that do not serve us. If a job does not have to be done by a woman, for instance at home, if certain work at home does not have to be done by a woman, like washing dishes, assisting in raising children, parents must be seen as parents and parents need to do what parents have to do in raising their children. So, as I have said earlier on, we need to remove the distinction between men and women when it is not necessary, so if it is not necessary for a particular responsibility to be shouldered by a woman at home, then both men and women should shoulder that responsibility. So it is something that as society we need to talk about, it is a culture that we have to change, we need to eradicate this form of discrimination and introduce and inculcate a culture of fairness and equity, so people even in their homes need to be sensitive to the needs of other family members and share family responsibility jointly.
DR. MALKA	And that brings in the whole aspect of socialisation and really proves the point that culture is dynamic, that we can change things if they no longer suite our needs and the needs of society.
JUDGE LALLIE	Yes we can, it depends on us, you know an example that comes to mind is the example of smoking, because people used to smoke freely in public, although it was legislated it also became a practice in South Africa that people should refrain from smoking in public areas. People smoke in their designated areas, so it is true that as society, we can change any practice or norm that doesn't suite us, we can change this discrimination against women.
AD BREAK	
DR. MALKA	Today we're talking to Judge Zolashe Lallie of the Labour Court and we would love to receive your comments on Twitter: @WomanityTalk.
DR. MALKA	Judge Lallie, in the previous segment of the show we were talking about being able to change society and reflecting for a moment, it's been almost a year since the passing of the US Supreme Court Justice Ruth Bader Ginsburg, whose work advanced the rights of women. She once said, and I quote, <i>"For both men and women, the first step in getting power is to become visible to others and then to put on an impressive show. As women achieve power, the barriers will fall. As society sees what women can do, as women see what women can do, there will be more women out there doing things and we'll all</i>

	<i>better off for it."</i> I think it's such a powerful quote; do you have a perspective you'd like to share on this statement?
JUDGE LALLIE	I agree with you, it is very powerful. My view is that when we step in getting power, we need to prepare ourselves for getting power, for example, we need to be suitably qualified, we need to acquire the necessary skills, we need to practice and hone those skills so that we can acquire those positions of power and then when we are in those positions of power we need to be visible to others. So it means that we need to perform in our positions and do what we are either employed to do or undertake to do in those positions of power, exercise that power properly, responsibly and reasonably and we can only put an impressive show, as she puts it, when we are well prepared for our positions and when we have acquired the necessary knowledge and when we take opportunities and are given opportunities by those who are in positions of giving us opportunities. I need to quickly add that we need to take active steps to obtain those opportunities. It is true that when women see other women in positions of power performing their duties properly and well, they get inspired; they see that it can be done and they also join in. Yes, there will be more women in positions of power when they see other women performing in those positions of power.
DR. MALKA	And within the judiciary and justice value chains, do you think that if we have more women entering that space it will help to formulate decisions as well as public policies that are perhaps more considerate of issues that affect women, whether that is equality or employment discrimination?
JUDGE LALLIE	I believe so, because if a decision about women has to be taken, who best can take it, because it involves their experiences, it involves issues about them. So it is proper that if it is about you, you have to be part of that decision-making and in saying so, I wish to add that as women, we live with men too, when I say that we need more women in this value chain, I do not necessarily exclude men, because decisions about women do affect men too.
DR. MALKA	That's a very important point that you raise, that decisions about women also affect men, we can't look at this as a single gender lens, we have to take in and incorporate that dual perspective from both genders. Judge Lallie, if you were to have a crystal ball, looking towards the future, what do you think we need to do to help build a more egalitarian society where no limits are imposed on women?
