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# THE JUDICIARY

JUSTICE MAYA ELEVATED TO THE  
CONSTITUTIONAL COURT

FIGHTING GENDER BASED VIOLENCE

LEANING IN THROUGH THE LENS OF WOMEN

JSC SHORTLISTED CANDIDATES

WOMANTY - WOMEN IN UNITY

AFRICA JUDGES AND JURISTS FORUM





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# FROM THE EDITOR

During its 16th Conference, the SAC-IAWJ conferred important awards to Chief Justice Raymond Zondo and Deputy Chief Justice Maya. The Chief Justice and Deputy Chief Justice were also honoured with prestigious awards by the General Council of the Bar of South Africa recently. We celebrate these awards on pages 11 and 16, respectively.

The Judicial Service Commission (JSC) has shortlisted candidates for various judicial positions, to be interviewed in October 2022. We take this time to congratulate all the candidates who have made it this far in the selection process. We also wish them well for their interviews. You can read the full list of candidates to be interviewed on pages 31 and 32.

A number of our colleagues on the Bench retired from active service in the past quarter. We pay tribute to them as we celebrate their careers in the service of the country. We wish them all a happy retirement! Their contribution to the Judiciary will always be remembered.

These are just some of the highlights of this full-on edition of the Judiciary Newsletter. There is more to see, so please turn the pages and read all about it.

We express our gratitude to everyone who has contributed to producing this edition of our quarterly publication. *Into enhle iyaphindwa*; let's do it again in the next quarter.

**Judge President Dunstan Mlambo**

Chairperson: Judicial Communications Committee

## DEAR COLLEAGUES,

*We are pleased to present to you, our reader, the spring edition of the Judiciary Newsletter.*

We publish this edition only weeks after Madam Justice Mandisa Maya assumed duty on September 1 as the Deputy Chief Justice of the Republic of South Africa. Deputy Chief Justice Maya joins the Constitutional Court having spent five years serving as the President of the Supreme Court of Appeal (SCA). We pass our warm congratulations, once more, to Deputy Chief Justice Maya on her appointment and wish her well as she takes on this enormous responsibility.

The Newsletter carries a celebratory theme inspired by the recently observed Women's Month. We bring you some important reading from the 16th Conference and Annual General Meeting of the South African Chapter of the International Association of Women Judges (SAC-IAWJ), which took place in August. This includes words from Deputy Chief Justice Maya, who also serves as the President of the SAC-IAWJ.



# JUSTICE MAYA ELEVATED TO THE CONSTITUTIONAL COURT

On 25 July 2022, President Cyril Ramaphosa announced the appointment of Justice Mandisa Muriel Lindelwa Maya, as Deputy Chief Justice of the Republic of South Africa with effect from 1 September 2022.

President Ramaphosa made this appointment in accordance with Section 174(3) of the Constitution of the Republic of South Africa.

Justice Maya has an impressive judicial career that spans more than two decades. Achieving yet another milestone in her career, Justice Maya is the first female Deputy Chief Justice.

“Justice Maya will contribute to the ongoing transformation process of the Judiciary. Her ascendancy to the apex court will serve as a beacon of hope for scores of young women and make them believe that South Africa is a country of possibilities regardless of gender, social or economic circumstances,” says President Ramaphosa.

Chief Justice Raymond Zondo extended his congratulations to Justice Maya following the announcement, and said “[Justice Maya’s] appointment signals a significant milestone in the history of South Africa and of the Judiciary in this country as Justice Maya is the first Judge who is a woman to be appointed as Deputy Chief Justice of our country.” He added that he looked forward to welcoming her to the Constitutional Court.

News of Justice Maya’s appointment was welcomed by various law bodies, as well as the Judicial Service Commission, who wished her well in her new position. ■

# SAC-IAWJ 16<sup>TH</sup> CONFERENCE AND ANNUAL GENERAL MEETING



**The South African Chapter of the International Association of Women Judges (SAC-IAWJ) hosted its 16th Conference and Annual General Meeting (AGM) from 5 to 7 August 2022, in Pretoria. The AGM was held in collaboration with the University of South Africa (UNISA) and the Department of Women, Youth and Persons with Disabilities (DWYPD).**

The event, which takes place annually during Women's Month, was held under the theme: "Empowerment as a Tool to Fight Gender-Based Violence #Breaking Barriers and Bias". The event was attended by jurists, academics in the fields of law and social justice, and law practitioners from various law societies.

On the first day, the President of the Republic of South Africa, His Excellency Mr Cyril Matamela Ramaphosa, delivered a keynote address during the gala dinner which was held on Friday, 5 August 2022. During this event, the SAC-IAWJ conferred upon Deputy Chief Justice Mandisa Maya the SAC-IAWJ Women Pioneers in the Judiciary Award. Justice May is the first woman jurist to be appointed to the position of Deputy Chief Justice in the history of South Africa.

Day two and three of the conference (6 and 7 August 2022) were dedicated to various presentations and discussions by jurists and academics on a variety of critical topics aligned to the main theme. The Chief Justice of the Republic of South Africa, Justice Raymond MM Zondo delivered the keynote address on the penultimate day of the three-day conference. ■





# WE MUST BREAK ALL BARRIERS AND BIASES AGAINST WOMEN

ADDRESS BY PRESIDENT CYRIL RAMAPHOSA  
AT THE ANNUAL CONFERENCE GALA DINNER  
OF THE SAC-IAWJ - FRIDAY, 5 AUGUST 2022

**Sixty-six years ago thousands of women marched on the seat of the apartheid government to demand an end to the degrading and dehumanising pass laws.**

Although nearly four decades would pass before apartheid was abolished and South Africa's democracy would be born, their activism had far-reaching consequences that extend till today.

The Women's March of 1956 sent a message to the apartheid regime, and indeed to the world, that achieving gender equality and advancing women's rights was as important a goal of national liberation as casting off the bonds of racial oppression.

That is why when we became a democracy in 1994 we set ourselves clear and measurable targets to advance the position of women in the workplace, in government and across society.

We produced one of the most inclusive constitutions in the world, with a Bill of Rights that specifically requires equal treatment for all regardless of sex, gender or any other ground of discrimination. We repealed all laws that discriminated against women, and replaced them with employment equity laws that oblige employers

to reflect the country's racial and gender composition in their hiring practices, and to advance the rights of persons with disabilities.

We prioritised greater representation of women in top management in the public service, with a particular focus on black women.

By 2021, 62 per cent of the entire public service workforce was female, with 44 per cent of senior management positions filled by women.

violence against  
women and children  
is a far greater crisis  
than most health  
emergencies we have  
faced ”

In 1994, women comprised 28 per cent of members of Parliament. Today, 46 per cent of our lawmakers in the National Assembly are women. Of the 28 Ministers currently in Cabinet, 13 are women.

As South Africa, we are proud of the progress we have made with respect to the representation of women in important spheres of public life, notably the state. This administration has demonstrated its determination to build on this progress.

In 2019, Adv Shamila Batohi became the first woman to head the National Prosecuting Authority. In 2021, Ms Phindile Baleni became the first female Director-General in the Presidency. In 2022, Ms Thembisile Majola became the first Director-General of the State Security Agency.

Never has the role of female jurists been more important than in South Africa right now, to implement new and existing laws designed to strengthen the fight against gender-based violence ”

Also this year, less than a week ago, Lt Gen Tebello Mosikili became the first female Deputy National Commissioner of the South African Police Service.

And last month, The Honourable Justice Mandisa Maya – who as you know is the President of the South African Chapter of the International Association of Women Judges – was appointed as our country's first female Deputy Chief Justice.

I wish to once again congratulate you, Justice Maya. It is a richly deserved honour and yet another milestone in a stellar career. You are an inspiration to all women on the Bench, at the Bar and in the magistracy.

Today out of 256 judges on the Bench, 114 are women. Nearly half of all magistrates are women. Most encouraging is the growing number of young women entering the legal profession.

As at January 2019, more than a third of candidate attorneys were black women. As a whole, women accounted for 57 per cent of candidate attorneys. This provides impetus to the broader transformation of the legal profession.

Last week, government published for public comment the Draft Legal Sector Code. The Code aims to ensure the legal profession is

representative of the demographics of South Africa and to enable equitable and representative appointments to the judiciary.

Importantly, it also focuses on the provision of pro bono services and community-based legal services, ensuring access to affordable legal services for all South Africans, particularly marginalised, poor and rural communities.

There can be no doubt that the racial and gender transformation of the Bench is ongoing and can be improved, but we must at the same time acknowledge that we have come a long way. Not just a long way, but a difficult way.

Gathered here this evening are jurists who have waged titanic struggles to earn the right to reach the pinnacle of the legal profession. It has not been an easy road.

Besides the fraternal and collegial bonds you share as jurists, there is also a commonality of struggle to overcome bias, discrimination, sexism, racism and other prejudices in the course of your careers.

And yet, still you rise.

To paraphrase Maya Angelou's eternal poem, up from a past that's rooted in pain, still you rise.

And it has been the International Association of Women Judges that has been your anchor as you navigate the complexities of progressing as a female jurist in an environment that still remains overwhelmingly male. But the International Association of Women Judges is so much more.

It is a powerful and influential global network of jurists committed to ensuring women's equal access to justice in the face of discriminatory laws and practices, barriers to justice for women, and the ever-prevalent scourge of gender-based violence.

I want to congratulate you on hosting this conference, and to applaud you for choosing the theme "Empowerment as a tool to fight gender-based violence".

As many have said, gender-based violence is pandemic of the same seriousness, destruction and ferocity as the COVID-19 pandemic.

If we were to quantify the impact of gender-based violence in terms of lives destroyed or lost, families torn apart, societies shattered, economic productivity lost, and state resources diverted, we would see that violence against women and children is a far greater crisis than most health emergencies we have faced.

Even as we take a step forward in women's representation and the advancement of women's rights, gender-based violence takes us many steps back.

Last week, news of a gang rape of eight young women by armed men brought home once again the horror that confronts many women in our country and around the world.



We know that it is women who are more likely to be unemployed, to have lower levels of education and who shoulder the burden of childcare ”

No society can lay claim to being non-sexist if that country's women live in fear, and where sexual assault, domestic and intimate partner violence and femicide, is an ever-present threat.

This terrible crime was not an isolated incident. In the same week, more women were assaulted, raped and murdered in different parts of the country.

We are in the grip of what is no less than an unrelenting war on the bodies of the women and children of this country. We know that in many jurisdictions in the world, women and girls are also subjected to trafficking, discrimination, abuse, exploitation and the worst forms of violence.

The State has a constitutional and moral duty to protect women against all forms of gender-based violence, which continue to impair the exercise of their fundamental rights and freedoms.

Our law enforcement agencies must do everything in their power to ensure that criminals who have violated the fundamental rights of women and children are caught.

Our courts have a duty to prosecute them without fear or favour, and in doing so send a message that gender-based violence will not be tolerated.

As the Constitutional Court said in a 2019 judgment:

*"This Court would be failing in its duty if it does not send out a clear and unequivocal pronouncement that the South African Judiciary is committed to developing and implementing sound and robust legal principles that advance the fight against gender-based violence in order to safeguard the constitutional values of equality, human dignity and safety and security."*

Never has the role of female jurists been more important than in South Africa right now, to implement new and existing laws designed to strengthen the fight against gender-based violence, to support and protect survivors, and to ensure that perpetrators face the consequences of their actions.

As government, we will continue to work with our social partners to implement the National Strategic Plan on Gender Based Violence and Femicide by affording greater protection to vulnerable groups. In January this year, I assented to three key pieces of legislation to strengthen the legal framework in the fight against gender-based violence.

