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PROGRAM NAME: WOMANITY – WOMEN IN UNITY

GUEST NAME: JUDGE BULELWA PAKATI – 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 covering women in the judiciary , is High Court Judge Bulelwa Pakati , from the Eastern Cape Division of the High Court.
JUDGE PAKATI	Thank you Dr. Malka for having me.
DR. MALKA	It's a pleasure to welcome you to the show and to this series. Over the course of our series on women in the judiciary where we've had conversations with several of your colleagues who serve in the High Court as well as the Labour Court, there seems to have been a defining moment that set them on their trajectory to study law; please can you tell us what made you choose law as your career path?
JUDGE PAKATI	Well the treatment of young girls that I witnessed at the time influenced my decision to choose law. We had a custom called Ukhuthwalwa, that was the order of the day when I grew up; a young girl will be waylaid, assaulted and abducted by a group of men for purposes of having sexual intercourse with her and get her to marry either one of them or a family member. She would be kept against her will at the paternal home of the prospective husband; if he is at home he would have sexual intercourse with her without her consent, in the meantime a message would be sent to her family advising them that she is with them. If both families agree to the arrangement, then Labola negotiations will take place and the young girl will be married to the man. Most of the times this man would be a stranger to her; that to me was unfair and tantamount to treating women as objects by forcing them to marry to strangers without considering how they felt or wanted for their future. It would also stop them from pursuing their dreams of becoming what they wanted to be, I therefore wanted justice for them.
DR. MALKA	When I first heard about Ukhuthwalwa I was so shocked, so abhorred that children were being abducted and entering into, as you say, marriages with people who they don't know, who have just kidnapped them.
JUDGE PAKATI	It is very sad Dr. Malka because, you know, those young kids, they never had an opportunity of having to choose what they wanted to be.
DR. MALKA	Reflecting on your time as a judge, what would you say have been some of the most memorable cases that you've presided over?
JUDGE PAKATI	What comes to mind Doctor is an elderly woman in her seventies who was attacked, raped and killed by a young man in his twenties. She had visited her husband's grave on a Sunday morning from church, while she was there minding her own business, she was accosted by this young man, who attacked her, raped her, hit her with a big rock, thereby killing her. During the trial the accused testified that the reason he hit the deceased with a rock on her head was because she was too strong for him, she kept fighting until he decided to hit her with a rock on her head. The other sad

	<p>one for me was the deceased, an eight year-old girl, was killed by the accused, her father's friend. On the fateful day the accused had visited the deceased's father, at the time the deceased was playing outside with other children. The deceased's father took a nap and it was at that time that the accused took advantage of the deceased. He asked her to accompany him, which she did, innocently, at a certain point he dragged her to the forest, he raped her and killed her. It transpired during the trial that the reason why he struck her with a rock on her head was because after he raped her, she looked at him, asked him what he was doing, he could not answer, at that moment he knew that the deceased was going to tell her father and he would be unable to face him, he decided to kill her.</p>
DR. MALKA	<p>These are such tragic acts and if you consider the fact that the violence that is attached to it, that the young girl, the elderly woman, they didn't need to die at the hands of these men and that was just this extra act of violence that was perpetrated against them.</p>
JUDGE PAKATI	<p>I'm saying that's the truth of the word that they never expected at the time.</p>
DR. MALKA	<p>Judge Pakati, in addition to your work schedule and obviously serving on the bench, you play an active part in social upliftment through various community engagements, covering topics such as the role of mentors to advance women professionally, the challenges facing career motivated women and leadership development for women in law enforcement, just to mention a few. Increasing the number of leaders and developing women for these roles is really important for women's empowerment, as well as equality agendas; please can you tell us, based on your experience, what are some of the leadership characteristics that you find to be essential?</p>
JUDGE PAKATI	<p>The starting point for me were the values that were instilled in us as children by our parents, they taught us to stay focused, with good support structures by family and friends one can succeed. My parents were hardworking, my dad worked late at night and from that I learned that when I want to achieve a certain goal I have to be courageous. My mother was a business woman, she struggled building up her business, but through hard work and refusing to allow distractions in her efforts, made me realise how strong I should be in order to achieve my goals. I learned to play my part and know that whatever I do can be achieved through hard work. There were challenges that my mother faced building up her business, but I saw in her fearlessness and determination that she made it, even my dad would not have been able to make it without this strong woman. In my journey I acknowledge that through knowledge and experience I overcame any challenges that I came across, just by being passionate about what I did. Adding to that, I have also come to realise that I should be able to change the narrative, if necessary, by adding value, for an example; when I got pregnant with my son, I had to leave the working environment because I was not allowed to remain there when I reached seven months of my pregnancy. When that time came, I challenged the circular that was in existence at the time, as I thought it was unfair to women as it did not apply to male counterparts, that narrative was changed in order to accommodate all women to take maternity leave when due. It is important that we first understand why certain decisions are made and be bold enough to challenge some and most importantly, maintain credibility and integrity. Last, but not least, create peace and order to society; those are some of the characteristics that I would think are essential in leadership positions.</p>

DR. MALKA	They're very important characteristics and I particularly like your use of courageousness, fearlessness and determination and the role that your mom played in all of this as an influencing effect.
