

PROGRAM DATE: 2021-09-02

PROGRAM NAME: WOMANITY – WOMEN IN UNITY

GUEST NAME: JUDGE DAWOOD – EASTERN CAPE DIVISION OF THE HIGH COURT

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 today on the line for our series on Women in the Judiciary is High Court Judge Fatima Dawood from the Eastern Cape Division of the High Court. Welcome to the show Judge Dawood!
JUDGE DAWOOD	Good morning Doctor, it is indeed an honour, privilege and an absolute pleasure to be on your show today.
DR. MALKA	Judge Dawood I believe we're connecting with you in Umtata, to start with, can you tell us, did you always imagine a legal career and eventually becoming part of the judiciary?
JUDGE DAWOOD	I was always passionate about justice and to coming to the aid of others, even as a young child. I seem to have had a natural talent to convince others to see things from my point of view, but it was only in my matric year that I considered pursuing law as a career and my passion to bring about justice for the poorest of the poor was ignited. I, however, did not have any aspirations of one day being a judge at that stage. I studied in the pre-democratic era so the chances of me being appointed a judge were fairly slim at that stage, although even as a child I would preside over disputes of my friends and find amicable solutions that benefitted all of them.
DR. MALKA	That's a wonderful story of you, I can just imagine kids on the playground and coordinating and negotiating so that everyone enters into a happy medium.
JUDGE DAWOOD	Yes it was a fun time, in fact, my very first case I fought was my own. My eldest brother, who was fourteen years older than me, was totally against my pursuing a tertiary education, he was very protective over his baby sister and somewhat patriarchal in that he believed it was best for me to follow the traditional path, which was to get married and have children. Fortunately I managed persuading them and won my first case or else I would not be here to tell the tale, I might hasten to add though, that he was subsequently extremely supportive and encouraging.
DR. MALKA	Overcoming that burden must have been so significant for you, because there you're dealing not with only the opportunity of being able to pursue your ambitions, your career, but also confronting cultural challenges within your family environment.
JUDGE DAWOOD	Yes, I was basically breaking the traditional shackles or the views that were held at that point in time regarding the role of females and the avenues that you are intended to pursue.
DR. MALKA	So you were a trailblazer and almost setting precedent in your family, which I'm sure impacted on other women within your family environment and understanding that you can open opportunities, that you can pursue your desires.
JUDGE DAWOOD	It did, I must say that from my nephews and nieces, I have one niece who is now a specialist paediatric surgeon, another who has become a teacher, another that pursued psychology, another that has done a degree in teaching and is now a teacher, so it was easier for them.