Among other things, these laws tighten the sentencing provisions against perpetrators, enable online applications for protection orders, and improve provisions related to the sex offenders register by widening its scope.



We commend you for your commitment to a common programme of action to realise a truly non-sexist society that is free of all forms of gender-based violence.

We commend you for your longstanding commitment to applying the law with a keen understanding and appreciation of the gendered nature of poverty, inequality, unemployment and underdevelopment.

We know that it is women that disproportionately bear the brunt of these and many other social ills. We know that it is women who are more likely to be unemployed, to have lower levels of education and who shoulder the burden of childcare. All of these impact on access to justice.

For these and many other reasons, we look to you as female jurists to help shape and strengthen the discourse around patriarchal power relations, and what must be done to dismantle them.

You occupy a privileged position to exercise judicial authority, which is the cornerstone of any constitutional democratic order.

We look with keen interest to the proposals that will emanate from this conference around empowering women judges to effectively use the law to deal decisively with gender-based violence.

Courts are impartial arbiters committed to the administration and dispensing of justice. That is their foremost role.

At the same time, we have a rightful expectation that the courts should reflect in their judgements the foundational principles of our constitutional order, namely human dignity and the achievement of equality, non-sexism and non-racialism.

The struggles of women continue.

For equal pay for equal work.

Against discrimination on the basis of motherhood, marital status and sexual orientation.

To receive an education.

To not be disinherited or married against their will.

To be protected against human trafficking and other forms of exploitation.

We must break all barriers and biases against women.

Our courts, enabled by a progressive Constitution, have played a significant role in the promotion of gender equality in South Africa. It is our expectation that the South African chapter of the International Association of Women Judges should continue to serve as a beacon of progress, a symbol of women's achievement and as an instrument of change. ■



Attendees of the 16th Annual South African Chapter of the International Association of Women Judges, with Chief Justice Raymond Zondo and Deputy Chief Justice Maya who is also the Chapter President and IAWJ Regional Director: Africa.

# EMPOWERMENT AS A TOOL TO FIGHT GENDER BASED VIOLENCE

By Justice Mandisa Maya

Deputy Chief Justice of the Republic of South Africa

## #BREAKING BARRIERS AND BIAS

Women's Month is a time to count and celebrate women's gains; a time to regroup and strengthen and create programmes that will eliminate gender bias ”

Firstly, I should give just a brief background on the South African Chapter of the International Association of Women Judges, the Chapter, as we like to call it, for the benefit of the those who may not quite know what it is and does.

It is one of the Associations comprising a global network of women judicial officers from most countries in the free world under the umbrella of the International Association of Women Judges, which is based in Washington D.C. in the USA. The core mission of this organization is to promote and empower women judges from all levels of the judiciaries, who will help uproot gender bias from judicial systems and societies, end discriminatory laws, advance gender responsive courts and women's access to the courts and promote human rights for all. The Chapter, which also has a few male judicial officers who are committed to social justice and inclusion, was established and formally inaugurated by President Thabo Mbeki on 8 August 2004, to advance these goals.

The 16th Annual Conference of the Chapter is convened in collaboration with the University of South Africa and the Department of Women, Youth and Persons with Disabilities and assisted by a number of sponsors, which include the Department of Justice and Correctional Service, Juta and Lexis-Nexis Publishers and other bodies which support the effort to protect and empower women and girls. The conference is held under the theme 'Empowerment (of Women) as a tool to fight gender based violence #Breaking Barriers'. Its target is the perennial subject of gender based violence, which has been the focus of many of our annual conferences for reasons that all South Africans can easily guess. And we hope to spend the next two days exploring some of the



ways in which all South Africans can, as a collective, eradicate the scourge and achieve gender equality.

As we all know, the Women's Month is a time to count and celebrate women's gains; a time to regroup and strengthen and create programmes that will eliminate gender bias. Despite the age old, notorious fact that around the world, it is invariably women who bear the brunt of all socioeconomic issues, and the horrendous adversities that have persistently plagued South African women in recent years, there has always been something to celebrate and a spiritedness to fight on to achieve equal justice. But this August of 2022 is different. It finds many South Africans in the grip of an overwhelming sense of helplessness and hopelessness which not even Banyana Banyana's stunning victory at the WAFCON can lift.

Our country is becoming a terrifying place that is caught in a perfect storm of grave converging problems – the devastating after-effects of Covid-19, a struggling economy and a runaway cost of living with sharply escalating food and fuel prices, skyrocketing unemployment, grinding poverty, rampant and gratuitous violent crime and breath taking lawlessness of a nature that we have not seen in our communities before, a frightening proliferation of illegal firearms, extreme substance and alcohol abuse and failing mental health especially among our youth, and add to this dangerous cocktail the gruelling energy crisis, which feeds into these challenges. It is most chilling to hear from UNICEF that more than half of our children suffer from chronic malnutrition and that as many as 11%, over 6 million South Africans, daily go to bed on an empty stomach.

And that is not all. Every day now, South Africans mourn the rupture of their country's social fabric and the degradation of the values that used to hold their communities together as they watch multitudes of children, some as young as 10 years old, falling pregnant; children, some as young as 13 years old, dying in shebeens, which are the new playgrounds; children being murdered for body parts, the list goes on.

These are all overwhelming challenges. But it is well to remember that women have lived with adversity all along. The situation is now intolerable because everyone is affected and suffering. We need to be very mindful as we tackle these challenges that women's concerns and their protection require urgent attention too and must be kept high up in the to-do list, right alongside the other pressing issues.

Women from all walks of life are routinely subjected to all sorts of discrimination all the time. It came as no surprise, therefore, when the Stellenbosch Business School published a report on Monday that in addition to everything else, women carry a heavier tax burden than everyone else. They suffer other economic disadvantages and here is a good example. We have a brilliant, very hard working national women's soccer team that has, in recent times, single-handedly carried the honour of that sports code by constantly winning games. They are now African Champions and will represent this country in the World Cup next year. But they have never been given the attention and rewards they deserve and after more than a decade of that team's existence it is only now, in their big moment, that the unfair discrimination they have long suffered is drawing ire and promises of its rectification. We cannot

start agitating for pay parity and investment into women's sport only when they start winning on the big stage when that yardstick is not applied to their male counterparts. And that dispensation should apply to all working women, everywhere they may be found.

There is then society's failure to afford women a chance to advance and lead in their chosen vocations. It is established that in all work spheres, women face additional structural barriers to their career advancement because of negative gendered beliefs and assumptions, the skewed burden of family responsibilities which still rest primarily on women, patriarchal bullying and sexual harassment and many others. Women must spend more time and put forth more effort than their male peers to get the same jobs with the same compensation. It takes them longer to get promoted than men and very few make it to the top of the ladder. These phenomena plague even our judiciary, which is the custodian and enforcer of human rights.

'The more we allow pessimism to push us further into helplessness, the less we will be empowered to help create the country we want to live in '„

But of all the threats to their well-being that women face, which is fed by their oppression, gender based violence for which South Africa bears the ignominious shame of world leader, tops the list. The murder and rape statistics of women and girls, thousands of underage girls, are staggering. For far too many times and far too long, we have been collectively shocked and outraged by the gruesome acts of violence that are perpetrated against females of all ages in this country – from the rape of a 9 month-old baby by grown men with whom her mother had left her while she stepped out momentarily some years ago, through the mile-long list of women and girls who have been killed and maimed and abused since.

A few days ago, just when we thought we could not be shocked by the brutality and ever-growing numbers of these atrocious attacks anymore, we woke up to the news of the horrendous gang rape of eight young women, allegedly by a band of heavily armed foreign nationals from various countries in the continent. The stories that have been since been reported in the media by government officials, including the Ministers of Police and Home Affairs, victims and residents – stories of regular gang rapes of women, women being dragged away from their beds and husbands in the dead of the night by gangs of marauders, who allegedly carry heavy artillery which even our police do not have, and a reign of terror in the townships and villages of our country, are too much to bear. And if these horror stories are true, it means that now even men from other countries have seen that the women and girls in this country are fair game and have joined the party. The horror does not stop there because on Monday, two 18 year-old girls were found hacked to death in Creighton in KwaZulu-Natal. On the



same day in Cape Town, a woman's body was found in a rubbish bin seen being dumped by a man in Crossroads. And we can be sure that there are many other incidents that just did not make it to the headline news. That is the reality of women and girls, all women and girls in this beautiful country of ours, including us in this room.

South Africa has some of the most sophisticated laws against discrimination and violence in the world and yet gender based violence worsens at an astronomical rate in the country. Our efforts to eliminate it are simply not working. This has been mainly attributed to a lack of enforcement of the law and a lack of resources.<sup>1</sup> We are only too familiar with stories police stations having insufficient motor vehicles, which stymies their ability to visit crime scenes expeditiously and compromises the quality of their investigations, a lack of rape kits, DNA material gathering dust in shelves waiting to be analysed until it gets lost; a lack of shelters for rape and abuse victims and Sexual Offences Courts. And we then hear from the gender reference task team leader of the governing political party, Dr Ramakgopa, that the department responsible for the most vulnerable members of our society, the Department of Women, Youth and Persons with Disabilities is grossly under-resourced and cannot therefore make any real impact in society.

But that is just one strand of the challenge. Even with adequate resources, criminalising gender based violence and bringing the vile perpetrators to justice is not the complete solution. Convicting and sentencing a Ntuthuko Shoba to life imprisonment for the heinous murder of Tshegofako Pule and their unborn baby, or sending a rapist to jail, will not bring the deceased back or put the broken pieces of the rape victim back together. The root of the scourge must be dug out and destroyed. To do that requires that we move to a new paradigm of thinking and doing things, and reassess and refine our strategies, with the involvement of the whole of society. How that is to be done is what we hope to explore in this conference. But surely, the starting point which just takes common sense to conjure, must be the levelling of the field by removing the disadvantages that only women face in society and giving them the same opportunities as their male counterparts.

But all that said, someone I admire, Michelle Obama, recently made a poignant remark that enables me not to wallow in despondency, after the US Supreme Court overturned the abortion rights decision, *Roe v Wade*:

'The more we allow pessimism to push us further into helplessness, the less we will be empowered to help create the country we want to live in.'

So, whilst we have every reason to lament the problems that engulf our country, that are erupting in unrest in our communities, we should remember that we still have the key essentials that are fundamental to a functional democracy and its good governance. We must double up on nurturing, protecting and using them and exhort everyone to play their role in society so that we may achieve a just, equal and inclusive society and in turn peace, stability and prosperity for our children and the next generations. ■



The root of the scourge must be dug out and destroyed. To do that requires that we move to a new paradigm of thinking and doing things, and reassess and refine our strategies ”

<sup>1</sup> <https://mg.co.za/opinion/2022-04-18-criminalising-gender-based-violence-is-not-enough/> 28 April 2022.



## CHIEF JUSTICE ZONDO AND DEPUTY CHIEF JUSTICE MAYA AWARDED

The SAC-IAWJ held its 16th Annual Conference on 5 – 7 August 2022. The SAC-IAWJ is an Association of Women Judicial Officers that includes Judges and Magistrates, established in 2004 for the purpose of “Advancing Human Rights and Equality for All” in South Africa.

During their conference the SAC-IAWJ conferred Chief Justice R M M Zondo, the Chief Justice of the Republic of South Africa, with the Male Allies award for his continuous support to the organisation.

