

**Judge Elizabeth Odio Benito, President, Inter-American Court of Human Rights
“My Experiences as a Judge on Three International Tribunals”**

**Sponsored by the Kaschak Institute for Social Justice for Women and Girls
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I. - Introduction

Thank you so much. Hello friends, professors, faculty members, students from Binghamton university in New York state, and particularly Kaschak Institute for Social Justice for Women and Girls, and especially my dear friends Ellyn Kaschak and Patricia Sellers. Thanks to all who have organized this talk, in which I am going to tell you about some of my experiences during my life as a judge in two international criminal courts: The ad hoc Tribunal for the Former Yugoslavia [the International Criminal Tribunal for the former Yugoslavia] or ICTY, known by the acronym in English, and the International Criminal Court (ICC), and a regional court, the Inter-American Court of Human Rights, you have given me the opportunity, for which I am very grateful, to share relevant experiences in my life—some positive and others not so much—from courts responsible for imparting justice. Let’s start at the beginning of these moments of my story.

II. - Vienna, 1993. A Court of Conscience in the middle of the World Conference on Human Rights

We begin in Vienna in 1993. A Viennese spring night in June of 1993 with some friends and members of NGOs [non-governmental organizations] from many countries asked me to join a court of conscience. I attended the worldwide conference, organized by the United Nations, in which hundreds of women made up part of the official delegations of governments that together with various hundred more from civil society, we joined forces in obtaining an unpublished objective: the international community would recognize that the rights of women are also human rights. I led the official legislation of the Costa Rican government.

In Vienna, there was also a large group of female victim survivors from the armed conflict that at that time had destroyed Yugoslavia. From the start of this civil war that exploded in the Balkans in 1992, the international press reported that sexual violence, committed against women of all ages and ethnic groups, was used as a weapon of war, to terrorize, threaten, and kill all those involved. The international community attended insensitively to the horror of the massacre. After all, violating women and sexually abusing women was seen as a collateral effect of war that did not impact or apply to international law. But never before this war was it known that *this* same sexual violence was being used as a war weapon. In Vienna, groups had arrived seeking help for female victims of these crimes. To give them a voice and space to report what happened, the NGOs organized this court of conscience, which they asked me to join and I accepted. For several hours that night, we listened to heartbreaking testimonies from survivors' accounts of individual and collective rape, brutal torture, sexual slavery, forced pregnancies—

every wicked act performed by men to disparage, humiliate, and destroy the lives of these women, their families, their communities, and their religious groups. These men sought to terrorize, by these means, the ethnic groups that were in opposition to their desires to destroy the country of Yugoslavia, that at that time was all their country. By now, I don't remember well what we were able to resolve as members of the court, but I will never forget, in between uncontainable tears, that I said I could never be a judge in a court that knows and judges these horrors. By that time, I had worked for many years with torture victims from all around the world, but what I heard that night exceeded what I knew to be the human capacity for evil.

III. - The Hague, November of 1993

Next, we go to The Hague in November of 1993. The war in the former Yugoslavia continued relentlessly. The horror continued until the end, and the UN Security Council had already decided to create an ad hoc international criminal tribunal in order to try the primary politicians and military officials responsible for this conflict. The UN Security Council called a general assembly in order to decide on candidates for judicial appointments. In September of that year, the Council named 11 judges, all coming from different countries; of them, two were women: the distinguished North American judge Gaby [Gabrielle] McDonald and I, and nine men. It called attention to the scarcity of female judges in a tribunal such as this one that was expected to make judgments about crimes of sexual violence.

Why in such a short time did I change my mind? What was it that made me overcome my tears in Vienna and accept the position as international judge for the first time in my life, for *this*

particular court no less? I have asked myself these questions many times and I have thought of some possible responses. One is that meeting and hearing the victims speak of the atrocious sexual violence that we suffer as women, just for being women in all armed conflicts, left such a lasting impression on me that I became committed to finding justice for these women. I credit this call to action to a treasured friend, Professor Thomas Buergenthal, the youngest survivor of Auschwitz and a colleague since 1979 in his political and diplomatic efforts to bring life to the Inter-American Court of Human Rights. I also had the enthusiastic support of my government at the time and an existential crisis, as Dante says, “In the middle of the journey of our life, I found myself astray in a dark wood.” With all things being considered, it solidified the decision that would change my life forever.

In November of 1993, we [the 11 judges] found ourselves in The Hague, Netherlands to begin our duty, about which many of us were uncertain. The only historical precedent to this event was the Nuremberg tribunal [International Military Tribunal], in which some of the chief Nazi leaders responsible for causing the Holocaust during World War Two were tried for their crimes in 1945. But this was a tribunal led by the victorious to judge those who had lost the war—and with all the resources at hand. Our tribunal relied on very scarce human resources—we did not even have a chief Prosecutor—as well as on economic and logistic resources and very weak political support from the international community. They called us “Paper Tiger,” and we were not expected to last long. We, the eleven judges, however, felt as if we had a very important obligation to achieve international peace and justice, and above all else, we felt an obligation to the victims of the conflict. We would do as much as we could for them. Our statute determined

our responsibilities based on International law, Humanitarian law, and importantly, the International Convention against Torture [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment].