DR. MALKA	That's a wonderful story to unfold. Judge Dawood you spoke about the fact of having to overcome your first stumbling block of getting your family to allow you to pursue your ambitions and your path; can you tell us about some of the other key landmarks in your career that led you to reach a point of coming onto the bench?
JUDGE DAWOOD	<p>Yes, I faced a tough choice again after completing my studies, whether or not to go and serve my articles for two years and become an attorney or go and serve my pupillage for six months and become an advocate. My love for trial advocacy was ignited whilst participating in the Moot Court Finals. I fully appreciated and valued the advice of everyone who warned me against going straight to become an advocate, their concerns were well-founded. I did not know any attorneys and this was a referral profession, to expect someone to brief me who was fresh out of university was quite a tall ask. I in any event chose to follow my heart and took a leap of faith, despite the sage advice given by so many well-intentioned individuals. I served my pupillage, passed my exams and got work, predominantly from female candidate attorneys who were serving their articles of clerkship. I remember the question asked by my friend's mother after she had asked her boss to brief me; did you get the order? I said yes and wanted to tell her about the problems I had experienced but all she was interested in was as long as you got the order the rest does not matter. It means when you go and appear before the judge and you go with your set of papers in motion court and you ask for the order that is being sought in your papers, it was "did the judge give you your order"; which he did eventually. That was a defining moment for me because I realised that everyone that was briefing me was taking a leap of faith in my ability and putting their heads on the block for me. I had an added responsibility to not only prove myself, but also to not let them down, as well the client's that had instructed them, it was a strong motivating factor to work harder and do my very best. I, however, remained true to myself and my values and principles throughout my practice. I allowed my work to speak for itself and slowly gained the respect of my colleagues and gained the trust of attorneys who started briefing me in bigger matters. I remember a stage when I was still a rank junior and had to go up against the senior counsel together with a junior counsel who were far more seasoned than I was. I asked my attorney to get me a senior counsel on our side and his response was that you can handle the matter on your own, demonstrating more faith in my ability than I had at that stage, to take on that daunting task, but fortunately it ended well. I also remember the first time I had a matter against the late Kemp J Kemp, I was pretty apprehensive beforehand because of his brilliance preceded him, but he put me at ease immediately with his easy-going nature. He was a senior counsel with such a wealth of experience, knowledge and wisdom but treated me; a rank junior, as his equal and the matter was resolved very favourably for our clients. I also benefitted from change in briefing patterns at the State Attorney's Office. The Transformation Policy has definitely opened the doors, but for the doors to remain open I have to prove myself and perform or else there would have been others equally qualified to do the work, to whom the work would have been passed. The next big shift came unexpectedly when the chairperson of the Bar Council called me and asked me if I wanted to act on the bench, this was as a direct result of the very honourable Minister of Justice Brigitte Mabandla's rejecting the initial list of candidates put forward to act on the bench. I hasten to add that each one of the candidates initially on that list met every criteria to be selected to act, save for the fact that they were</p>

	<p>not female and she wanted to accelerate the transformation of the bench by the appointment of more females to the bench. I then had to ask myself whether I was ready to take on this opportunity and I felt I had the necessary experience to do so and I accepted, despite knowing that this was not the norm, as acting stints had until then been reserved predominantly for senior counsel who at that time were, if I'm not mistaken, exclusively male. I'm not sure if I would have been a judge today had it not been for the Honourable Minister creating the opportunity for me to act initially. It was then Thandi Norman who created the opportunity for me to act in the Eastern Cape. It was however my proving myself worthy of being appointed to that position that led to then [AD Jacob Mpeko], another gentleman who I held in the highest esteem, asking me to apply for the position shortly after I had commenced acting, which is a clear example of why you should use opportunities given to you well and prove yourself worthy. The minister was also instrumental in commencing the aspirant women judges programme, to so to speak groom and train a select number of women to increase the pool from which to draw female judges.</p>
DR. MALKA	<p>Judge Dawood thank you for walking us through some of these momentous landmarks in your personal career, where I see not only aspects of your career journey, the effects of transformation policies within our country to create and open opportunities, the contributions that other women played in this space to open the environment and make it more accessible to women, whether it was female candidate attorneys, whether it was the likes of the former justice minister Brigitte Mabandla and her policies and being so assertive to reject candidate lists that did not have women represented and I think another point which really stands out for me is that if people are opening these doors of opportunity, you have to embrace them, if you don't embrace them you let down the person that's opened that door for you, you let down yourself and you let down other women who are following behind you.</p>
	AD BREAK
DR. MALKA	<p>Today we're talking to High Court Judge, Fatima Dawood, from the Eastern Cape Division of the High Court. We would love to receive your comments on Twitter: @WomanityTalk.</p>
DR. MALKA	<p>Judge Dawood could you share a few memorable cases with us which have stood out for you in your career as a judge?</p>
JUDGE DAWOOD	<p>I will refrain from dealing with specific matters, as we often deal with similar matters, I can say though that there are one's that gave me sleepless nights, where it was clear that the person committed the offense but due to a technicality or having to rule a confession inadmissible, he was acquitted. The rule of law was clearly upheld but unfortunately the victim of that offense did not get justice and was let down by the system, those instances haunt me. Another matter that stands out is one where based on the existing laws and authorities I was all set to rule in a particular manner, however a few days before the hearing, the SCA ruled on the issue in a completely different manner and I had to decide completely differently from what I had initially intended. This demonstrated to me how our law evolves and how we never stop learning, which is why this is such a dynamic, interesting and at the same time challenging profession. One can also not emphasise enough the invaluable role played by access to the latest cases, laws, text books, etcetera, both online and books themselves. The ongoing training by SAJEI is another invaluable aid as it provides us with the invaluable expertise and vast knowledge of experienced judges in various areas of the law. The</p>