SAC-IAWJ also conferred its Women Pioneers in the Judiciary Award to the newly appointed Deputy Chief Justice of the Republic of South Africa, Justice M M L Maya, the first woman jurist to be appointed to this position in the history of South Africa. ■

SAC-IAWJ conferred Chief Justice Zondo with the Male Allies award for his continuous support to the organisation ”

# STRIVING FOR THE UPLIFTMENT AND PROTECTION OF WOMEN IN SOUTH AFRICA


By Advocate Nooreen Nursoo  
(KwaZulu-Natal Society of Advocates)

Contributions by Magistrate Chetna Singh

**During the weekend of 5 to 7 August 2022 I attended the 16th Annual Conference of the South African Chapter of the International Association of Women Judges.**

Prior to attending this conference, I must admit that I as an advocate had heard of the International Association of Women Judges ("IAWJ") but was not aware of the roots of the association, its members or its objectives. My intention therefore, in attending the conference was to find out more about the IAWJ and in particular the SAC-IAWJ.

The IAWJ is a non-profit, non-governmental organisation which was created in 1991. It was created by a group of 50 women judges around the world with a vision of increasing the number of women judges and promoting equal justice for women and girls around the world. Since its inception the IAWJ has increased its membership to over 6500 judges in more than 100 countries and territories around the world. The current president of the IAWJ is Dame Susan Glazebrook who is a Judge of the Supreme Court of New Zealand.



The membership of the SAC-IAWJ consists of both female and male Judges and Magistrates who share a commitment to equal justice for women and the rule of law ”



In 2004 the South African Chapter of the International Association of Women Judges (SAC-IAWJ) was formally inaugurated by former President Thabo Mbeki at a ceremony held on 8 August 2004. The current president of the SAC-IAWJ is Deputy Chief Justice of South Africa Mandisa Maya who is also the Director of the IAWJ for the African Region and the deputy president of the SAC-IAWJ is Acting Deputy Judge President of the KwaZulu-Natal Division of the High Court Judge Thoba Poyo-Dlwati.

The membership of the SAC-IAWJ consists of both female and male Judges and Magistrates who share a commitment to equal justice for women and the rule of law. The SAC-IAWJ also allows for advocates and attorneys to be invited to join as friends of the association in promoting the objectives of the SAC-IAWJ.

As stated above from 5 to 7 August 2022 the SAC-IAWJ held its 16th Annual Conference and General Meeting. This conference was held in collaboration with the University of South Africa and the Department of Women, Youth and Persons with Disabilities. "The conference was held in the city of Tshwane in Gauteng and was attended by Judges, Magistrates, Advocates and Attorneys from around the country. The theme of the three-day conference was "Empowerment as a tool to fight gender-based violence #Breaking barriers and bias".

The conference boasted an action-packed panoply of activities over the three days, which began with a conference tradition, of the flagship Belinda Molamu 5km Memorial Walk held on the morning of 5 August prior to the Annual General Meeting of members being held later that day. The conference itself orchestrated a plethora of stimulating topics in defined segments. The first segment was on 'The National Strategic Plan on Gender Based Violence and Femicide, including a dialogue on the amended GBV legislation'. This segment was presented by Ms. Wilhelmina Reshoketswe Tshabalala, DDG: Social Transformation and Economic Empowerment (DWYPD), Regional Court President of Limpopo Ms Jakkie Wessels and Ms Lisa Vetten, Research associate of the Southern Centre for Inequality Studies Wits. These presentations were followed by an insightful talk by Advocate Mamello Makau, the Head of the Lesotho Law Clinic, National University of Lesotho who contrasted the laws of Lesotho as against the amended legislation of South Africa.

The second segment of the conference was titled 'Breaking Barriers and Bias' this segment included insightful experiences of women in leadership and the judiciary who have experienced some form of discrimination. Powerful presentations were given by Supreme Court of Appeal Justice Mahube Molemela, Prof Jarpa Dawuni, Founder and Executive Director Institute for African Women in Law (IAWL), Ms Gale Zibuyile Nkosi, South African Blind Women in Action (SABWIA) and Ms Shatadi Phoshoko, Secretary-General, NSRC UNISA.

The third segment included four breakaway plenary sessions to draw discussions on topical issues such as the potential use of alternative dispute resolution in GBV cases, the use of technology to assist in GBV and other cases, the culture of patriarchy and its corollaries, and lastly, judicial ethics and wellness.

During the events of this year's conference the SAC-IAWJ conferred two awards: The first was, the prestigious "SAC-IAWJ Women Pioneers in the Judiciary Award" which was conferred upon the now Deputy Chief Justice of South Africa Mandisa Maya and the second was the "SAC-IAWJ Male Allies Award" which was conferred upon the Chief Justice of South Africa Raymond M. M. Zondo who is also a member of the SAC-IAWJ.

The highlight of the conference was most definitely the Gala Dinner held on 5 August which could easily be considered to be the Rolls Royce of the entire event. Attendees of the conference gathered in glitz and glamour at the Maslow Hotel in Pretoria and were graced by doyens, His Excellency President Matamela Cyril Ramaphosa (who was the keynote speaker), Chief Justice of South Africa Raymond Zondo, and flanked by Minister Ronald Lamola, and Deputy Chief Justice Designate (as she then was) and President of the SAC-IAWJ Mandisa Maya.

My attendance at the 16th Annual Conference of the SAC-IAWJ was a truly insightful experience at which I left feeling privileged to have been in the company of both female and male leaders in our country who are actively striving for the upliftment and protection of women in South Africa. ■





## NEWS 24 ON THE RECORD SUMMIT

Chief Justice Raymond Zondo delivered the keynote address at News24's inaugural On the Record summit on 1 September 2022 at the Sandton Convention Centre in Gauteng. Justice and Correctional Services Minister, Mr Ronald Lamola, as well as former Public Protector, Prof Thuli Madonsela, were amongst the other distinguished guests who took part in panel discussions about the future of South Africa.



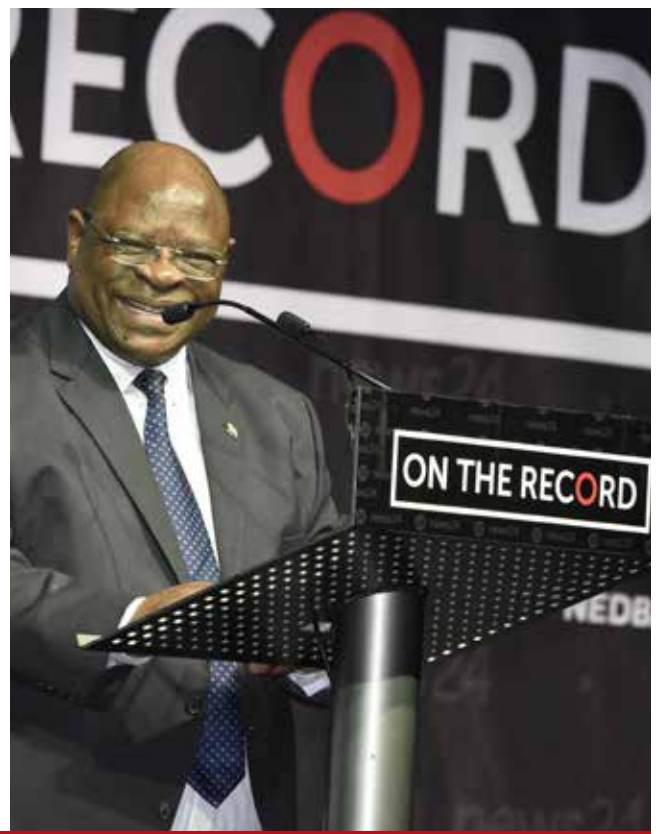
Chief Justice Zondo with Prof Thuli Madonsela



Minister of Justice and Correctional Services, Ronald Lamola, was part of one of the panels of the day.



News24 Editor-in-Chief Adriaan Basson







## CHIEF JUSTICE ZONDO MEETS WITH CANADIAN AMBASSADOR

On 03 August 2022, Chief Justice Raymond Zondo held a courtesy meeting with Commissioner Chris Cooter, the High Commissioner of Canada to South Africa. The High Commissioner was accompanied by Ms Raeesah Cassim Cachalia, Political and Economic Affairs Officer of the Canadian High Commission.





## SYDNEY AND FRANCIS KENTRIDGE AWARDS 2021/22

On 16 July 2022, Chief Justice Zondo and Deputy Chief Justice Maya, were conferred with the Sydney and Felicia Kentridge Awards for 2021 and 2022, respectively, from the General Council of the Bar (GCB) of South Africa.

The award is presented annually by the GCB to a person who has made an exceptional contribution to the law in Southern Africa.



L-R: Adv Ahditya Kissoon Singh SC, Adv Craig Watt-Pringle SC, Chief Justice Zondo, Mrs Zondo, Adv Tanya Golden SC and Adv Johan De Waal SC at the Sydney & Felicia Kentridge Award ceremony.



Chief Justice Zondo delivering his acceptance address for the Sydney & Felicia Kentridge Award conferred to him by the General Council of the Bar of South Africa.



Chief Justice Zondo with Mrs Zondo at the Sydney & Felicia Kentridge Award ceremony.



Chief Justice Zondo being presented with the Sydney and Felicia Kentridge Award by Adv Craig Watt-Pringle SC, the outgoing Chair of the General Council of the Bar of SA.



Adv Tanya Golden SC and Adv Johan De Waal SC accepted the award on behalf of Deputy Chief Justice Mandisa Maya, who was unable to attend the event.



L-R: Justice Sauda Mjasiri; Justice Goeffrey Kiryabwire, Deputy President of the East African Court of Justice; Justice Nestor Kayobera, President of the East African Court of Justice; Judge President Dunstan Mlambo; Justice Anita Mugeni and Justice M'noti Kathurima.

## JUDGE PRESIDENT MLAMBO IN TANZANIA ON IARMJ BUSINESS

On 15 and 16 August 2022, the Judge President of the Gauteng Division of the High Court, Judge President Dunstan Mlambo, visited Arusha in Tanzania in his capacity as the President of the Africa Chapter of the International Association of Refugee and Migration Judges (IARMJ).

The visit was to touch base with the two Regional Courts in Arusha in preparation for the IARMJ Africa Chapter Biennial conference scheduled to take place later this year (November 2022). Judge President Mlambo met with the President of the East African Court of Justice, Justice Nestor Kayobera, who was accompanied by Appellate Justices of the court. The Judge President also met with the Registrar of the African Court of Human and People's Rights, Dr. Robert Eno and the Deputy Registrar, in the absence of the President of the court, Justice Imani Daud About. The court was not in session. ■



Justice Nestor Kayobera handing over a compendium of the decisions of the East African Court of Justice to Judge President Dunstan Mlambo.



L-R: Deputy Registrar of the African Court of Human and People's Rights, Mr. Nouhou Madani Diallo with the Registrar of the court, Dr. Robert Eno, handing over law reports of the court to Judge President Dunstan Mlambo.



# WOMANITY - WOMEN IN UNITY

The Office of the Chief Justice in collaboration with Womanity - Women in Unity, a weekly gender-based talk radio programme that celebrates prominent and ordinary African women's achievements in their ongoing struggle for liberation, self-emancipation, equity, human rights, democracy, hosted by Dr. Amaleya Goneos-Malka, conducted a four-part series on women in the Judiciary, as part of commemorating women's month. Four South African women Judges shared their stories to inspire Women in South Africa and the diaspora.