JUDGE LALLIE	I think that we need to see people as people, because when we have children, if we look at our children as children, we will look at them as children who need good homes and when they are of school going age we will look at them as children who need good education and as they develop and grow older, we will look at them as youth that needs jobs, that needs business opportunities. So if we start very early to eliminate the unnecessary distinction between sexes, then women stand a better chance, because they will not be prevented from developing and becoming eligible for better positions by virtue of being women; they will be in a position when applying for jobs to say my work speaks for itself, judge me by my capacity. So, we need to create an enabling environment, but the reason why we have a lot of men in positions of power, it is a creation, it is engineered, so we need to do something. We are seeing results of what, as a society, we have failed to do, we need to take active steps to ensure that whatever practice, whatever policy retards the development of women gets eliminated, particularly because it is absolutely not necessary, it cannot be justified, women should be given equal opportunities, then they

	will try.
DR. MALKA	That's another very important point that you make on being able to be given equal opportunities, because if you have no opportunity presented to you, you can't walk through that door and being able to empower yourself, capacitate yourself contributes to better performance. Turning towards more of a personal perspective now, as we go towards the latter part of the show; Judge Lallie you hold a B Juris degree, you hold your LLB as well as BA Honours in Industrial Relations; please can you tell us what role education played in your life and career development?
JUDGE LALLIE	I wouldn't be holding this interview with you sitting in these chambers if I didn't acquire the formal education that I have. The formal education that I have acquired assisted me to develop, to access opportunities, to work hard and to qualify for senior positions, for all the positions that I have held, so that's the role that formal education has played in my professional life, opening doors, it has helped me access opportunities.
DR. MALKA	You've given personal examples of the role of education in your life; do you have any broader views with regards to education, particularly as a tool in the hands of women to change their lives and their children's lives for the better?
JUDGE LALLIE	When women have acquired education they are better placed to access opportunities, they are able to hold positions of power and influence decision-making and as mothers they become good role models for their children and better jobs often come with a better income, so they are able to provide better education for their children and increase their children's opportunities and they are also placed in a position to assist and uplift other women and other members of society. I don't want to exclude men because they are members of our society, they also deserve to be uplifted by women, so education assists women achieve that.
DR. MALKA	I think one of the most powerful things of education is that you're never too old to start or to continue; it's something which we can cultivate, which can keep developing and we can keep changing as human beings to continue to improve.
JUDGE LALLIE	I agree with you, if you look at my profile, I started my junior degree and worked and studied my LLB and worked and then studied BA honours in Industrial Relations and worked. So in my journey of developing as a lawyer and as a person, I continued studying and if I may share this personal one; my own father went to university at the age of forty, he went to university and studied law full-time, so I agree with you, you're never too old to study.
DR. MALKA	That's a wonderful story about your dad. Keeping with the view of personal journey's the next question that I wanted to ask you is about some of the factors that you consider have contributed to your success. Many of our guests have spoken about aspects of discipline, focus, faith and values; please can you tell us about some of your key drivers to success?
JUDGE LALLIE	Firstly I was very fortunate to have had parents who were present in my life and who raised me and secondly I was given good values. I have a good support system; my family, my friends, my colleagues. Hard work; it is my belief that if you want to achieve something you have to take active steps to achieve that goal. Focus; remaining focused assisted me in developing as a lawyer, however, being focused does not necessarily mean rigidity. One of the contributing factors was a certain degree of flexibility, however, I had a vision of my destination, of my goal, so I channelled my energies into reaching that goal, so it takes a lot of discipline, it takes sacrifice, it takes hard work. When things go wrong, when we stumble and when we fall, we need to rise and try again,

	resilience also propelled me.
DR. MALKA	I think resilience is an often understated term, but the fact of the matter is that people go through incredible hardships or barriers in their life and it's through resilience and like you say, having that end goal vision of what you want to achieve that allows you to focus and eventually attain it.
	AD BREAK
DR. MALKA	Today we're talking to Judge Zolashe Lallie of the Labour Court and we would love to receive your comments on Twitter: @WomanityTalk.
DR. MALKA	Judge Lallie you spoke about your parents enriching and giving you values; please can you tell us about some of the pivotal moments in your life growing up?
