

Statement submitted in accordance with Article 36 (3) of the Rome Statute of the International Criminal Court to support the nomination of Elizabeth Odio Benito as judge of the International Criminal Court.

1) Paragraph 3 (a) :

Professor Odio Benito has held relevant positions in the Government of Costa Rica. She has been Attorney General and twice Minister of Justice. In the constitutional period 1998-2002, she was elected Vice-President and, as such, served on numerous occasions, as acting President, performing the duties of the Presidency. During this period, she was also Minister of the Environment and Energy.

For more than 25 years, she was Professor of Law at the Law Department of the University of Costa Rica, the oldest and most prestigious of all Costa Rican Universities. She was also Vice- President of the Institution from 1988-1990. She retired as Full Professor and was granted Professor Emeritus status.

Professor Odio was been an invited scholar at several Latin American and European universities and was recently invited as an international scholar to teach at Columbia University in New York during the academic year 2003. Professor Odio is of the highest moral character and known on the American continents, in Europe and in some African and Asian countries as a person of high competence, integrity, and honesty and with a proven record of commitment to peace, human rights and international justice. Her commitment to women's rights and gender equity is also a matter of record. Her moral and professional qualities resulted in her election to the highest judicial offices of her country and, in recognition of her merits, Costa Rica proposed her candidacy to the International Criminal Tribunal For the Former Yugoslavia in 1993. She was elected as a judge by the General Assembly in September of that year.

2) Paragraph 3 (b):

Professor Odio was a Judge in the International Criminal Tribunal for the Former Yugoslavia (ICTY) from November 1993 to November 1998. She was also its first Vice-President (1993-1995).

Academics and politicians worldwide have amply documented the numerous difficulties that the eleven Judges faced in order to implement the Tribunal's mandate.

To begin with, and separately from all administrative issues, they drafted all rules of procedure and evidence needed for the successful functioning and implementation of directives outlined in the ICTY's Statute. Judge Odio was a very active participant in this essential task needed to foster the credibility of the Tribunal. Along with Judge Gabrielle McDonald of the United States, Judge Odio Benito introduced Rule 96 (evidence in cases of sexual assault) in the Rules of Procedure and Evidence which was pivotal in the landmark jurisprudence developed by the Tribunal in crimes of gender specific violence committed against women during armed conflict. She was also involved in drafting and introducing into the Rules of Procedure and Evidence, victim and witness protection rules and in making them consistent with the rights of the accused.

In her duties as a Judge and as a member of the different Chambers, Judge Odio participated with noted competency, impartiality and integrity in cases such as the following:

- The first formal **indictment** of the Tribunal in November of 1994 for grave breaches, violations of the laws or customs of war and crimes against humanity against Dragan Nikolic later detained. It is important to remember that the Chief Prosecutor was not elected until July, 1994.
- Several procedures based on **Article 61** of the Rules of Evidence allowing a public examination of all the evidence presented by the Prosecutor and with a signed indictment of an accused by a separate judge before a Trial Chamber. It was due to this procedure that the public learned of all the evidence gathered to document the numerous atrocities committed in Vukovar, Croacia (1995) where hundred of Croats were exterminated by the Serbian army and in Srebrenica, Bosnia (1995) where thousands of Bosnian Muslims were murdered by the same army. The indicted in Srebrenica were Radovan Karadzic and Ratko Mladic and charged with crimes against humanity in one of the biggest massacres known in Europe. These procedures help establish the moral authority, professional competency, integrity and independence of the Tribunal and of its members especially important given the pessimism of many of the potential success of its mission. It opened the doors for some nations to cooperate and make possible for the Tribunal to fulfill its mandate.
- **Subpoena Duces Tedum**. Judge Odio in 1997 was a member of the Trial Chamber which, according to Article 54 of the Rules of Evidence and Procedure, drafted the first subpoena against a State for lack of cooperation. The subpoena was against Croatia in the Blaskic

indictment. Again, this was another example of the highest level of professional competency of the judges and independence from political influence.