The next few pages contain excerpts from transcripts of the radio interviews with Judge Carol Sibiya from the KwaZulu Natal Division of the High Court; Judge Marisa Naude-Odendaal from the Limpopo Division of the High Court; Judge Lindiwe Rusi, from the Eastern Cape Division of the High Court as well as Judge Harshilla Koooverjie, from the Gauteng Division of the High Court.

**Use the QR Code provided to access the full interview.**





# JUDGE CAROL SIBIYA

KWAZULU-NATAL DIVISION OF THE HIGH COURT

INTERVIEW AIRED: 04 AUGUST 2022



## DR. MALKA

Judge Carol Sibiya, hails from the KwaZulu-Natal Division of the High Court. The Judiciary is an important component of the justice system which safeguards and protects the constitution and its values and in doing so upholds democracy by applying the law impartially to adjudicate various disputes.

Judge Sibiya, to start with, you earned your B Proc degree and LLB, both from the University of Natal and then you went on to become an advocate and now you serve as a high court judge; did you always envisage a legal career and eventually being part of the judiciary?

## JUDGE SIBIYA

Well maybe always is too long, but yes. I grew up during apartheid so I saw a lot of injustices and we experienced it personally and you would see it even with people that were worse off and because I have always been someone that not necessarily speaks out, but I never accepted a less than position, I wanted to make a difference to others that were maybe not as outspoken about certain things and so I grew up wanting to do that. Also, my father was a lawyer so I could see what that did to people and for people, so I wanted to be in the law stream and as far as being in the judiciary, I was told by a friend of mine from university that when we were in our third year and we were sitting in a lecture, I actually turned to her and I said to her, one day I am going to be a judge. I forgot all about that and carried on with my work just focusing on the day-to-day without necessarily focusing on becoming a judge, but that is what she then said when I was appointed, she said I am so proud of you for working towards what you spoke when we were 19 years old and actually doing it, so let's say yes.

“By their mere presence, women Judges enhance the legitimacy of the courts, sending a powerful signal that they are open and accessible to those who seek recourse to justice”.

Judge Vanessa Ruiz

[Link to full interview on YouTube >>](#)



**DR. MALKA**

As you say, your job is to have the upper hand to uphold the law and make the right decision in the best interests of the child.

**JUDGE SIBIYA**

Yes, yes. Another interesting case for me because it was about allowing the law degree that is offered by Varsity College to be recognized as a valid law degree, that was nice for me in showing the power that we actually have to make a difference, a real difference in people's lives, because what that case had was that Varsity College was allowed to offer the law degree, but when the children finished or when the students finished and they were looking for work, that degree was not being recognized as a valid law degree that entitles them to serve articles and to do pupillage and to become attorneys and advocates. When I made the judgement that that degree is a valid degree and is equal to the law degrees offered by traditional universities, it made a change in so many people's lives. So that was interesting for me.

**DR. MALKA**

Absolutely, being practical, being able to serve the needs of the population, it must be very rewarding in those circumstances to be able to affect change.

**JUDGE SIBIYA**

Yes, but it is also very sobering because when you recognize the power that you have, then you must make sure that you use your powers for good, as it were, and not to advance yourself but to advance the interests of society.

**DR. MALKA**

Thinking about that notion of power, I think that the ability to change legislation or to develop laws is very important and if we think about women in particular being able to advance their rights, it's sometimes hard to realize that only 26 years ago, in 1996 when the Bill of Rights was introduced, that all women in South Africa were formally recognized as equal citizens. So in

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your view what would you say are some of the important equality gains, recent equality gains, that women have attained?

**JUDGE SIBIYA**

There are the small things that people are not aware of. For example, black women couldn't own property, you needed your husband to co-sign and you needed to have a husband in order to have property, so it's things like that. One of the interesting things that I saw as an equality right that maybe other people won't see it that way was I remember when we had the first female primetime news reader and that happened to be a black woman as well. So that is a small thing, but it is a big thing, it happened at the time when I was in university, our white male lecturer had already told us that whatever happens there are things that will never change and then in that year and he had even spoken about women, we must watch the news and we will see that the women that are news readers are not in the primetime news, they are in the other news that people won't really watch but not in the prime time slot and then there was a lady, Khanyi Dhlomo, people know her for her later achievements, but for me her biggest achievement was when we saw her, a black Zulu woman reading English news at primetime. So that's just one of those things that I saw as a huge thing, that wow, so even this is now open to women, because women were

not credible, so you couldn't trust women to deliver the real news, it needed to be done by a man wearing a tie. So there are those things and then there is of course the equal pay that we now get, there is the now extended maternity benefits that people have and the fact that we can have this discussion and speak about women issues and speak about things that are meant to empower other women, that alone is an advancement. So we have gained a whole lot of rights that were usually not available to women and women own soccer clubs, women are CEOs and I don't want to downplay the role of women; women can now choose whether they want to stay at home or go to work, which wasn't a readily available option back in the day. So those are some of those that I have seen and the recognition that there are women headed households and recognizing the assistance and their validity, their rights to own, again even to own property but even to inherit because that was also not a thing. My own grandfather would have left his property to his son, if the son predeceased him, to the son's son and not the girl children that he had.

**DR. MALKA**

Judge Sibiya, recently in the US there was the Roe versus Wade Abortion Law, which had been passed 50 years ago and has now been overturned. Some people have described this as a huge blow to women's rights. One of the issues that concerns me about the overturning of this ruling is the idea that women's rights can regress, so I don't want to really go into the topic of Roe versus Wade, it's more about the issue of how we can ensure that women's hard earned rights are not taken away.

**JUDGE SIBIYA**

Well everyone has been saying, since it first came out, that South Africa is the most progressive constitution. So fortunately in South Africa, we have that constitution that guarantees certain rights. So, for example not to dwell too much on the abortion issue, but in South Africa there is actually an act that was enacted by parliament that I think it's called the Choice on Termination of Pregnancy that makes that kind of right something that can't be taken away or can't easily be taken away, but it's more that people must be made to understand the good that having the rights achieves and that's the important thing and teaching people about the importance of the rights and I will go back to the constitution, our constitution recognizes equality and recognizes that no person, gender is not a determinant of who is a better person or who must be given more of a platform or is more significant, but also for judges I think it's very important that they recognize and in giving judgements, that there is an emphasis on why this must be kept going and why this is important.

**DR. MALKA**

One thing that I've found across the spectrum is that women are not necessarily recognized equally everywhere and if we look at positions of power, I would say we are certainly from a South African point of view winning in the political game, if we look at positions in cabinet, we're really at a 50/50, but in looking at statistics for instance of CEOs in the JSE, there's less than 5% women and if we turn towards your profession within the judiciary space, in 2016 there were stats which indicated that 37% of judges were women. By 2020 this increased 5 percentage points and is sitting at 42% and in conversations with your colleagues throughout this show we've been aware of the South African Chapter of the International Association of Women's Judges

and part of that vehicle's aim is about developing capability and capacity to help equip female judges. What else do you think needs to be done to increase the representation of female judges in South Africa?

#### JUDGE SIBIYA

Firstly I will start by saying that we who are already judges need to do a good job so that we set a good example and we show that bringing a woman judge is a good thing that is needed, but also it's important for me I think that mentorship programmes are very important. When a person has a desire to do something bigger, to make a change, it's important to nurture that and encourage that in every way that is possible. So there is formal mentorship but there is also informal mentorships, firstly we should start at universities for those that have already made the decision to study law there should be more interactions with people in practice so that the students are not discouraged from their dreams and it's important that we also make it clear how much work is involved and how much power you get to yield so that people know from an early stage what they are in for and it must be something that they are willing to say, regardless of the pay and those kinds of things, this is what I want to do and once they have made that decision, I believe that there should be more and more engagements with those kinds of people and also don't put in unnecessary hurdles for people to get to the position. I believe that it's important in the professional settings, for example with attorneys and things like that, to also have groups that are meant for nurturing of women that want to be judges.

#### DR. MALKA

Judge Sibiya we've spoken in the previous segment a lot about your career, a lot about the legal system itself, turning towards more of a personal point of view; the juggle between developing a successful career and maintaining a household, being a mom, being a wife, being an active member of family has always been a controversial issue for women. Firstly please tell us how you see this?

#### JUDGE SIBIYA

Well it's a rewarding thing when you are able to achieve a form of balance, but I must say there's a lot of hurdles that you come across. When I started out as an advocate I was told that because already I was married when I started out as an advocate, I was told well you must prepare yourself, either you will thrive as an advocate or you will thrive as a wife, but you won't succeed at both and even in that year, two of my female colleagues got divorced and I was told it's the nature of the work, you can't have it all and if you are a woman at the bar you cannot have a family as well. So it wasn't a great start, a nice welcome, but what I did find is that it is possible.

It's not an easy thing to do to achieve the balance, but I have found that when you have a good support structure, my husband is grudgingly supportive, because he understands that my growth is our growth, but he understands that it means giving up some of the time that would be his time for the growth of the family, but it's not a giving up of time, it's a question of making sure that you prioritize different things at different times to ensure that everything is fed and that you don't feel, even for yourself, that you achieved success at the expense of family or the other way around. So I have found it doable as long as you prioritize and

you're flexible in changing what must take top priority at a given point.

#### DR. MALKA

That's such a great learning and what I always appreciate about the show is that everybody brings a different formula to the table about how they cope and I think that your approach is really interesting of re-prioritizing and that when you are in one node, that you are 100% in that node and that's the focal point and then you move on to achieve your other elements. I wanted to ask you about your personal journey and some of the factors behind your success. Many of our guests who have reached tremendous achievements in their lifetimes speak about faith, focus, discipline and values; in your opinion what would you say have been some of your key drivers to success?

#### JUDGE SIBIYA

It's not in order of importance but the fear of failure, I don't want to fail, so that means that I always do my best because I don't want to fail. I don't want to fail because of how it feels for me but also because my failure is never about me just failing alone, it always has an impact on others as well. My faith is a pivotal part of me, I pray every day, I pray about how I treat people that come to court, I pray to treat everyone with kindness and respect. For me the other thing is a good support structure that shares the vision, we are with a person that is making a change, those people that remind me that it is important what I am doing and it's important to not only myself but for the millions of people whose lives we are changing with everything that we do; those are the main things that have been my driver and to show that it's doable. You know, when I was appointed as a judge a friend of mine phoned and said our daughters now have a role model, that was such a scary but real thing for me, to realize that as I mentioned to the Khanyi Dhlomo's, there are other people that know where I come from, to see me as a judge makes it a reality for them as well.

#### DR. MALKA

Thank you for sharing those poignant moments of your life with us. Judge Sibiya, as we close out today's conversation, in recognition of women's month, please can you share a few words of inspiration that you'd like to pass onto girls and women who are listening to us?

#### JUDGE SIBIYA

For me one of the biggest things was not accepting when people say you can't. That is a thing that I would want to instill in every person, never accept a different voice telling you what you cannot do. Believe in yourself and do your best whatever the circumstances and when you fail and please, be clear, I didn't say if you fail, I said when you fail, cry and then pick yourself up and sometimes it might mean going back to the drawing board, sometimes it might just mean picking up and just going at it again. So but never accept the failure as the final answer. You are able, no-one can tell you what you are not able to do, you are able to do everything that you put your mind to, as long as you work hard at it and as long as you are determined and you are doing it for the right reasons. ■



# JUDGE MARISA NAUDE ODENDAAL

LIMPOPO DIVISION OF THE HIGH COURT,  
POLOKWANE

INTERVIEW AIRED: 11 AUGUST 2022



## DR. MALKA

Joining us on the line today, for our series on Women in the Judiciary, is Judge Marisa Naude Odendaal, from the Limpopo division of the High Court in Polokwane.