JUDGE LALLIE	You know growing up, a moment which I would like to share is the time when I lost my dad, this is the reason; our plan was that after I had qualified we would work together, I would join him at his firm, but I was still doing my junior degree when he died. When he died I knew that it was not going to happen, it is a pivotal moment because with hindsight it taught me that even though it did not happen, it was just one thing that did not happen, there were a lot of other things that have happened, some of which proved to have been far better than what did not happen, that is why I consider it to be a pivotal moment.
DR. MALKA	Thank you for sharing that with us and as we are a gender based programme and we're in women's month currently, which women would you say have been role models or key influences in your life?
JUDGE LALLIE	My paternal grandmother was a domestic worker, one of the lessons that she taught us was that as a woman you need to generate your own income, have your own bankbook and know what you do with your money. Another role model is my own mother, my mother was a teacher, so I knew very early in my life that I had to be suitably qualified and be a professional like her. I have had the privilege of working as a clerk early in my life, when I was still doing my junior degree, I completed it part-time, so during the day I worked as a clerk at the office of the Master of the High Court. The Master of the High Court, Ms Desiree Finca was the first African woman to be admitted as an attorney, so working with her gave me the opportunity of learning from a woman of such high calibre and my other role model is my former boss, Thandi Orleyn, she was the National Director of the CCMA. She led the CCMA bravely and successfully, she was a very good leader, she was very supportive. As her managers, because I was the head of the provincial office in the Eastern Cape, we were assured of her support and she ensured that we were developed, she believed in continuing education and she led the organisation successfully, taking care both of her managers and the entire staff and a number of women in positions of power who I have had the privilege of working with or of meeting, some of them are in other fields and others are retired diplomats who have played a very important role in the development and emancipation, not just of women, but of the country. So I have had that privilege of meeting and working with women of integrity, women who have held and who hold positions of power, I've gained a lot from interacting with them, I have grown as a woman and a professional woman through interaction with them.
DR. MALKA	That's a great network of women from very, very diverse fields and I often think that part of our growth in a way comes through this effect of osmosis, of just being around somebody who can help impart their knowledge and skills in turn enriches our lives. Lastly, in recognition of women's month, as we close off today's conversation; can you share a few words of inspiration that you'd

	like to pass onto girls and women who are listening to the show?
JUDGE LALLIE	To all the girls who are listening to this show, I would like to tell you that I attended local schools; I am from the township, so it doesn't matter where you are from. If you take the necessary steps to achieve your goals, you can; it can be done, you can achieve your goals, keep working. One of the things I would like to share with women is that as women let's continue earning our stripes, we are not beggars, we will not beg for favours, we will earn our stripes and one of the disadvantages of accepting favours is that you will be placed in a position to return the favour and often returning favours, particularly in our profession, is the beginning of the end of your career. So integrity is very important, we need as women to work fairly and honestly, even when we think that no-one is watching. I'd like to say to women you only have one name, protect your name and if I may add one last thing from my father; my father taught us that women and men are created differently, however, that difference has nothing to do with capacity. So the fact that we are women does not necessarily mean it is not a reflection on our capacity, so as women we have what it takes, let's acquire the necessary education, the necessary knowledge, the necessary skills and hold these positions of power and perform to the best of our ability. We can. Before I leave, please allow me to acknowledge the contribution of a lot of women to my development as a lawyer, I appreciate your assistance, because most of them were there first, I appreciate the contribution of men in our development as lawyers, I appreciate your support. As judges we constantly communicate, there are both men and women on tap for another judge; we're brothers and sisters, thank you brothers.
DR. MALKA	Thank you very much for that wonderful message and I will be taking out key aspects of independence and integrity from our conversation today. It's been a pleasure hosting you, thanks for being on the air Judge Lallie.
JUDGE LALLIE	Thank you, have a wonderful one too.
DR. MALKA	PROGRAMME END