

PROGRAM DATE: 2023 -09-07

PROGRAM NAME: WOMANITY - WOMEN IN UNITY

GUEST NAME: JUDGE SOMA NAIDOO – PERMANENT JUDGE OF THE FREE STATE HIGH COURT

SPEAKER	TRANSCRIPTION
DR. MALKA	Hello, I'm Dr. Amaleya Goneos-Malka, welcome to 'Womanity– Women in Unity'. The show that celebrates women's milestone achievements in their struggle for liberation, self-emancipation, human rights, democracy and much more.
DR. MALKA	Joining us today for our series on Women in the Judiciary is Judge Soma Naidoo, who is a Permanent Judge of the Free State High Court. Welcome to the show Judge Naidoo!
JUDGE NAIDOO	Thank you very much Dr Amaleya. I think it is easier to say Dr Amaleya.
DR. MALKA	Judge Naidoo, this series for me is one that we have on an annual basis and it is always important because I really feel that through legislative enablement that women have really been able to achieve and especially when women are driving the legal process or applying pressure and I am often reminded when I have these thoughts of a quote by Eleanor Roosevelt, who said "You must do the things you think you cannot do." So with that said, if we can kickoff with the show; nearly a decade ago you were appointed as a judge of the Free State High Court in 2014; you previously served as a Magistrate in the Durban District High Court from 1998 and during that period you also served as the Deputy Head of Office and Head of both the Criminal and Family Divisions of the Court.
JUDGE NAIDOO	Also the Civil ... the Civil Courts as well.
DR. MALKA	And the Civil courts. Tell us about that period.
JUDGE NAIDOO	It was an exciting time, I was an attorney for about 12 years. After I finished university I went through the process of articles. I joined a firm of attorneys and thereafter the senior partner left and somebody else joined us just before he left and we continued. So I practiced for about 12 years in total and then I worked for a short stint in the corporate world as a legal advisor to what is now business partners, they were the Small Business Development Corporation at that time and then from there I went into practice on my own again in a small North Coast town in KZN called Verulam, quite frankly the biggest mistake I made was moving from Durban to there, because practice in Durban there is so much variety, I did a lot of commercial and civil work and it was not like that in Verulam, but then from there the road took me to the Justice Department and I became a prosecutor and then I was appointed as a Magistrate and went up the ranks there until I ended up as a Senior Magistrate and Deputy Head of Office.
DR. MALKA	Casting your mind back, what was it that triggered you to pursue a career in law?
JUDGE	You know I grew up when apartheid was in full force and as a child,

<p>NAIDOO</p>	<p>when the opportunity arose, I mean I grew up poor, in a poor family and sometimes it was a treat to go to the beach or to the park and we could only go to certain beaches and I couldn't understand that. When we got to the park my mom would say no not that entrance, I said but this entrance is right here, why must we walk all the way around and she said just be quiet and come, so you know I would go, but I was young, I must have been about five / six years old at the time and I couldn't understand this and then when we were in the park, you know, children run like crazy in the park and you were always stopped from going to certain sections. You could not sit on a particular bench, you could only sit in a particular place and those were my experiences at the cinemas, we could not go to certain cinemas, you only could go to a cinema in a certain street and so on, or certain parts of town, and it was like that with many aspects of our life and my parents, well look, they never had much schooling, but they did not know how to explain this and especially to me and I was one who questioned everything, I think I annoyed the hell out of my mother with all my questions and why. Why must we do this, why can't I do that and then the one day she said to me well that is the law, I said what is the law, what does that mean? And she said no, the government makes these laws and we have to obey. So I said but why can't I go here, I am also a child, I can see there is children there, why can't I go there? And she says that is the law, you must just follow it. And I think that was basically where I got this, I was too young, I did not have the intellectual maturity, I did not have the vocabulary to put into words what I was feeling, but later on when I was able to think back on that and what I felt, was anger, what I felt was a deep sense of being treated unfairly, an injustice. What I felt was injustice and I think, you know, this concept of the law, and I said well if that is the law then that is unfair, I must do something about it and I need to be involved and I think that's where it stemmed from. My passion for the law, to understand what is this thing called the law and if its governing citizens why are some citizens treated differently to me? Am I not a citizen, am I not worthy, you know, and then of course as one gets older, then one realizes it is actually the colour of your skin that dictates where you can go and what you can do, but deep within me I know that I am capable of doing anything that anyone else can, why, why must I be held back. And it is these questions, it is that feeling when I was older and able to try and verbalize it and able to put my thoughts into some sort of order as I became more mature and older, but it must have started when I was five/six years old and this feeling of terrible injustice, which was brought about by this thing called the law that triggered my interest and my curiosity and the desire to actually know what the law is, to get involved and see why it is that it is treating people unfairly.</p>
<p>DR. MALKA</p>	<p>It's a great story, you really highlight the injustices that so many people of our country experienced and endured. Having gone into the legal field, does that make you feel better, more confident of driving change, of bringing about equality to all?</p>
<p>JUDGE NAIDOO</p>	<p>Yes and I think, you know, it is important and especially in the position that a judge holds, you have a position of tremendous influence, you affect people's lives daily and how you apply the law is incredibly important, because not only must you apply it in a way that is pertinent</p>