	<p>administrative recess period is also an essential period that offers judges an opportunity to attend these courses, catch up with the latest developments in the law, complete reserve judgements and read appeal records for the next term, to ensure that we remain abreast of the current developments and changes in the law and are not caught off guard.</p>
DR. MALKA	<p>I couldn't agree with you more in terms of being in an evolving environment and keeping up with the latest and let's say not use the word trends, because it's not an appropriate expression within the legal space, but being up-to-date with current cases and looking at what new precedents are and the law is alive, it's organic and changes with the needs of society.</p>
JUDGE DAWOOD	<p>Yes it's quite interesting; it's evolving all the time and we're in the forefront of changes because our constitution is alive. It's a real live document; it's not just on paper.</p>
DR. MALKA	<p>Judge Dawood, when I do research for these interviews it gives me a wonderful opportunity to learn about my guests as well as some of the important entities that they participate in which contribute to society. NADEL is the National Association of Democratic Lawyers, which is described as a voluntary organisation of lawyers which has as its primary goal, a legal and judicial system that realises access to justice for disadvantaged people and the rule of law, but furthermore NADEL members and branches actively seek to nominate judicial candidates to increase the representation of black and female judges. Please can you tell us about your involvement with this organisation and some of its achievements?</p>
JUDGE DAWOOD	<p>Well I was fortunate enough to get chambers , which has produced two chief justices, Chief Justice Pius Langa and Sandile Ngcobo as well as two judge presidents; Tshabala and Jape; three judges, [Judge Bolton, Judge Gyanga and myself and our first public protector, Selby Baqwa, who is also a judge. We also have numerous silks in our group, all of them were active members of NADEL and we're passionate about transformation and justice and inspired me to also join this noble organisation and be as passionate about the ideals of NADEL and its ethos and values. Whilst I was chair of the Durban branch we managed getting the legal advice off the ground. After a few hiccups we realised the need to take justice to the people, we quickly that even offering free services was not enough if there was no access to the services that we required, we needed to deliver the assistance in the areas instead of expecting the people to travel large distances to where we were, at great cost to them, in circumstances where they may not have funds. Our prison visit during the women's month programme was quite a shock to our system when we discovered that children under the age three are committed to be with their mothers in prison. I know a great deal of thought went into the circumstances under which this was permitted and why it was considered the only appropriate means to serve the best interests of the children at that time, however, obviously not speaking as an expert but just as a layperson can envisage this as causing trauma and having a long-term adverse psychological effect on the child who has to spend the first few years of his life in a prison cell, it is still a confined space and no matter how many additional privileges the child may have there and then the added trauma of being wrenched away from your mother and sent to a family who may be strangers to the child or worse, foster care when the child reaches the age of three or beyond. There was also our visible to the Sinethemba Shelter which demonstrated to us that what we consider to be a small and inconsequential act could mean so much to another. We had a host of items including used clothes and shoes to be given to the shelter, a little</p>