- **Trials:** Judge Odio Benito was a member of the Trial Chamber which tried Drazen Endemovic (1996), a Croat, for his participation in the massacre of Srebrenica. She was also in the Trial Chamber that,
- from March 1997 until October 15, 1998 tried Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo, all Muslims from Bosnia Herzegovina, for violations of the laws or customs of war (grave breaches) committed against Serbs in the detention camp of Celebici, Municipality of Konjic, Bosnia.

The Celebici trial, as it has become known, established landmark jurisprudence in International Criminal Law as well as in International Humanitarian law by designating the rapes suffered by two Serbian women in this detention camp as torture and as inhuman treatment, that is, as a serious violation against the laws or customs of war according to the ICTY's Statute and the Geneva Conventions. Since that important precedent, the diverse gender specific violence crimes committed against women during armed conflict have been legally defined as war crimes and alleged perpetrators have been so charged. Judge Odio's role in this precedent establishing decision is recognized worldwide as pivotal and has brought her international praise and recognition.

The candidate has well established and well known expertise in the areas of International Humanitarian Law and International Human Rights Law. She has lectured, offered seminars and workshops, presided at roundtables, delivered keynote speeches and acted as legal adviser to numerous academic institutions in Costa Rica, Latin America and Europe on a wide variety of International Humanitarian and Human Rights Law. She has written articles and essays published in law books, journals and newspapers. Currently, she is an invited scholar in the Masters Program in Human Rights and International Humanitarian Law at the United Nations University for Peace in Costa Rica. She serves as chair of the Department of International Criminal Law.

Her work in International Law and Human Rights has been especially focused in Women's Human Rights in national, as well as international, law. Professor Odio Benito was the head of the Costa Rican delegation to International Conference on Human Rights held in Vienna in 1993, and an

acknowledged leader in the struggle for recognition of the specificity of women's human rights.

The candidate's work in the prevention of torture is also of high relevance and another arena in which she has received international recognition and praise. On behalf of the Government of Costa Rica, she presented in 1990 again (it was originally presented in 1980) to the United Nations Commission on Human Rights, the text for an Optional Protocol to the Convention against Torture. This protocol seeks national mechanisms, as well as an international one, to provide for visitations to the detention centers as means of preventing torture the inhumane treatment often received by detainees. This important work had not previously progressed significantly and the candidate was asked in 1999 to Chair the working group. Her indefatigable efforts and outstanding professional competence made progress possible and this year, the Commission on Human Rights approved for a vote the text prepared by the candidate, which was subsequently also endorsed by ECOSOC and is expected to gain the approval of the General Assembly this year. All members of the Commission have credited the candidate with the success of this much needed Optional Protocol.

From 1983 to 1986, Professor Odio Benito was the Special Rapporteur for the Sub-Commission of Human Rights on religious freedom. After several years of rigorous research, she presented her final report, which won again well deserved praise and recognition. The Sub-Commission approved its publication in all United Nations official languages.

In her position as Attorney General of the Republic of Costa Rica (1978-1982), she was the attorney in charge of various judicial proceedings concerning constitutional, administrative, criminal and civil suits in defense of the State .As Minister of Justice of Costa Rica in two different administrations (1978-82 and 1990-94), she was present in national and international forums as legal specialist in human rights.

In Costa Rica, Professor Odio Benito has been active as a lawyer and has practiced extensively in national tribunals in several fields of law and is recognized for her expertise in the areas of civil, criminal and family law especially in the defense of the human rights of women and children.

3) Paragraph 3 (c)

Professor Odio Benito has excellent knowledge of English, one of the working languages of the ICTY. She reads and understands French and has conducted important parts of her work in both languages.

4) Paragraph 5

The candidate nominated by the Republic of Panama satisfies the requirements of paragraph 3 of article 36 of the Statute for both lists A and B. For the purposes of this requirement, she is nominated for inclusion in list A.