	and relevant to that person, but it must have meaning for that person and at the same time you must bring about justice and fairness. So it is important and I have tried in my own little space to do as much of that as I possibly can. To develop people, to empower people and as I got older it was women's rights, you know, that same injustice about the way women were treated triggered my interest in empowering women and getting involved in projects or organizations that dealt with women's rights and empowering women.
DR. MALKA	When we spoke at the beginning, you mentioned that you started your own practice, and thinking about the injustices that women experience, it was kind of a I guess a double-edged sword for you or maybe let's say a triple-edged sword because ...
JUDGE NAIDOO	Absolutely, race and gender.
DR. MALKA	Race and gender and going into a masculine profession.
JUDGE NAIDOO	Very much so, it was such a male dominated world. When I started out as a young attorney I was the only woman doing criminal work. It was a rarity to see a woman doing criminal work at that stage, but I did a fair amount of criminal work as well as commercial and civil work and for me I always wore my red dot, as you can see, which says I am a married Hindu woman and that was something that blew people away, what was this and I do not know whether they felt that if you wore the dot you were not as intelligent as you should be, you know, and I experienced that as well and in court, magistrates for instance, as a young attorney looked at me and thought oh, what does she know, until I showed them what I know and you have these barriers all along the way, but for me I realized that you've got to make your work speak for itself, the quality of your work. You've got to make your conduct; the manner in which you carry yourself, count, and it did, you know, they say you can't keep a good woman down for long and I made that a reality for them to understand. I put people in a position where they could not deny the merit of your work, they could not deny your worth, and I think that is important.
DR. MALKA	That is a great piece of advice. Hindsight though is often 20/20 vision, if you had an opportunity to redo anything, how would you change it?
JUDGE NAIDOO	Professionally I believe that every experience that I have had has taught me a lesson, it has empowered me in some way and has taught me how not to make the same mistakes. So, you know, professionally I believe that I have been enriched and empowered by those very experiences and possibly some of the mistakes that I made. So I don't think much in terms of my professional journey that I would change because I value each of those experiences, it has molded me into the kind of person that I believe I am today, you know, you become more compassionate, you become more understanding, you become more sensitive. As a young magistrate we had social context training, diversity training which opened my eyes to many, many things and in order to be effective, especially as a judicial officer, you've got to have a deep understanding and appreciation of context; social, economic, political context and diversity. But on a personal level I suppose my professional journey took me away from home a lot, I did not spend maybe as much time with my