Judge Naude Odendaal, to begin the show I'm going to start with a little recap of your academic credentials; you hold an LLB degree and AIPSA diploma in insolvency law, an admitted attorney and then later a conveyancer and now serving as a high court judge. Did you always envisage a legal career and eventually becoming part of the judiciary?

## JUDGE NAUDE ODENDAAL

Doctor I was very fortunate, since a very young childhood age I was to become a legal practitioner. It became so out of hand that even at school, in grade two, grade three, grade four, I refused to give a class speech if I didn't have a robe on. Needless to say I was the laughing stock of the school, but I felt empowered with a robe on when I gave my class speeches. In 1992, I was about in grade two, grade three, I sat on the porch with my friends, at that stage girls were not allowed on the rugby field and I watched some boys, they were in grade seven, bullying a smaller built grade seven boy. They threw his lunch box over and teased him and he was crying. I stood up, walked onto the rugby field, gave the older boys a scolding and forced them to apologize to the boy and I think that has been part of my character and my personality since birth. There is no other profession that I can imagine having gone into and pursued.

"I'm not here simply because I am a woman. I am a Judge and a worthy Judge. I think I have proven myself over 22 years. It's very important that I am a woman, but I am not good because I am a woman, I am just a good woman judge".

Justice Mandisa Maya

[Link to full interview on YouTube >>](#)



**DR. MALKA**

It's fantastic that you already had this trajectory and path to move forwards on. Reflecting on your career, can you share with us a few memorable cases that you presided over?

**JUDGE NAUDE ODENDAAL**

There were a few remarkable cases, but a remarkable case is not necessarily a memorable case. Sometimes a remarkable case deals with development of law, interpretation of law and setting precedents, but if there is one memorable case for me personally, I would say it is the case of Spitskop School for Children With Special Needs versus the MEC for Education, Limpopo Province. This specific case dealt with children with special needs, where it deals with state funding. The Department for Education did not want to fund this specific school because according to their evaluation system, to qualify for funding they had quite strict requirements in respect of the amount of learners, the amount of teachers allocated and so forth, but when it comes to a school for special needs, you might have less teachers but more physiotherapists, speech therapists, occupational therapists, caretakers who help these children get through their day and there was just no regard for those needs and based on that, the Department disqualified the school from funding. The school was about to close down, it was the only school in Limpopo or rather in the Waterberg district area that catered for these children with their special needs. In this specific judgment I lay out a framework of investigations to be done, considerations to be taken and steps to be taken by the Department in order to have the school qualify for funding. So that was one of the more memorable cases and I think it's the case that made the biggest difference, in the end, of all the cases I have ever done, because these are children that in fact should receive more funding than other schools because of their special needs.

**DR. MALKA**

Staying with this tone of being able to provide access to justice for different groups; do you think that the South African legal system has developed according to your expectations?

**JUDGE NAUDE ODENDAAL**

The South African legal system has developed a lot over the past 20 years, but the development of a legal system can never reach its full capacity, you can never put a full stop after it. Remember, the legal system is constantly evolving, constantly growing as technology and the needs of society changes. As long as something is developing and growing it's not dying. If something doesn't grow anymore it is dying. So yes, the legal system has developed a lot, but there is still a lot that can be done. I fear the day that people say yes now we've accomplished, we are done.

**DR. MALKA**

When I think about your profile, some of the examples include being appointed chairperson of the Tax Board by the Minister of Finance. You also assist pupils with training and that give back dynamic is so important for younger generations to help uplift them and you give classes at the Limpopo Society of Advocates. Please can you tell us about your involvement in these areas and some of the achievements?

**JUDGE NAUDE ODENDAAL**

Many of the things I do, I don't do it to get a star on my forehead, I do it for the love of the profession and for the love of humanity. I did give back. My seniors when I was still young did it for me, so it's my turn to do it for younger people. I do give classes and also

mentor pupils. When I was an attorney, about 27 years old, the firm where I was practicing at did a lot for the people in Limpopo and the former President, Kgalema Motlanthe, honoured the firm of which the senior director and I were the recipients personally from President Kgalema Motlanthe, for service to the people of Limpopo. So if there is one achievement that now has something to show for it or a trophy, I would say that, but otherwise I tend to lead by example and I try to uplift and help wherever I can.

**DR. MALKA**

It really shocks me that sometimes, in a period not too long ago, women couldn't have their own bank account, they couldn't own property, they couldn't seek corporate directorships without the permission of a husband. In your opinion what would you say are some of the most important recent laws or reforms that have passed that have really been in women's best interests?

**JUDGE NAUDE ODENDAAL**

Recently there was a case dealing with maintenance, that maintenance claims can only prescribe after 30 years, as it is a judgment debt, it's not a normal debt. In *Arcus versus Arcus*, it's an SCA Judgment delivered on the 21st of January 2022 and I think that specific judgment opened a lot of doors for women who struggle to get maintenance from their ex spouses or life partners, especially for their children. It is frustrating for any woman to take off from work to go to the maintenance court, stand in queues, go back over and over again, maybe then in the end for R800 or R1,000 or maybe R2,000 and in this specific judgment the court, after a long period of time, said the maintenance claims did not prescribe and she was awarded approximately R3 million in arrear maintenance and I think that is a very pivotal judgment, especially for single mothers struggling on a daily basis to keep their children well cared for, to keep bread on the table and to manage a professional life, that there is relief, there is relief and you can approach the court. And then the second judgment that was also recently handed down, I specifically focused on judgments of 2022, was a judgment by the Constitutional Court; *Women's Legal Centre Trust versus President of the Republic of South Africa and Others*. It was handed down on the 28th of January 2022 by the Constitutional Court and it dealt with the proprietary rights in Muslim marriages and there many sections of the divorce act was declared unconstitutional and made provision for Muslim marriages to fall within the same rights and ambits in respect of maintenance, division of the estate, maintenance for minor children and so forth for Muslim women in Muslim marriages and I think for 2022, those two judgments are of immense importance and added a lot of value to women and children's lives in general.

**DR. MALKA**

Staying with the theme of women; in August South Africa annually celebrates Women's Month and it's a period where we pay tribute to the more than 20,000 women who marched to the Union Buildings on the 9th of August in 1956, in protest against the extension of pass laws to women. This year's theme takes on more of a, let's say an economic tone, and the theme is Generation equality; realizing women's rights for an equal future. In the short-term, what type of mechanisms do you think could be used to reduce the inequalities that women still experience?

**JUDGE NAUDE ODENDAAL**

Immediately, today, each and every woman and each and every mother is a role model to their children and immediately today each and every mother can go home and teach their daughters

and change their mindsets to become independent strong women, ambitious young women and as they grow up, that will be their mindset.

#### DR. MALKA

Judge Naude Odendaal, delving into more of a personal dynamic; when you had your first son, you were a single mother; I'd like to ask you to share with us some of your views on how you managed to juggle career and motherhood?

#### JUDGE NAUDE ODENDAAL

It's never an easy task, but nothing worthwhile in life comes easy. When I had my first son, he was about six weeks old and I had to travel about 300 kilometers every day to and back from work, so he travelled with me and I would put him underneath my bench and he was sleeping most of the time and when he started to become fidgety I would adjourn, go and feed my son, come back to court and finish my rolls and tonight we would go back home again. It was very difficult, but I believe where there is a will there's a way. So I worked extremely hard, got up very early in the morning, had to make sacrifices, my son had to make sacrifices as a baby with me travelling so far every day, but we managed by the Grace of God and his power, we managed to get through it. If I now look back, I can't believe how I managed it, but I did, I did and then when my son became older I moved back to Limpopo and I had a support system to help me, but still then I drove every day from Louis Trichardt to Polokwane, which is about 100/110 kilometres and back so that I could be satisfied that he was well taken care of by my parents during the day while I worked to generate an income and build a career, because if I have a successful career it also has a ripple effect on him, then he will have a better life as well. It was definitely hard but it was doable. I believe that you should never stare yourself blind against your problems, rather find solutions, because whether you say you won't make it or you say you will make it, you are always right.

#### DR. MLAKA

One of the things that I wanted to ask you is our life journey's are seldom these straight lines that go from A to B to C to D; more often than not there are a lot of deviations in play. Sometimes if we had been perhaps better equipped with more knowledge we would have made different decisions. So if I can ask you to help avoid young women from making similar mistakes, if you had a second chance, what are some of the things you would do differently?

#### JUDGE NAUDE ODENDAAL

I think I would immediately stop devaluing and doubting myself. Women are their own worst enemies. They constantly value other women and then measure themselves accordingly. I think I would immediately stop to question everything I do; is it good enough, will I succeed, what if, what if, what if? I think one must be fearless. Set a goal and strive therefore and do not let anything derail you. Women are raised, and I believe this is across all cultures, to be caregivers, to become housewives or to rather go strive for a lesser strenuous profession. The other day I had a young student approaching me, she wants to become a legal practitioner with her whole heart, she is in grade 12, the old matric and she said but she went to speak to a few attorneys and everybody advised her and immediately told her this is not a profession for a woman, you will never have time for your family, you will never have time for your children, reconsider, it's very stressful. And I was shocked to hear

it. It was now, a little bit more than a month ago, I was shocked to hear it and my advice to her was, if that is your dream and that is your passion, go for it. Do not put yourself on the back foot or on a lesser pedestal just because you are a woman. You are just as capable, just as brilliant and just as empowered as anybody else and if you really want to make a success you will. So I think that is something that I would change, in my 20s I always stood back, always thought women are expected to be a certain type of person to be in the profession, which absolute, absolute nonsense. You can still be a mother, you can still be a wife, you can still retain your femininity within the profession without having to sacrifice anything of that and be successful in the profession.

#### DR. MALKA

Can you tell us about some of the female role models or influences in your life?

#### JUDGE NAUDE ODENDAAL

First and foremost my mother. She as a female had the biggest impact on my life. She came from a very poor background and she couldn't study and achieve her career goals that she wanted to and she always told me that if you dream, dream big, and if your dreams don't scare you your dreams aren't big enough and she motivated us to, as women, to strive and chase our goals and our dreams, to go into the legal profession and rise above the idea of society that women belong in the kitchen and not in the legal profession. For that I will always be grateful to her. Then I would say Professor Thuli Madonsela, she is a remarkable woman, she acts with integrity, she stands for what she believes in, she is extremely strong and accomplished and throughout, she maintained her femininity, she never gave that up. She retained her identity as a woman, as a mother, as a family person and then lastly but definitely not the least, Justice Leona Theron of the Constitutional Court, she was appointed as the youngest female judge ever in South Africa at the age 33/34 years. She was also a mother, she also struggled between her professional life and her family life and today she is a Constitutional Court Judge. So those three women in my life are definitely my role models and had the biggest impact in some way in my life. ■



# JUDGE LINDIWE RUSI

EASTERN CAPE DIVISION OF THE HIGH COURT,  
MTHATHA

INTERVIEW AIRED: 18 AUGUST 2022



## DR. MALKA

To begin with, you hold a B Juris degree from Walter Sisulu University, which previously the University of Transkei, an LLB, also from Walter Sisulu University, an LLM from UNISA. You've practiced as an attorney, thereafter as a magistrate and now elevated to bench as High Court Judge. Each step in your career has successively built on the previous one; what triggered your interest to pursue law?