JUDGE PAKATI	Yes.
DR. MALKA	How do you think we can get more women to occupy positions of leadership or decision-making roles?
JUDGE PAKATI	I can say first of all that women are ready to assume decision-making roles, but some of them get distracted by challenges that come their way. There will be challenges and we will fall, but, we should not allow ourselves to be discouraged. We should be able to stumble and fall and rise up again, with resilience and fixing our eyes to our goal, we overcome anything that is thrown at us, that is what kept me going in the midst of incredible hardship and barriers put in my way of getting what my end goal is. Eventually, staying focused at my dream allowed me to attain it. Humility and taking that every barrier is a learning curve, helps me to stay strong. We also need to acknowledge that we don't know everything, but we are prepared to learn and move forward, we also need to be transparent, firm, assertive and approachable. Maturity, experience, knowledge and the ability to work with people also prepares us to be in positions to take responsibility. A woman should not compete with another woman for the wrong reasons, to a point that she allows herself to be used against another woman. On 9th August 1956 women flocked to the Union Buildings in a determined yet orderly manner to protest the introduction of the apartheid laws, these women were united and stood together, fighting for the same cause, therefore we should exercise that unity and encourage and build each other, rather than pull one another down.
DR. MALKA	Those are great words of advice. Staying with this topic, part of your talks and conversations that you've had with communities is the role of mentors to advance women professionally and I'd be keen to hear on some of the findings or the responses that you had from the community audiences on when you were talking about this topic.
JUDGE PAKATI	The audience was very positive about it because some of them were complaining that, you know, women who are in positions do not pull other women up to climb the ladder with them for various reasons; jealousy, hatred or that they want to be there on their own and they stressed this saying that one woman should not pull another woman down. So it was very positive that women in leadership should be able to pull other women and mentor them so that they are in a position to assume leadership positions.
DR. MALKA	It's almost a responsibility, I think, that women have to other women so that the generation that comes after us doesn't have to labour through the journey and the hardships that we walked, that we make their path easier and their journey to leadership that much better.
JUDGE PAKATI	That is so true Doctor, I agree.
AD BREAK	
DR. MALKA	Today we're talking to High Court Judge Bulelwa Pakati from the Eastern Cape Division of the High Court. We would love to receive your comments on Twitter: @WomanityTalk.
DR. MALKA	Judge Pakati, earlier you mentioned a point which I think is very important, that when you were pregnant with your son that you were effectively asked to leave the work environment at being seven months pregnant and you managed

	to help change the narrative and to change that practice. We know that the juggle between career and motherhood has always been a controversial issue for women; how do you see this with your firsthand experience?
JUDGE PAKATI	It is a controversial issue because of the attitude of the society and cultural norms. I think these attitudes need to be changed because times have changed. The perception that women should do certain jobs which cannot be done by men does not have a place in our society now. It is unfair that women have to perform societal roles, especially those of motherhood, and yet be seen as incapable of being career women. Notably, being a mother is an extra but very important role most women play in our society, yet life must be balanced. While women are leading and growing their careers, it is equally important to raise healthy families, although women are still believed to belong in the kitchen, in this day and age, they have proven that they are more than capable of balancing and juggling between motherhood and being career women, it is without doubt that they have managed to do this exceptionally well. Getting back to my experience, I took it that it was very unfair because it's pointing at me and not pointing at the male counterpart, I should leave and at the time that I leave, the father of my child gets paid every month and nothing affects him, now why should I suffer because of that, that is the courage that I got in order to say to myself, I should change the narrative and fortunately someone had an ear to listen and it was changed.