	<p>boy who had arrived at the shelter the previous day with nothing but the clothes on his back, apparently had never owned a pair of shoes. The expression on his face was priceless when this pair of tekkies fitted him perfectly, the parent who donated it probably had no idea of how much it would mean to this child and how much it was valued. The plight of these abused women and children is heart-wrenching and their presence at these shelters is kept secret for their protection. It was a lesson for us all that you can make a difference, even if it's through a small act or even just a kind encouraging word. NADEL most certainly is committed to transformation and is exceptionally enlightened, the fact that it had a female chairperson at one of its branches that many years ago, demonstrates its commitment to change. There is however no time for complacency, there is still a dire need to assist the females in the professions to stay in the profession so we have a larger pool to draw from for elevation to the bench. This can be done by assisting newcomers to the bar, attorneys and state entities giving them work and in the attorney's profession by assisting them with setting up costs and going into partnership or associations with them to assist with building a name. To also provide the tools of trade and access to resources and laptops and data, etcetera, it may sound trivial, but without these support systems the practitioners will not be able to come with their A game to court and it may be the difference between succeeding or failing in their careers.</p>
DR. MALKA	<p>Judge Dawood, when you were talking about some of the actions and activities that NADEL engages with from a public point of view, it may me feel very emotional I have to admit and it highlights the realities of the country and potentially aspects of the continent that we live in. When you spoke about the issue of taking justice to the people, because if we provide access to justice, saying that we provide access doesn't necessarily mean that people can physically access it because of the logistics around their specific circumstances. Then the issue of children under three years of age being permitted to be with their mothers who are serving their terms in incarceration, that again highlights elements of women being primary care givers and that if they're not there what happens to those children and then the third element, with regards to the Sinethemba Shelter, again it highlights the realities of the abuse that women experience and the hardships that they endure and the need to be protected from their abusers; it's quite poignant on some of the social issues that we experience.</p>
JUDGE DAWOOD	<p>Yes absolutely and it shows why there's such a role to be played by organisations such as NADEL, BLA, SAWLA, all the organisations because there is still a dire need in the society both for awareness with regard to people's rights and also with regard to the plight of the poorest of the poor, the abused women and also to advance the rights of children, fortunately the constitutional court has made the best interests of the children an additional criteria to be considered when sentencing female or primary care givers.</p>
	AD BREAK
DR. MALKA	<p>Today we're talking to High Court Judge Fatima Dawood from the Eastern Cape Division of the High Court. We would love to receive your comments on Twitter: @WomanityTalk.</p>
DR. MALKA	<p>And on the other side of the actions of NADEL which is critical to the profession is how to encourage women, how to empower women and how to keep them remaining in the profession. Looking at that dynamic for a moment, appointing judicial officers is an enormous responsibility and obviously has implications on the people that are selected at the end of the day.</p>

	Human bias is certainly a flaw that we experience and I recall having a couple of conversations with previous guests where one example of Harriet and Harry was exposed, where one CV is distributed and all they do is simply change the names, one has a female written on the top, the other has a male written on the top and in all instances, on an identical CV, Harry was the preferred candidate over Harriet. So can you please share with us what you would consider to be some of the mechanisms in place to help minimise gender bias in candidate selection processes?
JUDGE DAWOOD	The government has in theory admirable goals and policies to ensure equal representation of women, unfortunately the practical implementation is slower. I again am no expert as to the reasons for this, but if I were to venture a guess I would say that there is no buy-in from society at large, to these policies, we still have a predominantly patriarchal society, this needs to shift for real change to happen. There needs to be attempts to get buy-in from the leaders of communities and then the communities themselves. We are seeing a slow shift where we now have female chiefs and head women, which was unheard of previously. The government policies have provided a good foundation, but that needs to be taken forward by organisations such as NADEL, BLA, SAWLA and the respective attorneys and advocates profession.
DR. MALKA	Extending your thought process here, there were some statistics from 2017 which indicated that only 37% of South African judges are women and considering this figure, considering you are a judge and you know what the realities are of working in this environment; what do you think needs to be done to increase the number of female judges in South Africa?
JUDGE DAWOOD	Well we need to take a step back and essentially ensure that females remain in the profession, effectively it's at that stage that females need to be moulded, trained and prepared. It's unfortunate that the programme that the Honourable Minister of Justice, Brigitte Mabandla, started the aspirant women judges programme, doesn't seem to be in existence any longer, that would have been a very nice starting point to increase the pool of women.
DR. MALKA	You highlight this aspect that we cannot be complacent, that we have to keep persevering because the system is only going to work in our favour if we're there as architects and engineers behind that of driving change.
JUDGE DAWOOD	Yes that is absolutely correct; there is no time for complacency or to accept that because all these policies are in place, that it's automatic that there will be equal representation. There still is a lot that needs to be done, as I say, in terms of empowering the women that are there, providing them with the support structures that they require.
DR. MALKA	Judge Dawood you've shed light on some of your experiences and a diverse range of elements that you've been exposed to. You've had an incredibly busy career and in your previous statement you said a very important word about support; please can you tell us about the support systems that have helped enable you?
JUDGE DAWOOD	I have been extremely blessed to have my mother live with me during her lifetime and she provided me with an incredible support system, I never had to worry about the home or the household chores, I could focus exclusively on my career thanks you her. She went the extra one hundred miles to do everything for me, I was exceptionally grateful but never realised the full value or extent to which she'd allowed me to pursue my dreams and advance my career without any worries about the home. It was only when she passed away that I realised the full impact of what she actually did for me and how she made my life so easy. Her death