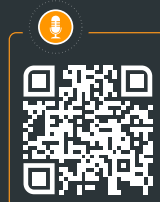
## JUDGE RUSI

I know that what I am about to say might be slightly different from what many people would expect, but, the discipline and values of humanity that my parents instilled in my siblings and I growing up impelled me to strive for order and equity in everything I did and in all my dealings with other persons.

In high school, we would have a career exhibition, that is where I learned of different career paths of course and when mention was made of law and what it is, I was intrigued by the phenomenon and as I continued to become now acutely alive to all the social ills and conduct that deviated from what I perceived to be normal conduct from what I was taught, I then knew that it is through the vehicle of law that I could in life make a contribution towards maintaining the order and equity that I grew up knowing. So that is what drove me or attracted me to study law.

"Women belong in all places where decisions are being made. It shouldn't be that women are the exception."

Ruth Bader Ginsburg



[Link to full interview on YouTube >>](#)

**DR. MALKA**

Moving ahead to where we are now, 2022, as a judge interpreting the law, you really make tough decisions; one side is going to win and be happy, the other side is not going to be happy. Can you share with us a few of the most memorable cases that you've presided over?

**JUDGE RUSI**

I'm hoping that I'm not going to disappoint people who are waiting with anticipation to hear about those cases, but this is what I have realized; because of the uniqueness of each case that we deal with, it becomes almost impractical to pinpoint a particular case as the most memorable, because remember, every litigant involved in each case brings to that case something about it that is sharply distinct from a previous yet similar dispute and over and above this we are required to detach ourselves from the cases that we preside over before and after we preside over those cases and that is so that we may maintain impartiality in future cases or in future similar disputes.

**DR. MALKA**

You've shared with us your views in terms of doing what's right, in terms of the social justice aspect and I want to share with our listeners that earlier on in your career, when you were working as an attorney, you were with Legal Aid, and that's an organization that provides legal aid services to people who can't afford their own legal representation. So naturally it includes poor people, vulnerable groups such as women, children and people living in rural areas. I understand that you were also involved with several community outreach programmes and legal advice sessions and presentations; please can you tell us which topics had the greatest demand in the community?

**JUDGE RUSI**

It was invariably customary law, family law, access to justice and the efficiency of the justice system and you would often observe, as you interact with the community, that they did not understand or were not well-equipped to channel their complaints or their disputes through the justice system. They did not understand that the justice system makes room for them to assert their rights, in particular, with reference to domestic violence, to dignity, freedom and security of person. If I could make an example regarding child maintenance; you'd find that a woman who is married would not know that if and when her husband neglects or fails to fulfill his financial obligations towards the children, she can have recourse to the law. We would get questions such as but I am married to this man, we live together, he sleeps next to me in my bed, how can I take him to court for child maintenance? Those were the issues that we came across quite often.

**DR. MALKA**

Judge Rusi we were talking about looking at future interventions, of having that access and protection to social justice. Our world is changing constantly and correspondingly the law does too. In your view, what would you say have been some of the most important recent laws or reforms that have been passed that have been in the best interests of women?

**JUDGE RUSI**

Perhaps I should start with the recent Constitutional Court's decision in the matter of Mrs Sithole, a 72-year-old woman, which involved a marital power of her husband in marriages that were concluded under the then Black Administration Act of the year 1927. In that case the court confirmed an order of constitutional invalidity that was granted in the KwaZulu-Natal Division of the High Court. Basically the Constitutional Court held that it was not in accordance with the spirit and purpose of the constitution that even in this era we still have women who happened to have been born in those years and who happened to have been married under the marriage regime of the time, to not have a say when it comes to property rights in regard to property that accrues in their marriage. So that is the sum total of that specific case and insofar as other legislative reforms are concerned, I am thinking of the three pieces of legislation that have been passed recently by the president of the country; the Criminal Law, Sexual Offences and Related Matters Amendment Bill which amends the Criminal Law, Sexual Offences and Related Matters Amendment Act, the Criminal and Related Matters Amendment Bill, which amends the main statutes that we know govern court processes, both in the superior and lower courts and that includes the Criminal Procedure Act 51 of the year 1977. What this new legislation does, particularly the second act, the one that amends your Magistrates Courts Act, the Superior Court Act, the Criminal Procedure Act of 1977, what this legislation does is to make provision for additional procedures now, regarding to how witnesses, particularly victims of gender based violence, give evidence in court. It makes provision for use of intermediaries and audio-visual recordings where now the secondary victimization I would say, of those victims is reduced, because remember, when they come and give testimony in court, invariably that are made to relive their experiences.

**DR. MALKA**

We're now in August; it's a period in South Africa where we celebrate Women's Month, where we look at the gains that we've made as well the challenges that we still have to contend with. This year's theme is Generation equality; realizing women's rights for an equal future. As a judge, seeing people's rights upheld and infringed upon, how do you interpret this year's theme for women's day?

**JUDGE RUSI**

For me it is an invitation to those in governance to be more deliberate in implementing policies and ensuring gender parity and promotion of women's rights. That's number one. Number two, and now at the level of the judiciary, we are called upon to not shirk our duties in interpreting and applying all laws that seek to promote equality as provided for in Section 9 of our constitution and to make sure that the decisions we take stick to the spirit of this equality clause and to jealously guard the right to equality.

**DR. MALKA**

Staying with that view of institutional elements and hierarchies and systems, thinking about the challenges that we still have to contend with, as well as the successes that we've had, I'm always a believer of equality and having 50/50 representation; do you think that this notion of 50/50 could be achieved if more women

for instance entered the political arena, or the judiciary or spaces where laws are made to help people conform and going back to what you stated earlier on in the introduction, about the discipline of the rules, if people know what the rules are, they know what the expectations are.

#### JUDGE RUSI

I understand that the Women's Empowerment and Gender Equality Bill, amongst other reforms in legislation, seeks to address the issue of equal representation in decision-making structures, it enjoins public bodies and designated private bodies to ensure that there is capacity building for women, their understanding of what their role should be in the first place, is heightened and that the understanding and attitudes of communities to accept the capabilities and participation of women as their equals, is enhanced and that there be a development of mechanisms for supporting women.

Now in the sphere of the judiciary we all know that there are statutory bodies that have been established to undertake the task of appointing judges. Those statutory bodies consist in an appropriate percentage of representativity of communities, judges go through scrutiny by the statutory bodies and I must say this, we now see a great improvement insofar as appointment of female judges in the judiciary in South Africa and that is much appreciated, but we can all agree I am sure that more still needs to be done towards the recognition of the capabilities of women in decision-making structures.

#### DR. MALKA

What have been some of the key drivers to your success?

#### JUDGE RUSI

I know that for most of us it would be determination, it would be discipline, it would be focus and I want to add honesty with oneself. Being courageous to do the right thing, no matter how unpopular doing so would be. Humility and understanding really that in the end it is not even about me as Judge Rusi, it is about the greater cause of being of service to others, which is the main thing I am called to do where I am, that's all.

#### DR. MALKA

Lastly, as we close out our conversation today, can you share a few words of inspiration that you'd like to pass onto girls and women in the continent who are listening to us?

#### JUDGE RUSI

This is what I want to say; mighty women know this and never forget it, it doesn't matter if you are a known or unknown person in your circles. It doesn't matter what your social position is, if you have a desire in your heart and your mind is set to achieve that desire and if you know your capabilities and your worth, there isn't a single barrier you cannot surmount to achieve your goal and lastly, do not ever, I repeat, do not ever allow anything or anyone to define or even estimate your self-worth. You are a queen, you are gold, that's how big a deal you are. And that's all I want to say. ■



# JUDGE HARSHILA KOOVERJIE

GAUTENG DIVISION OF THE HIGH COURT,  
PRETORIA

INTERVIEW AIRED: 25 AUGUST 2022



## DR. MALKA

Judge Koooverjie, besides all of the work that you do in the legal space, you have had a myriad of interests prior to your appointment to the bar and some of these roles include Deputy Chair and Member of the Council for Medical Scheme; Member of the Financial Services Board Tribunal; a Member of the Appeal Board of the Financial Intelligence Centre; a Member of the Chartered Institute of Arbitrators and Chair of the South African Revenue Service Tax Board. These are all incredibly important institutions which contribute to society and shape the respective disciplines that they govern. What motivated you to participate in these structures?

## JUDGE KOOVERJIE

Yes, I will tell you now, just more importantly I was also a member of the Legal Practice Council and the Legal Practice Council is the regulatory body that regulates the entire legal profession and that is where the whole issue about gender parity, that women lawyers are protected and have equal opportunities and that's where most of the work that I did concerning just the socio-economic and the upliftment of women academically was involved in that segment. But coming back to your question; sitting on all of these boards wasn't something that I just lifted my hand and went and I got in, I was actually hand-picked to sit in the services industry boards, that's the appeal boards, but on the Council for Medical Schemes I applied and the Minister obviously accepted my nomination, but serving on these boards, we must understand that they are all part of government institutions. In other words they are regulatory bodies which are appointed either through the Finance Ministry or the Health Ministry or the Minister of Correctional Services insofar as the Legal Practice Council is concerned and these bodies are there to regulate and ensure that certain

No country can ever truly flourish if it stifles the potential of its women and deprives itself of the contributions of half its citizens"

Michelle Obama



[Link to full interview on YouTube >>](#)

environments comply with the law and that, you know, in the greater political, economic and social sphere of South Africa and that our citizens are protected.

#### DR. MALKA

It must have given you tremendous exposure into different fields and that notion of accountability, the checks and balances and ensuring that everything is regulated correctly. So coming back into the legal aspects of the conversation; since 2013 you've been called upon to serve as an Acting Judge, amassing experience and exposure to a variety of cases. Can you tell us about a few of the most significant cases or ones that you feel have had a big impact on you that have crossed your courtroom?

#### JUDGE KOOVERJIE

Yes, well the one matter, which I think that affects women and well, just parents generally, is the one that I represented a government institution in respect of Rule 43 Orders. Now we know that Rule 43 Orders, these are interim orders that you would get pending the outcome of a divorce matter. So it's an interim order and if you're not happy with it you cannot appeal against it, but there was an argument on the other side that they have no option and the rule is unconstitutional because parties cannot ask for relief otherwise and the court then extended the purvey of the rules to say no, it's not only in terms of one bite of the cherry, if you need to vary the order you can go back to court and you can actually ask, so the court will vary the order, provided that you have a case. So for me that was a very huge impact for all parents, because I think that in every marriage at some time, I mean we know there are so many failed marriages and we know that you can't get divorced immediately or you can't get your papers done fast enough, so in the meantime there are children involved, there are maintenance issues, there's custody issues, so this is very important and for me that was significant in that sense.

#### DR MALKA

Judge Koooverjie we're towards the end of August and every year South Africa celebrates women's month in August and I find it's a period for reflection on the progress that we've made, but also in terms of future thinking of the direction and the route that we want to go into. This year's theme is Generation Equality; realizing women's rights for an equal future. If you could please share with us, in the short to medium term, what types of interventions do you think could be applied to help further reduce the inequalities that women still experience today?

#### JUDGE KOOVERJIE

That is such a hard question, you know, this topic about women and women's rights and women I think comes just from education. For me, if you educate, you know, more recently it's surprising me that you actually mentioned Michelle Obama's little quote, but her husband the president also stated that, you know, a nation cannot survive without a woman. A mother is the essence of a nation and until people don't understand and until people are not educated in respecting women and acknowledging what a woman means in society, we're not going to have that change, so for me medium term or long term or short term, for me I think is education because, you know, maybe three decades ago or four decades ago most women stayed at home and now two decades ago everyone

was working, the problem that we have is that a woman is juggling her career and her family life, but no-one has actually made room for that.