DR. MALKA	I vividly remember having a conversation with Margaret Hirsch, she was fired from her job for being pregnant and because of that, that's when she started to become entrepreneurial and basically be her own boss so that she couldn't be fired.
JUDGE PAKATI	It is very sad Doctor that women have to suffer like this. You know now that we are talking about it, one recalls incidents where school children, a girl gets pregnant and she gets fired from school because they are pregnant; what happens to the boy who rendered her pregnant, but fortunately the laws have changed, those girls now are in a position to at least carry on with their studies and then go home when they are due in order to come back and continue with their studies; that shows that at least legislation has done something for women.
DR. MALKA	That I think is a vital point here and your profession really, of being in the law and being law makers and being able to transform the lives of millions of women, that you have got laws in place which now prevent discrimination from women being fired from work for being pregnant, we now have laws which allow girls to go back and finish their education.
JUDGE PAKATI	That is so true; at least we have moved forward from that. Women are now protected as far as that is concerned, including these young girls, because we must remember that circumstances that made those girls pregnant are different, they come from different homes with different backgrounds, so we can't really be holding one girl that's pregnant, you know, and wrap them up with the same blanket and say they have been reckless or irresponsible or anything like that.
DR. MALKA	Of course not and as we've highlighted in the discussion today, from the cases that you gave examples from, you look at aspects of rape, so you're so right, it's not just about if someone had a consensual intimate relationship, but it is when something has been forced upon somebody, that end result is that they're pregnant.
JUDGE PAKATI	That is so true Doctor and that is an important point because some of these girls are rendered pregnant by their own parents, when I say parent I mean father or uncle or brother, which is so sad and now why would we

	destroy a future of a young girl who did not agree to what has happened to her?
DR. MALKA	Absolutely.
	AD BREAK
DR. MALKA	Today we're talking to High Court Judge Bulelwa Pakati from the Eastern Cape Division of the High Court. We would love to receive your comments on Twitter: @WomanityTalk.
DR. MALKA	We've given some examples of the role of legislation really indicating that it is such a powerful tool, if upheld, to help advance women's rights and sometimes I find it hard to fathom that it's only been since 1996, effectively twenty-five years ago, when the Bill of Rights was introduced and all women in South Africa were formally recognised as equal citizens. In your view, what would you say are some of the important equality gains that women have attained?
JUDGE PAKATI	Although the constitution promotes women equality, we are still a long way to go, for example, women have to work ten times more to prove themselves, nonetheless, we have definably made gains and strides. Today there are women who serve in cabinet, madam justices in the constitutional court, the supreme court of appeal is headed by a woman, there are specific projects by government designed for women in business which will bear more women entrepreneurs. So I think we have made some considerable strides in making equality gains for women.
DR. MALKA	Equality gains are important for all women and I'd love to be in a world where girls didn't have to think about things and it was just a taken for granted scenario. One of the things that we grapple with in South Africa is high levels of gender based violence and there has been the National Strategic Plan on Gender Based Violence and Femicide , which was centred around six pillars that touched on accountability, coordination and leadership, secondly prevention and rebuilding the social cohesion, thirdly justice safety and protection, fourthly response care, support and healing and fifth; economic power and sixth; research and information management. This year in President Ramaphosa's Women's Day speech, he mentioned that key legislation around domestic violence, bail and the sentencing of offenders as well as broadening the scope of sexual offenses and other matters is currently before parliament and that courts are handing down harsher penalties and sentences to those found guilty of gender based violence and conviction rates in sexual offense cases have improved. Given your breadth of experience, do you think that tougher sentencing of perpetrators who commit acts of violence against women will help deter gender based violence?