	definitely left a hole not only in my heart but also in my physical day-to-day existence. I would say that everyone needs a good support system to be able to advance their careers and you need a supportive home environment for that.
DR. MALKA	Your mom sounds like she was a fantastic person and highlighting, I guess, what epitomises being a mom, of being able to do everything almost invisibly, all of these acts happen and they're there to support you without you fully realising it.
JUDGE DAWOOD	She clearly was my superwoman and you are absolutely correct, it's almost as if it's invisibly done, you don't even know the value of it until it's not there any longer.
DR. MALKA	In recognition of superwoman, this year's theme for women's month is Realising Women's Rights for an Equal Future. We know that women unfortunately as still struggling to achieve equality, but yet gains continue to be made through progress and I always think that our history defines what our present is, but the actions that we execute in our present direct our future. So, thinking about the recent past, in your view, what do you think are some of the important equality gains that women have attained?
JUDGE DAWOOD	Well if you're looking at the fact that we are fortunate as women at this point in our history, we have a government that is actively pursuing the equality of women and this is being driven by men. This means that unlike the past where women had to fight for the right to vote, etcetera, today the importance of the equality of women is recognised and although the fight is not over by any stretch of the imagination, at least we are fighting with the system, not against the system. It would be, as I say, a utopian ideal to believe that government policies will suddenly change men's views towards women or have them accord women equality and they will suddenly change and assist their wives, etcetera, there is still some way to go from a societal perspective for women to gain equality, that is where the work still needs to be done. There also has to be an awareness of the concept of sisterhood, for women to help other women, to facilitate these changes because they understand the challenges of women. Effectively there's a need for a transcribance of skills, we each have to play our part, as I've said, in my career I've been assisted by women and I have done the same with other women that came into the profession after me. This needs to continue happening, each of us can make a difference, we each have to take this one step at a time.
DR. MALKA	When you speak about the sisterhood dynamic and everything that you've highlighted in our conversation today, it reminds me of a quote from Madeline Albright, where she said and I'm paraphrasing here "there's a special place in hell for women that don't help other women."
JUDGE DAWOOD	That is so apt.
AD BREAK	
DR. MALKA	Today we're talking to High Court Judge Fatima Dawood from the Eastern Cape Division of the High Court. We would love to receive your comments on Twitter: @WomanityTalk.
DR. MALKA	Judge Dawood, we're coming towards the latter part of the show and the question that I'd like to ask you now is about some of the factors of success that you consider have contributed to your journey. Some people have spoken about values, perseverance, faith, discipline; in your view what would you say have been some of your key drivers?
JUDGE DAWOOD	Clearly discipline, being disciplined and dedicated. My key drivers seem to have been to prove that I could do whatever I set my mind to. It