#### DR. MALKA

Turning towards more of a personal perspective; when I look at your qualifications on your CV, you had your BA in 1990 from the University of the Witwatersrand, going onto a period of further study and in 2019 you did a negotiation and leadership course at Harvard Law School; it really demonstrates this habit of lifelong learning. Please can you tell us about the role of education in your life and the impact that it's had on your career?

#### JUDGE KOOVERJIE

I believe that one has to educate oneself all the time. Even if I qualified years ago, in order to stay on top of the game and make sure that you stay, you know, you work in a very competitive environment, there are so many of you that it's about picking and choosing, so if you want to be the best or you want to work as the best you need to educate yourself. So for me education was very important and it was very hard because you must understand that even when I was at the bar, well the day that I was writing my last paper for my exam, the LLB, I went into labour and I couldn't write my last paper, but I persevered and I was resilient and I breastfed while studying and did all of that. So you can never give up, I think you should open yourself up to the fact that you're starting at the bottom of the ladder and you're going to grow and you're going to have a lot of adversities in your life and a lot of obstacles, but you will bypass them in many ways because at the end of the day you have one vision and you need to have a vision, you need to have a vision where you want to be. Sometimes you don't really know where you want to be, you get taken by surprise in terms of where you get employed or what kind of work you do, but whenever a door opens, grab the opportunity and work at it and take it and learn. I think that if you have these three qualities; humility, the willingness to learn and respect, you will go very far in life.

#### DR. MALKA

I wanted to ask you a question about reflection, because obviously we all walk our journey's, we've got our paths and they're put in place, but sometimes if we could do things in a different way, maybe we would, if we had the opportunity of going back in time; so if we could wind the clock back, would there be anything that you would have done differently?

#### JUDGE KOOVERJIE

Yes, I would perhaps ... I wouldn't have done anything differently in the path that I followed but one thing that I would like to really share is that because women feel completely, well in the field that I am you're competing with your male counterparts and you never think that you are good enough and you don't have the self-worth. So what do you do? You're always triple-checking and double-checking and making sure that you are on top of the game, when in reality you are on top of the game. So what I would have done differently is not to question my confidence, but to rather be confident and know that I've done whatever I had to do.

#### DR. MALKA

The next question that I wanted to ask you now is about your

personal journey and factors for success. So many of our guests on this show reach tremendous achievements in their respective fields and they often speak about various factors, some include discipline, others include focus, faith, values, a particular person in their life. Can you share with us what have been some of the factors that have contributed to your success?

if you want to be the best  
or you want to work as the  
best you need to educate  
yourself ”

#### JUDGE KOOVERJIE

One of the factors that contributed mainly, largely, to my success was at the age of five I was, due to the apartheid years and that was in the early 70s, and we had to leave home. We had to leave home to go to schools and stay with relatives who lived in the areas where we could go to those schools. I had to travel 600 kilometres away from my parents and I would only see them twice a year; that separation made me grow and understand that I was ... I felt very alone and it was almost like living in a hostel for 12 years because you didn't really have mom I need this, dad I need this, so it was very hard, but it made me grow strong and it made me become independent. I think that if I did not have that experience and taken out of my comfort zone I wouldn't be as determined and as independent and ensuring that I take care of myself on all levels 100%. That was financially, emotionally and in every other way.

#### DR. MALKA

As we are in women's month, please can you tell us which women have been some of the role models or influences in your life?

#### JUDGE KOOVERJIE

Well, I think that firstly my mother and one thing about her was her resilience. A woman that had to part with her children, but always had a smiley face, but never complained about the fact that she couldn't be with her children and she was very fair, she was very assertive, so in that way I think that just on a character level it was my mom. I didn't spend many years with her or a long time with her, but if ever I would want to have a character trait it would be someone like my mother. She was a peaceful soul, she was never

unfair, she was not an evil person, everyone loved her you know, so I think your character of humility, respect, give love, accept; those kind of things is something that I looked up to insofar as my mother is concerned. Insofar as my professional growth is concerned, I always followed Justice Mokgoro, that is Yvonne Mokgoro, she was the first woman appointed to the constitutional bench, one of the first women, and our constitutional court just started in early 1996 and she was one of the first women that was approached by the president to sit as a Constitutional Court Judge.

#### DR. MALKA

Continuing with that thought of contributions to society, because we've kind of spoken about the pre-life, the current life, moving towards the future; what would you like your legacy to be?

#### JUDGE KOOVERJIE

Well in that regard I'd like to be seen eventually as someone who has developed the law and I would like to be seen as a judge who is well-rounded, understood the law, who applied her mind properly and further could relate to the challenges in disputes, especially at the ground level. I would also like to be seen as somebody that people will look up to, so that you can help them and guide them and direct them in their careers or in their lives or give advice. So yes, it doesn't just have to be on the judiciary front, it doesn't also just have to be in the legal fraternity, and especially women and young children and especially society that cannot afford or members of society who cannot afford fees for education, I really like to get involved in those matters and be remembered as someone who has helped society from the educational level. ■





# JSC SHORTLISTED CANDIDATES FOR JUDICIAL POSITIONS

**On 16 May 2022 the Judicial Service Commission (JSC) published notices in the media calling for nominations of interested persons to fill vacancies in the various Superior Courts including five vacancies in the Supreme Court of Appeal. The closing date for submission of nominations was set for 17 June 2022.**

The screening Committee of the JSC met on 26 July 2022 and compiled a shortlist of candidates to be interviewed at its October sitting scheduled for 03 – 12 October 2022. The shortlist which was published on 28 July 2022 has been amended with one additional candidate nominated for the Supreme Court of Appeal. The names of the candidates to be interviewed by the JSC at its October 2022 sitting are as follows:

## 1. CONSTITUTIONAL COURT (ONE VACANCY)

The JSC considered four nominations received for this vacancy and one of the candidates was not shortlisted. The JSC, in terms of Section 174(4) of the Constitution, must prepare a list of nominees with three names more than the number of appointments to be made. As a result, the JSC could not proceed to shortlist three candidates for one vacancy.

## 2. SUPREME COURT OF APPEAL (FIVE VACANCIES)

Judge Anna Maleshane Kgoele  
 Judge Glenn Graham Goosen  
 Judge Petrus Arnolus Koen  
 Judge Mandela Makaula  
 Judge Keoagile Elias Matojane  
 Judge Pieter Andries Meyer  
 Judge Daisy Sekao Molefe  
 Judge Sulet Potterill  
 Judge John Eldrid Smith  
 Judge Bashier Vally  
 Judge Sharise Erica Weiner

### 3. COMPETITION APPEAL COURT (JUDGE PRESIDENT)

Judge Norman Manoim

### 4. COMPETITION APPEAL COURT (THREE VACANCIES)

The JSC decided not to shortlist any candidate for these vacancies.

### 5. ELECTORAL COURT (CHAIRPERSON)

Judge Baratang Constance Mocumie  
Judge Dumisani Zondi

### 6. ELECTORAL COURT (ONE VACANCY – JUDGE MEMBER)

Judge Mpho Catherine Mamosebo

### 7. GAUTENG DIVISION OF THE HIGH COURT FOR SECONDMENT TO THE LAND CLAIMS COURT (ONE VACANCY)

Ms Luleka Flatela

### 8. GAUTENG DIVISION OF THE HIGH COURT (FOUR VACANCIES)

Ms Rochelle Francis-Subbiah  
Adv John Holland-Müter SC  
Mr Mudunwazi Samuel Makamu  
Mr Collen Kgaolo Matshitse  
Adv Ntombizanele Elizabeth Ndlovane  
Adv Jan Jacobus Clute Swanepoel  
Adv Sanet Van Aswegen  
Adv Stuart David James Wilson

### 9. KWAZULU-NATAL DIVISION OF THE HIGH COURT (JUDGE PRESIDENT)

Judge Mjabuliseni Isaac Madondo  
Judge Thoba Portia Poyo-Dlwati  
Judge Esther Johanna Sophia Steyn

### 10. KWAZULU-NATAL DIVISION OF THE HIGH COURT, PIETERMARITZBURG (TWO VACANCIES)

Adv Elsje-Marié Bezuidenhout SC  
Mr Meerchand Maharaj  
Prof Mbuzeni Johnson Mathenjwa  
Ms Nontuthuzelo Faith Mlaba

### 11. LIMPOPO DIVISION OF THE HIGH COURT (JUDGE PRESIDENT)

Judge Maake Francis Kganyago  
Judge Arnoldus Mauritius Legodi Phatudi  
Judge Moletje George Phatudi

### 12. NORTH WEST DIVISION OF THE HIGH COURT (DEPUTY JUDGE PRESIDENT)

Judge Jeniffer Tebogo Djaje

### 13. NORTH WEST DIVISION OF THE HIGH COURT (ONE VACANCY)

Ms Msongelwa Eulenda Mahlangu  
Mr Collen Kgaolo Stephen Matshitse  
Ms Lokwalo Rose Mogwera

### 14. WESTERN CAPE DIVISION OF THE HIGH COURT (ONE VACANCY)

Adv Alma De Wet  
Ms Constance Noluthando Nziweni  
Ms Mas-udah Pangarker  
Adv Mohamed Salie SC



#### ENQUIRIES:

Adv S Baloyi SC 083 631 5741 or  
Ms D Tshepe 082 822 8599



Link to shortlisted candidate  
list on the Judiciary's website



# LEANING IN THROUGH THE LENS OF WOMEN IN THE 21<sup>ST</sup> CENTURY

**By Judge Thoba Poyo Dlwati**

Acting Deputy Judge President of the KwaZulu-Natal  
Division of the High Court

**On 20 August 2022, Judge Poyo Dlwati delivered a speech during the National Association of Democratic Lawyers (NADEL), Durban Branch Women's Day Celebration.**

**The celebration was held under the theme: Leaning in Through the Lens of Women in the 21st Century.**

**Our country is engulfed by the pandemic of gender based violence particularly the rape and murder of women and children. Recently in Sobantu township of Pietermaritzburg three generations of women were killed when a grandmother, mother and daughter were murdered in one night. Two of them were raped before being killed.**

Two matric learners were killed and dismembered in Creighton and a female student was murdered in Mangosuthu University of Technology. It got when the news when we learnt about the gang rape of 8 young women in Krugersdorp in broad daylight. It is difficult to pin point causes of gender based violence at this stage and perhaps Associations like Nadel can commission a study to investigate the causes of GBV.

However, I am of the view that, like the women of 1956, we need to take a stand and stand together as women from all walks of life and fight the scourge. Those courageous women stopped talking and acted. Our country has great laws which, if they were properly enforced and monitored, would assist to reduce the scourge. We must encourage girls and young women to report any kind of violation on their bodies. We must educate women about the use of protection orders when they are faced with violent partners.

The root of the scourge must be dug out and destroyed. To do that requires that we move to a new paradigm of thinking and doing things, and reassess and refine our strategies”



The **GBV helpline number is 0800428428**. Sometimes young professional women are vulnerable and desperate to find employment and they end up being victims of sexual harassment or assault. Giving one employment does not equal to permission to touch or fondle with one's body. In the recent amendments to the Criminal Law (Sexual Offences and Related Matters), sexual intimidation is included as one of the offences and people who are aware that a sexual offence has been committed have a duty to report. In the Domestic Violence Amendment Act, controlling and bullying have been included in the definition of domestic violence. As Nadel you must ask yourselves whether there is anything that you can do to ensure that police officers are fully equipped for the GBV cases. And maybe it is time for organizations such as NADEL, BLA, SAWLA, AFT & PRABASA all take to the streets and march like the 1956 women and say enough is enough on GBV.