JUDGE PAKATI	Thank you Dr. Malka, you know, in considering sentence, a judicial officer takes into account the principles of sentencing, namely retribution prevention, rehabilitation and deterrents. Deterrents is but one of the principles of punishment that should be taken into account, its component is to deter would-be offenders and the offender from re-offending. The court still needs to consider other principles, it also is important to know that the opinion of the community does not influence the court in considering sentence, I am therefore not in a position to say that harsher sentences of perpetrators who commit acts of violence against women will help deter gender based violence on its own, because each case should be treated according to its own merits. If I were to just go further than that and say there are harsh sentences that are given to gender based violence offenders already and during this week, I'm just talking this week, on the news a Fort Hare student who has been killed through violence, this morning there's another woman who has been killed because of this

	<p>gender based violence. I think the government has done or is busy doing the best that it can, the courts are doing the best that they can, but it appears to me that the violence still continues, so it shows to me that there is some missing link somewhere, I'm not able to point to it and say this is the link that makes us not get to the root of it, because it keeps on continuing, as if these sentences are not there and police are doing their best to arrest these people. It is very sad.</p>
DR. MALKA	<p>We, as a society, I think, have got some significant moral and social issues.</p>
JUDGE PAKATI	<p>Yes, I agree with you. Now, you know, you really sometimes you want to get into the mind of the person who perpetrates violence and you want to know how they come to this conclusion of killing women so brutally, you don't know what comes to their mind when they do these heinous offenses.</p>
DR. MALKA	<p>Judge Pakati I wish that we were able to find a solution to this, we would certainly be able to solve a significant number of social ills in society if we could, but I realise that that is out of our hands and capability for the moment. Reflecting on this year's Women's Day, it marks the sixty-fifth anniversary and we already spoke about earlier how where twenty thousand women marching to the Union Buildings in protest of the apartheid pass laws and again reflecting on another component of President Ramaphosa's speech, he mentioned just as women of 1956 fought against the injustices of their time, the women of today are engaged in a new frontier of struggle. It's a struggle for equal rights, dignity, economic liberation and freedom from violence. So again we've got this message of violence coming through and again we've got this view that society is always changing and that we have to keep being persistent on being able to move with the times and ensure that women are treated equitably. In the short term, what types of mechanisms do you think could be used to accelerate this issue of equal rights, dignity, economic liberation and freedom from violence for women in South Africa?</p>
JUDGE PAKATI	<p>In my view, the constitution is the supreme law of the republic, law or conduct inconsistent with it is invalid and the obligations imposed by it must be fulfilled. This is the most powerful mechanism that should be used to accelerate equal rights, dignity, economic liberation and freedom from violence for women in South Africa. I say so because we still struggle in the face of this powerful document that gives women all these rights, but I can suggest that educating our society about these values is pivotal. There are women empowerment programmes that empower women in terms of economically, there is the programme called Women in Construction, there is also the National Empowerment Fund aimed at funding business owned and operated by women, Technology for Women in Business programme, Gender and Women Empowerment Unit within the Department of Trade and Industry, which assists South African women entrepreneurs network, it helps women to overcome obstacles they face in business. As far as dignity, equal rights, freedom from violence is concerned, we as a society, need because these rights are entrenched in the constitution, all that needs to be done is for all of us to work together and see to it that these rights are implemented the way they are supposed to be. It needs the whole society to work together in order to achieve these rights. For me, the constitution is the most powerful tool that we have in order to protect these rights.</p>
DR. MALKA	<p>Education, education, education and I think, perhaps, maybe this is something which should be introduced into curriculums, that people need to be aware of what their rights are, but also what their responsibilities and obligations are to upholding them. As you say, if everyone is not on the same page we are not going to be able to move forward and hopefully resolve these challenges that</p>

	we've just mentioned.
JUDGE PAKATI	Indeed Dr. Malka because that was going to be my suggestion in the long term, for instance at this stage, we have this kind of society that we have that still does not show responsibility into upholding these rights, but if in the long term these are infused in the curriculum for kids at school so that when they go to school at an early age, you must remember that they come from different homes, they are homes where daddy is still assaulting mommy and all these other rights that are not upheld at home, but if they are taught at school at that early age, even when they go home and see these things happening, they will know that these things are wrong and when someone does something wrong, then there must be consequences to that.
DR. MALKA	If you can conscientise people into what is right and what is wrong, they know the difference and they've got let's say positive values and ways of living to aspire to if we use the education institutions as an instrument to drive that type of messaging.
	AD BREAK
DR. MALKA	Today we're talking to High Court Judge Bulelwa Pakati from the Eastern Cape Division of the High Court. We would love to receive your comments on Twitter: @WomanityTalk.
DR. MALKA	Judge Pakati we're coming towards the end of the show and at this stage I'd like to ask you more of a personal question and that relates to your factors of success. Some of our guests have spoken about discipline, focus, hard work, perseverance, values as being key drivers in their success; can you please share with us what you would say have been some of your key drivers to success?