	<p>kids as I would have liked to, you know, I missed birthdays, I missed important events at school and so on, maybe that I would change a bit and I would try and go back and spend a little more time with them, but I think I have tried to and I hope that I succeeded to some extent, is balance work with family and raise my kids to the people that I am proud of today.</p>
DR. MALKA	<p>Thanks for sharing that reflection and I also think that part of the dynamic with women's empowerment and activism is also demonstrating this balance between work and home, but at the same time teaching those values to your children, to know that they can be independent, that women can work and look at what my mom is doing.</p>
JUDGE NAIDOO	<p>Yes and I am glad that my daughter has inherited a lot of that and as I said, you know, kids growing up drive you mad and you wonder, these values that you teach these children, has it even sunk in, has it had an impact, but now you see it as they have now grown up, they are adults, both professionals, you see it and you know it makes you so proud. Yes, you're proud of the job, the good job, the salary they earn, you're proud that they have homes, but the proudest thing is the human beings that they have become and prouder still is that it is those values that you taught them as they were growing up that are manifesting now, so I think that is important.</p>
DR. MALKA	<p>Values are incredibly important and I am sure as you were talking and you were talking about the development of your professional journey and each skill that you acquire, whether that's technical skill or a soft skill that comes into play, I am sure has contributed to the way that you judge and govern your cases.</p>
JUDGE NAIDOO	<p>Yes, absolutely.</p>
DR. MALKA	<p>Can you tell us about a few of the most impactful cases that you've presided over and why they matter so much to you?</p>
JUDGE NAIDOO	<p>Well it started when I was a prosecutor, I did a matter involving drugs, syndicate crime involving drugs and it was the first time that I encountered something like that where a part of the evidence was recorded telephone calls and voice evidence and I think I might have been one of the first prosecutors who managed to persuade the Justice Department to engage one of the only voice experts there were in the country at the time, at tremendous cost, you know, I had to almost become a voice expert, I spent an enormous of time with them to understand this is a very new and strange field to me and I spent a lot of time interviewing him, spent a lot of time understanding his work in order that I may prosecute properly. That case was never completed because my accused persons started dying one after the other, there were five of them and eventually I ended up with one and then the magistrate was murdered, but in the course of the many months over which the trial ran, I dealt with many aspects of law and we had what we called trials within a trial to decide on specific aspects. There were seven of them and I got judgment in my favour in all seven of them and what was important about that is that even though the matter was not completed, as far as it went, it had a positive impact for other prosecutors who were then calling me from different parts of the country to ask about voice evidence</p>

	<p>and then those various aspects of law that were the subject matter of trials within a trial, as I said, it was sad that we never completed it and then I got appointed to the bench. So that was one of the earlier cases and then as a judge there were many matters that I dealt with, especially involving the abuse of women, where again your ability to be fair and your ability to bring justice to bear but also send out a message that that is simply not going to be tolerated. I think many of my judgments in those areas have been followed by my colleagues and then I had a large mining matter, illegal mining involving illegal miners as well where I dealt extensively with various aspects of the law and I think especially in that field of dealing with illegal miners, some of the aspects of law that I dealt with have also been followed by colleagues and other judges. And more recently, I think a year ago, I dealt with a matter where certain high profile figures, including politicians, were charged criminally for various things and then they brought civil applications before me to try and quash charges and I understand that my judgment in that matter has been followed in other divisions as well. So, you know, I'd like to think I have contributed in some way.</p>
DR. MALKA	<p>You've had such a diversity of cases and you've highlighted a few of them for us today, but as you were talking I was thinking that really in your position you often come face to face with the worst aspects of humanity.</p>
JUDGE NAIDOO	<p>Absolutely.</p>
DR. MALKA	<p>At the same time you've got to be impartial to mete out justice. I would also imagine that this takes a toll on you personally; tell us about some of the coping mechanisms that you use to manage your wellbeing.</p>
JUDGE NAIDOO	<p>It's very hard and for a very long time, you know, we didn't have anything for the Judiciary in terms of debriefing, in terms of wellness and as Head of the Family Courts I saw that with, for instance domestic violence matters, where magistrates couldn't cope and I took initiative to try and debrief them on a one-on-one basis and so on. A few years ago I think the Chief Justice put together a draft policy on wellness, we attended a few presentations where they had psychologists and psychiatrists for instance that you could call if you felt a bit overwhelmed, because with the magistrates I noticed that that secondary trauma was spilling over into their personal lives as well and you know one had to try and debrief them and I think I learned many lessons from helping them as well and coping. You know, you have to constantly self-talk and say to yourself this is horrible, it's gruesome, because sometimes young people in the age group of your children commit the most heinous crimes and the extent of the violence is so overwhelming sometimes, you know, and you've got to self-talk, but that is also where your training in diversity, your training in social context, it makes you take a step back, where does this person come from, why is he behaving that way and you are trying to understand it and in your own understanding you have to debrief yourself. And I mean of course I watch silly programmes on TV that doesn't require thinking, just mindlessly watch something to try and switch off or read. In my school days I used to read what my English teacher used to call shilling shockers and penny thrillers, you know, the Mills & Boons novels, I used to read that to switch off and I do similar</p>