	<p>definitely took hard work, discipline, focus, staying true to myself and my values and beliefs and having complete faith that whatever the outcome was, that was what was intended, but ensuring that I play my part and did the best I could. I knew earlier on life that I wanted to be my own person, not dependent only other person. I wanted to be a trailblazer, I loved adventure and taking risks.</p>
DR. MALKA	<p>You have certainly upheld those qualities and objectives. You spoke about the importance of your mom in your life, I'm assuming she was a key role model or influencer; can you tell us about some of the other women that have had an impact on you?</p>
JUDGE DAWOOD	<p>Well I would say it's not just women, I also would say that my role model would be the Chief Justice Pius Langa, whose humility and encouraging words inspired me. I remember once bumping into him one day after he became a judge of the constitutional court and his question to me was why have you not appeared in the constitutional court as yet. His faith in my ability to be competent enough to appear in the highest court of the land really gave me such encouragement and motivation to believe that anything is possible. Then the Minister of Justice, Brigitte Mabandla, undoubtedly was quite a role model for me and trailblazer, who was courageous enough to push the Transformation Agenda at a time when people were not quite ready or open to it, but she persisted and prevailed and opened doors for many of us who may not be where we are today had it not been for her pushing for greater female representation on the bench. As I've said, on a personal note, my real life hero is my mom, without who's steadfast support, I would not be here. My sisters also, each in their own way were my role models, encouraging me from the background, facilitating my bursaries, my books, study materials, lifts to university and mostly giving me moral support. Also, I'm fortunate enough to have friends who have stood steadfastly by my side through thick and thin and my soul sisters who have held me together after the death of my mom, these individuals at first blush appear to be ordinary people, but they have had an extraordinary impact on my life and clearly are my heros.</p>
DR. MALKA	<p>Thank you for that wonderful acknowledgement of both personal and professional supporters, role models, of people who have contributed to your life. What would you like your legacy to be?</p>
JUDGE DAWOOD	<p>I would like it to be of someone who with courage, conviction, compassion and caring upheld our constitution on the principles and values of fairness and justice for all and the upholding of the rule of law. I would like it to be of someone who had the courage to fight for her own rights, for equal treatment, for equal opportunities to demonstrate to young women out there that you too can achieve anything you set your mind and your heart to, with hard work, discipline, dedication, passion and enthusiasm to do what you do and love to do what you're doing. Having faith in myself.</p>
DR. MALKA	<p>And lastly Judge Dawood, as we close out our conversation today, in recognition of women's month please can you share a few words of inspiration that you'd like to convey to girls and women in Africa that are listening to the show?</p>
JUDGE DAWOOD	<p>My inspiration would be to dare to dream big. Everything and anything is possible with hard work, dedication, discipline and perseverance. I am an example of it. Do not let others determine what you can achieve. Trust yourself, have faith in yourself, be motivated, stay positive, be prepared to work hard, make good use of opportunities presented to you. Women of Africa, you are our future leaders, you are the brave warriors who will see</p>

	<p>the results of all the sacrifices made by the generations of women that came before you and you will be trailblazers for the generations that follow you. Cherish this special gift and use the opportunities well, acting with the utmost integrity. Good luck to all of you, a bright and brilliant future awaits you all. I would like to end with a quote that I read this morning; “Be bold enough to use your voice, brave enough to listen to your heart and strong enough to live the life you have always imagined.” Thank you.</p>
DR. MALKA	<p>What a wonderful message of inspiration. Judge Dawood you are a groundbreaker and I hope that through the lessons and the teachings that you’ve conveyed in our session that you inspire many, many women to rise up and become groundbreakers in their own rights. Thank you for joining us today.</p>
JUDGE DAWOOD	<p>Thank you so much for having me.</p>
	<p>PROGRAMME END</p>