JUDGE PAKATI	I can say that my parents raised me with the values that they instilled in us and you know I have had moments that were difficult in my life. I can just share with you that I have taught myself that, in actual fact I got this from my parents, that when you are patient, humility in you, you know, and I'm not going to mention perseverance because it's, you know, it has been there, determination and you know you place your eyes in your goal and say that is where I am going and if you don't lose sight of your goal, then you will get through. Even when you stumble and fall, to rise up again and not lose focus of my goal. When challenges come you tell yourself that at the end of the day, that is where I am going, I am not allowing anyone to stand in my way and you get to where you want to be, that is how I have been, you know, successful, to be where I am today.
DR. MALKA	You've shared some fantastic values and what I love about this question is that everybody shares a different perspective that everybody has got different drivers that help them succeed and I find it so enlightening for other people to know that there isn't one uniform recipe, that everybody's recipe for success is different.
JUDGE PAKATI	It is very different, everyone of us have got their own path and you know, when you are that young girl looking up to someone, you don't really know their path until it gets to you, you experience it, once you experience it you know exactly that, you know, those people did not get it so easy to get to where they are today or to wherever positions they hold. There are going to be mountains and valleys, there are going to be streams and rivers that you will need to cross, but for as long as you do not remove your eyes from the target, you will get there.
DR. MALKA	That's a fantastic message of perseverance, keeping your eyes on that goal and being focused. You've shared with us how instrumental your parents played a role in your life and the values that they gave to you; can you please tell us who have been some of the female role models in your life?

JUDGE PAKATI	My number one influencer in my life was my mother. From childhood she had been there as my motivator, giving me guidance, giving me support and she stood by my side throughout my journey as a young adult. She taught me how to be a better woman, she warned me that in my journey I would have to face challenges but that I should not lose sight of the target in order to succeed, as I have mentioned. She strengthened me when I started work, it is unfortunate that she did not reap the fruit of her hard labour when she went to her resting place the year I graduated B Juris, she did not live to see that day. May her soul rest in peace. I also wish to mention that in my community where I grew up there were no educated women to look up to, except my aunt who was a professor at the University of Zululand, her hard work and dedication also motivated me, may her soul also rest in peace. I have met other successful women in the different stages of my career, some practice as advocates, attorneys as well as young women who have taken responsibility of accepting appointments to the bench, I wish to acknowledge a friend and colleague, Judge Wendy Hughes , who has been there through thick and thin, she stood by me and supported me.
DR. MALKA	Thank you for acknowledging some of the key women in your life and how they've touched you in various ways. Could you please tell us what you would like your legacy to be, what you'd like to leave behind?
JUDGE PAKATI	I wish to state that first of all I appreciate that I have struggled in every milestone that I reached in my career. I have had challenges in my path that I would not wish any woman to go through, ranging from language barrier, to tribalism, to sexism, but, through perseverance, patience, humility, determination and courage, I am still standing. So my legacy would be one of strength, passion and love.
DR. MALKA	Those are great words; strength, passion and love. And finally, as we close out our conversation today, we are almost on the cusp of women's month and heritage month; could you please share with us a few words of inspiration that you'd like to pass onto women in Africa that are listening to us?
JUDGE PAKATI	Thank you Doctor. First of all I would like to say that women are tired of having to always argue their value and competency and it's time for those in power to wake up to that reality. Women are educated, they are strong, experienced and willing to lead. For the upcoming girl, I encourage you to be prepared to stand up to challenges, but also remember to be kind and patient to yourselves, never allow anyone to tell you what you can and cannot do. You are more than enough and more than capable. I want to refer to the words of Maya Angelou who said, I quote; "You may encounter many defeats, but you must not be defeated, in fact, it may be necessary to encounter the defeats so that you can know who you are, what you can rise from, how you can still come out of it." Remember that your success should be the inspiration of another; be confident in everything you do, thank you.
DR. MALKA	Thank you Judge Pakati, for those wonderful words of motivation and inspiration. I think my key takeout of today's conversation has been one of keep rising, irrespective of what barriers come in your way, keep rising, keep your eyes on the goal and continue.
JUDGE PAKATI	Thank you so much Dr. Malka.
DR. MALKA	It has been a pleasure having you on our show today, thanks for joining us.
JUDGE PAKATI	It has been a pleasure for me being in this show, thank you so much.
	PROGRAMME END