	<p>things now but I think it's a lot of self-talk to remind yourself what your role is, to remind yourself what you have to achieve in that. As reprehensible as some of those offenses are, you have to look behind that at the offender, who is he, where does he come from and why would he do this, because that informs the kind of sentence as well that you mete out. You know to give you a very basic example; a woman in Sandton is not going to experience the law in the same way as a black woman in the semi-rural area. If you give the woman in Sandton a fine of R1,000 it is nothing for her, but if you do the same to the woman from the rural area it is disastrous for her; where is she going to get R1,000, that is almost a month's worth of food for her. So, you know, that is what I take into account in my self-talk, in my debriefing and at the end of it I say I have got to be happy that I have done justice, not only in applying the law, but justice to the person that is in front of me and that's how I try to cope with it and we see the most horrible crimes.</p>
DR. MALKA	<p>I can only imagine the types of cases and things that you must have seen and the way that you're able to bring in the empathy and bring in the context and see behind the person, where they come from and interplay that into the way that you derive your judgment.</p>
JUDGE NAIDOO	<p>It is so easy to vilify and demonize somebody like that, but what motivates a 25-year-old to rape a woman much older than him, gauge out her eyes and then kill her? What does that and one has got to have that deep understanding of human nature, which is informed by your background. Where does it come from? When you have that understanding and you know in your mind you have done justice, it helps you to cope a little better.</p>
DR. MALKA	<p>Thanks for sharing some of your techniques and tricks to coping. What I have taken out of today's conversation and also with your other colleagues, is that the issue of that the world is changing all of the time and that in order to accommodate those changes or maybe to push and propel those changes, that the law changes too. In your view what would you say have been some of the most important recent laws or reforms that have passed that have been in the best interests of women?</p>
JUDGE NAIDOO	<p>Well let's start with the Constitution. I mean that lays the ground rules and if you look at especially in women's rights, I mean if you look at the right to equality, the right to life, the right to freedom and security in person. Those are all dealing with human rights which are essentially women's rights, because if you look at that, you know, with gender based violence - what the President has referred to as the second pandemic, that we start with the Constitution, it lays down the ground rules and emanating from that, you know, we would have then for instance the Domestic Violence Act which has been around a while, you have Employment Equity, you would have the Sexual Offences Act dealing with rape where they have expanded the meaning of rape, sexual assault has an expanded meaning, you know, certain acts which previously would not have qualified as either rape or sexual assault, do now. So that has expanded the protection, because rape victims are largely women or for the most part women or girl children, although more and more I find males and male children also becoming victims, but it has expanded the meaning of rape and sexual assault, which then widens the</p>

	<p>protection that one can give. And I think recently there is the National Coalition on Gender Based Violence and Femicide Bill, last year this bill was introduced and they're looking to make that law. So I think if one looks at like the Domestic Violence Act, the Constitution, the Sexual Offenses Act and all the related legislation, there is protection for vulnerable people and women, but unfortunately gender based violence, in spite of that legislation, has just skyrocketed.</p>
DR. MALKA	<p>And that is the point that I wanted to ask now; we have paper-based protection, but it doesn't prevent the physical acts from happening.</p>
JUDGE NAIDOO	<p>Yes.</p>
DR. MALKA	<p>Given your experiences, what do you think we can do, I don't know as a social reform, that these acts of injustice just don't happen?</p>
JUDGE NAIDOO	<p>It's a lot of awareness and education. We've got to ensure that people unlearn social practices or cultural practices or norms within that particular society, you know, certain beliefs which really have no foundation in reality and truth and I think there have been a number of organizations that are targeting that, the education, awareness raising and debunking certain beliefs and myths which lead to these acts of violence. While there are a lot of efforts, I think that we have got to step up with those kind of ... the law alone cannot do it, one has to tackle the social aspect, the cultural aspect and try and bring about that change, an attitudinal change and the respect for the law will obviously follow the attitudinal change and the awareness and understanding that what you have been doing is wrong and it's from a point of education and awareness that will follow with the respect of the law I think.</p>
DR. MALKA	<p>Judge Naidoo we've spoken about the work that you do, the types of interventions that have been put in place, one point that I wanted to tap onto now is almost I guess your development and development of other women judges in the country. I know that you're a longstanding Member of the South African Chapter, the International Association of Women Judges; you've served as the organization's Deputy President, National Treasurer as well as Vice President of Programmes and Publications. What would you say have been some of the benefits or opportunities that you've been exposed to throughout your involvement with the association?</p>
JUDGE NAIDOO	<p>Well, you know, for one thing with our outreach work, it brings acute awareness of how dire the situation some women find themselves in and the need for us to use our positions as judicial officers to try and influence change in the lives of those women and that comes with not just the outreach programmes that we do, initially you know we would for instance be involved in the take a girl child to work programme, we would go out into communities, do awareness raising, lectures and talks and interactions, but we have developed many programmes along the way and the opportunities for us there, for instance mentorship. Mentorship is a big thing in the Chapter, we do mentoring programmes with university students, law students as well as young attorneys for instance, people who are just about to enter and who have just entered the profession. It gives one that opportunity to work with these young women to empower them, give them guidance, mentor them, take them through what the legal profession entails and also guide them to the</p>