One woman changed a life of others in Sithole and Another v Sithole and Another 2021 (5) SA 34 CC when s21(2)(a) of the Matrimonial Property Act was declared unconstitutional by the Constitutional Court. This is a case where a black woman who was married to her husband under the Black Administration Act (BAA) which declared such marriages out of community, challenged the BAA on the grounds that it unfairly discriminated against women on the grounds of race and gender. The court recognized the disparity in means between men and women particularly those in the applicant's position where women were unable to earn an income or own property because of cultural practices or social dynamics resulting in them being dependant on their spouse. The effect of this decision is that the default position of marriages under the BAA has changed to those marriages being declared in community of property eradicating the discrimination faced by many women in the position of Mrs Sithole. It took a woman to stand and that is the power when we stand and act together. Women have long been recognized in bringing and administering justice to our society. The symbol of justice is often depicted as a blindfolded woman holding scales and armed with a sword.

We, however, have to fight in order to get our well – deserved recognition in our profession. Our profession is still stunted by patriarchy. Despite our same legal training as men, we still get

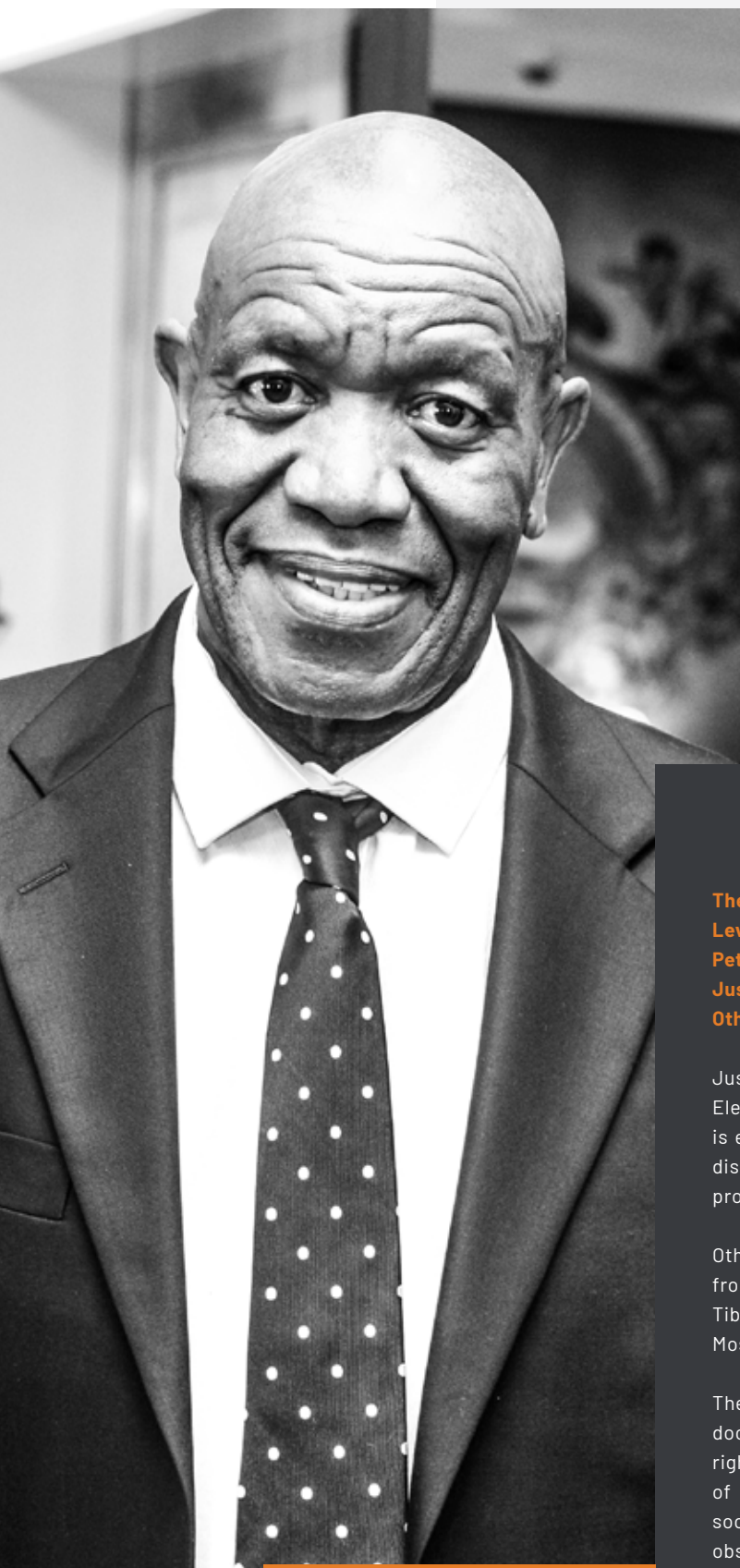
doubted we have the intellectual capacity to handle complex matters. The gender bias links to lack of gender transformation in the profession and the judiciary. We experience the bias even on the bench when counsel will ignore you as a woman presider and just address the male colleagues. We must fight for ourselves, speak out so that we can win the fight against misogynists. Let us not entertain talks like 'women are good at pulling each other down' but instead dismiss them as stereotypes perpetuating the men dominance. We must learn to sponsor each other, a term I have recently learnt, when you recommend someone for a particular position. Men do this all the time especially at the golf courses.

We know that for men potential is enough to be elevated to another level but for women you have to tick all the boxes. When we speak in meetings, a man will repeat your important valid point and that will be attributed to him and not to you. Let us not get discouraged by any attempt to diminish our worth and must unapologetically claim our contribution to the profession. We must not allow ourselves to be bullied. But all is not gloom as we are moving despite at a slow pace. We are delighted that as of 1 September we will have our first woman Deputy Chief Justice, despite the fact that this will leave the country with no woman heading any of our superior courts. It's encouraging that the Legal Practise Council has been headed by women since its establishment. We must continue to support, coach and mentor each other even on little things like how to balance your life between being a professional woman and being a mother, wife, sister, aunt and daughter. Let us turn our bridal showers, baby showers into a form of educational session. As a country we subscribe to the 2030 United Nations Agenda for sustainable development. Goal 5 requires gender equality by 2030. We must put up a plan on how to assist the legal profession and the judiciary in attaining this goal.

As I conclude I would like you to remember that when you devote yourself to your work opportunities arise. Patience is bitter but its fruits are sweet. ■



We must continue to support, coach and mentor each other even on little things like how to balance your life between being a professional woman and being a mother, wife, sister, aunt and daughter ”



## JUSTICE MBHA SELECTED TO MONITOR PRESIDENTIAL ELECTION PETITION IN KENYA

By The Africa Judges and Jurists Forum

**The Africa Judges and Jurists Forum (AJJF) has commissioned a High-Level Panel of African Jurists to observe the 2022 Presidential Election Petition in Kenya. Trial Observation Mission is headed by the Rtd Chief Justice of the Republic of Tanzania, Hon. Justice Mohammed Chande Othman.**

Justice Boissie Henry Mbha, the immediate past Chairperson of the Electoral Court of South Africa was selected to be part of the team. It is expected that Justice Mbha will bring his vast experience in election dispute resolution from South Africa to bear on the election observation process.

Other delegation members include: Hon. Lady Justice Ivy Kamanga from the Supreme Court of Appeal of Malawi; Hon. Lady Justice Lillian Tibatemwa-Ekirikubinza of the Supreme Court of Uganda; and Justice Moses Chinhengo of the Court of Appeal of Lesotho.

The eminent jurists will attend all Supreme Court hearings, monitor and document the presidential election petition based on International human rights standards of fair trial standards, analyse the role and independence of the Judiciary in examining the electoral disputes and review the sociopolitical climate in the run-up to the Petition. At the end of the trial observation, the observers will develop a comprehensive report aiming



The AJJF's eminent jurists panel observing the Kenya Elections petition found time to meet with the former Chief Justices of Kenya Ret Chief Justice Willy Mutunga

Photo source: @AfricanJurists (Twitter handle)

at contributing to a more professional, independent, impartial, and accountable Judiciary, a more independent legal profession, and better adherence to the rule of law and international legal standards concerning the resolution of electoral disputes.

The Observation Mission will include bilateral meetings before the hearings with the Parties to the Petition, including the Independent Electoral and Boundaries Commission (IEBC), the Office of the Director of Public Prosecution (ODPP) and the Attorney General. The meetings aim to introduce the eminent jurists to the stakeholders of the Petition and make them aware of the process and its modalities. The Eminent African jurists will also meet with the Law Society of Kenya, the Council of the Kenyan Chapter of the International Commission of Jurists and the retired Chief Justices of Kenya.

Introducing the Africa Judges and Jurists Forum (AJJF), Mr. Martin Okumu-Masiga, the Secretary General, stated that, the Forum is a pan African network of judges and jurists who are committed to promoting the rule of law and development in Africa. It accomplishes this goal by providing legal expertise to governments, inter-governmental organisations, donor agencies, private sector and civil society organizations. The forum works to enhance rule of law, good governance and economic growth

through standards setting, judicial and legal reform support & rule of law related to capacity development initiatives for the effective realization of the benefits of democratization to Africa peoples. The AJJF is registered under South African law and it draws its membership from all the geographic regions recognized by the African Union. ■

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# JUDICIAL RETIREMENTS & APPOINTMENTS

## JUDICIAL RETIREMENTS



### Judge M P Tsoka

Gauteng Local Division of the High Court,  
Johannesburg

Discharged: 04.01.2022

Source: Judges Matter



### Judge President M Leeuw

North West Division of the High Court

Discharged: 30.07.2022



### Judge E Revelas

Eastern Cape Local Division of the High  
Court, Port Elizabeth

Discharged: 30.07.2022



**Justice B H Mbha**

Judge Chairperson of the Electoral Court and Justice of the Supreme Court of Appeal

Discharged: 01.08.2022



**Judge I Schoeman**

Eastern Cape Division of the High Court, Port Elizabeth

Discharged: 01.08.2022



**Judge M Victor**

Gauteng Local Division of the High Court, Johannesburg

Discharged: 19.08.2022



**Judge T J Raulinga**

Gauteng Local Division of the High Court, Johannesburg

Discharged: 19.08.2022



**Judge N F Kgomo**

Limpopo Division of the High Court, Polokwane

Discharged: 01.10.2022

## JUDICIAL APPOINTMENTS



**Justice M L Maya**

Appointed Deputy Chief Justice of the Republic of South Africa

As of: 01.09.2022



**Justice O L Rogers**

Appointed Justice of the Constitutional Court

As of: 01.08.2022

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# IN MEMORIAM



**Judge R J W Jones**

Retired Judge of the Eastern Cape Division  
of the High Court, Grahamstown

Passed: 14.07.2022

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**Magistrate Romay van Rooyen**

Vredenburg Magistrate Court

Passed: 10.09.2022

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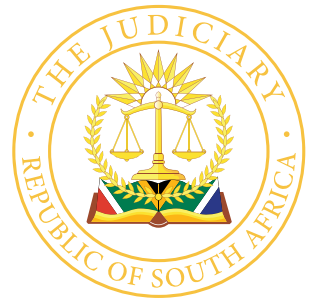
## NOTES











**NATIONAL OFFICE ADDRESS:**

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MIDRAND, 1685



**SWITCHBOARD NUMBER**

010 493 2500



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