	<p>various avenues within the profession that is open to them. It also helped build networks, you know, an organization like the South African Chapter, which is affiliated to the international body in Washington as well as to interacting with sister chapters on the continent and in the world, it builds tremendous networks and that is so important in career development, it's so important in personal development, that you have these networks and the International Association of Women Judges and specifically the South African Chapter has afforded us as members that opportunity which we are then able to pass onto the younger ones coming into the profession and hopefully one day will be members of the Chapter as well.</p>
<p>DR. MALKA</p>	<p>I think associations are incredibly important for all of those dynamics that you shared, especially the networking facet, the knowledge sharing dynamic. You spoke a bit about law students and also sharing about opportunities for them down the line. Given all of your experiences, what advice would you give to law students who are aspiring to be judges or perhaps work in the legal profession in another avenue?</p>
<p>JUDGE NAIDOO</p>	<p>The first thing that they have got to understand is you have got to give 100% commitment to that goal, so in order to do that you identify your goal first of all. Where is it that you want to go and what is it you want to do and you work towards that. As I said, there's so many avenues within the legal profession that to get to be a judge, usually you get into practice either as an attorney or an advocate, after university you build up your experience base, your skill levels, and the way you do that is get involved with programmes for instance that are offered by the IAWJ or other sister organizations. Attach yourself to women in the profession that you look up to or who have achieved and ask if they would mentor you and I think most of them would readily say yes, each of our members, we've done it both as an organization and at a personal, I have done it for many years on a personal one-on-one level; many of them are judges today, many of them went from being attorneys to magistrates and I am still in touch with them, I am still giving them guidance. So I would say to students first identify your goal, attach yourself to somebody you know that it is going to assist you, mentor you, but commit yourself, firstly make sure that your studies are your priority so that you get that technical qualification and from there commit yourself to the avenue in law that you want to follow and as I said if you want to be a judge, as a young article clerk I accompanied my principal to the High Court and I used to see these judges sitting there and I used to be terrified of them, because they were stern and they were strict, they were all men in those days, but I said to myself I am going to be there one day and I am going to do things differently to what you are doing, because I don't bark at people and I will not say things that might border on insulting somebody and that's what I used to observe with some of the judges, especially towards the women advocates, and I would say I am going to be there one day and I will definitely do things differently to what you're doing, but it was a long road and I've realized that, but as I said, you know, with all the gender, the race and all of that, the one thing I dedicated myself to was the pursuit of excellence and when you pursue excellence in everything you do, in the end nobody will keep you down. And when I was very little somebody said to me, you can't make a dream</p>

	<p>come true if you don't have a dream and to understand, to make that dream come true, it takes patience and hard work, a lot of hard work. So that's what I would say to law students; don't be afraid to dream and don't be afraid to chase that dream, but you must work hard to do so.</p>
DR. MALKA	<p>That is such great advice and I think broadly applicable beyond just law students.</p>
JUDGE NAIDOO	<p>Yes absolutely.</p>
DR. MALKA	<p>I mean you've shared some of your values, one core takeout is excellence, another for me is integrity, another is doing things according to your standards and the way that you want to do them, not being dictated by others. A question that I ask my guests is about some of the factors that they feel have contributed to their success; can you share with us what have been some of the core drivers of your success?</p>
JUDGE NAIDOO	<p>Well I agree with the commitment and dedication and all of that and I'm no different, but what I'd like to add is humility, respect and consideration, because those are very important factors, not just as a judge or as a magistrate or a lawyer, but as a human being and to remember that you are firstly a human being and then a lawyer or a judge or a magistrate, because in understanding that concept you allow your humanity to infuse your judgments, to infuse your work and that contributes to bringing this fairness and equity in law and I think it's very important, respect encompasses the diversity I was talking about. You've got to respect another person's beliefs, another person's culture, you've got to understand it in order for you to be able to let that person know that you do understand it and infusing humanity into that gives weight to the constitution; that is what our constitution is all about.</p>
DR. MALKA	<p>Lastly, as we close out today's session and in celebration of Women's Month, can you share a few words of inspiration or motivation that you'd like to pass onto girls and women who are listening to us on the continent?</p>
JUDGE NAIDOO	<p>Yes, I think I spoke of mentorship earlier. If you already are in a successful position or in a position of authority, reach out to women who will follow you and I talk about paying forward, because you've got to that position because somebody assisted you along the way or you were, you know, bold enough to empower yourself, pay it forward. Share that, that recipe for success that got you where you are, with those that are following, the younger ones that will follow. I think it's incredibly important to mentor and pay forward because in that way you are empowering not just the women but society in general. If you're young and you're starting out look for mentorship, look for people that have succeeded in the field that you have chosen and tap their brains, tap into their skills to empower yourself and one thing I want to share, you know, it's a little story, when I was about 14/15 we used to listen to what was LM Radio in those days and there was one musician who put to music the words of something that was called Desiderata and at 14 we had no TV, no internet, no telephones, there was just a little humble community library, I picked the librarian's brain and she thought I was mad, she hadn't heard this and she said I don't know what you're talking about, but I said but don't you listen to the radio, listen to this song, it is the most powerful song, well she just shooed me off. And about a year or so</p>

	<p>later I was in a store, but you know it's this store that sells, it's a little shop that sells everything, from haberdashery to hardware to books and there was a little like a basket with second-hand books, I used to love reading, still do, and I was rummaging through this and I found a page that looked like a scroll and there it said Desiderata and I could not believe it because now I had the words. That's been an incredibly power influence in my life, it was written in 1927 by an American lawyer called Max Ehrmann and he later became a poet and this was discovered, I think after he died if I'm not mistaken, but it is such a powerful poem and such a powerful piece of writing and my very favourite gift to my nieces and nephews and grand nieces and nephews when they finish matric, is to give them a framed copy of the Desiderata. You know, it teaches you ... for me it's based in science, it's based in philosophy, it's based in psychology and it teaches you how to develop inner peace, it teaches how to approach your daily life in a world that doesn't always treat you fairly and what I found is that if I read it again every say three/four years, there is something there that is relevant to me at that stage of my life. If you have a chance please read it, it is an amazing piece of writing, to this day a copy of the Desiderata hangs on my study wall and I read it every few years, I take a few minutes and it's amazing how relevant it is to you no matter what stage of your life you are in. So when you are very young start reading it and when you're getting to retirement age, like me, carry on reading it and I can say it will influence a lot of life, it did for me.</p>
DR MALKA	<p>Thank you for sharing such practical words and another thing and I'm sharing this, every time I have a conversation with someone, I learn something too, so thanks again for sharing and I will definitely be sourcing a copy of the Desiderata.</p>
JUDGE NAIDOO	<p>Yes, we have Google these days, so it's very easy. It is an amazing piece of writing and I'd advise every young person, women or men, to read it, get a copy and read it.</p>
DR MALKA	<p>Thank you so much Judge Soma Naidoo, it's been a pleasure having you on the show today.</p>
JUDGE NAIDOO	<p>It's wonderful to have been here, thank you for having me.</p>
<p>PROGRAMME END</p>	