From the beginning, Judge MacDonald and I understood that many things in the tribunal depended on our union. The unwavering friendship between us since the beginning was fueled by loyalty, support, advice, and even disagreements. Together we explored The Hague and *together* we survived the harsh winters. In our study sessions we grew concerned that the daily acts of sexual violence happening in this war were not considered in the statute, nor in the documents of international law that would be applied. Little by little, we defined the rules of evidence and procedures and incorporated what we now know to be gender perspective in our resolutions, decisions, and sentences. I will always vividly remember the battle that Gaby [MacDonald] and I waged to include a rule—Number 96—that completely excluded pleasure as the defense of the accused parties for “consent” of the victim. Sometime after, we succeeded. It was not easy. Nor was it easy in the 1994 Ad hoc Tribunal established in order to judge those involved in the genocide that took place in Rwanda when a courageous judge, Navi Pillay from South Africa, introduced sexual violence as an element of the international crime of genocide in the sentence of Akayesu (1998). That ad hoc tribunal consisted of 5 judges, and she was the only woman.

I became part of the court entrusted with sentencing Bosnian-Herzegovinian military officers for their crimes in a small Serbian village called Čelebići. The sentence, which I am thankful that

Patty [Sellers] referenced in detail, was adopted unanimously in November of 1998. It classified raping a woman for being a woman as a war crime for the first time. My two male colleagues supported my proposal, protected in the Convention against Torture, without reservations. Valuable support also came from the Office of the Prosecutor, where the very distinguished professor Patricia Sellers took on an important task regarding this topic alongside her researcher and prosecutor colleagues. In order for an act of sexual abuse committed against a woman based solely on account of her sex to be considered a war crime it does not need to be repeated. This is what we were defining in Čelebići. I remember very well interrupting a defense attorney's interrogation of one of the defendants who was accused of raping a victim that included questions such as "So they only raped her once?" In a furious voice, I interrupted and said, "Excuse me, in your opinion how many times does one have to rape a woman for you to consider them to have committed rape?" He apologized and changed the topic.

ICTY (International Criminal Tribunal for the former Yugoslavia) set historical precedent for many years. Sentences such as Tadić, Čelebići, Furundžija, and many others led the way for a new branch of International law that today we call, International Criminal Law. One had to push boundaries, but we made the conscious decision to do so. Thank you, Gaby, and thank you, Patty for being there. This corpus juris, the performance of judges and prosecutors, and similar case law from the ad hoc tribunal in Rwanda were the unspoken basis for what was approved in July of 1998 in Rome, the International Treaty, which contained the statute of the International Criminal Court (ICC).

Personally, when I think back on these memories, I realize that those five years of my life in the ICTY were defining moments in my constant fight against sexual violence that women continue to suffer on account of being a woman, during and outside of armed conflicts. But also, in my fight, we as women integrated the national and international tribunals and our presence, minor as it has been, is crucial in the decision-making process. As the beloved United States Supreme Court Justice, Ruth Bader Ginsburg, once said: "Women belong in all places where decisions are being made."

In 1998 my appointment in ICTY ended and I returned to Costa Rica. In the following years, I worked for my country's government until 2003 when I returned as one of the selected judges for the ICC, this time also taking place in The Hague, Netherlands.

IV. - The Hague, 2003-2012

Next, we go to The Hague from 2003 to 2012. As I previously mentioned, in July of 1998 an international treaty of immense importance in the realm of international criminal justice was approved in Rome, which had profound repercussions in the criminal law of all countries involved. This treaty included a criminal statute that led to a substantial procedural international criminal code and to the judicial body that would carry it out, the ICC. This statute set a new paradigm of international criminal justice. Of the substantial contributions, it mentions all crimes of sexual violence committed against women in peacetime and wartime in articles 7 and 8. The precedents of the ad hoc tribunals of the former Yugoslavia and Rwanda were converted into the standard for international application, required for countries that

became part of the statute. In the proceedings, it included the participation of victims of war crimes, crimes against humanity, and genocide as well as their right to receive reparations for the violation of their fundamental human rights. Something else new was a gender mandate that detailed the configuration of the court and incorporated a gender perspective in their investigations and decisions. The first 18 judges, 7 women and 11 men, were chosen in New York at the United Nations headquarters in February of 2003. We were sworn in by Queen Beatrix, sovereign of the Netherlands at The Hague in March of 2003 and immediately began working.

The city [The Hague] that we returned to five years later had changed, maybe not at first glance with its marvelous flowers, museums, historic palaces, parks, friendly people, and of course, the bicycles and canals. But the country's atmosphere, as it now was a member of the European Union with common borders and a standardized currency, was colder and less welcoming than in years prior. Nor was the ICC as welcoming, with its huge building and large staff, as I thought back on the humble beginnings of the ICTY. Nonetheless, my eagerness and enthusiasm for strengthening criminal justice with a firm basis in international criminal law gave me a lot of encouragement. The statute allowed for the perspective of justice and reparations for female victims of sexual abuse that in 1993 we could not even see as a possibility. My colleagues elected me as Vice President, and I took on several administrative tasks to oversee. All things considered, in the beginning I managed to organize academic activities within the court with the support of a few judges and longtime friends like Patty Sellers, Christine Chinkin, Rhonda

Copelon (who left us too soon), and Kelly Askin. We wanted to settle the gender perspective from the beginning in the judges' work and that of the Office of the Prosecutor. The results were not as expected, with few exceptions such as Judge Silvia Steiner of Brazil. The majority of my colleagues, women and men, did not understand the gender mandate of the statute and this attitude was reflected in the decisions made in keeping with this ignorance. But the worst came from the chief Prosecutor of the Office of The Prosecutor at the time. His public speech seemed to present a nearly correct gender perspective. Because of this, when we received the notice of charges against Thomas Lubanga Dyilo, a military leader involved in conflict in a region of Congo, suspected of recruiting children to join his militia, I was surprised that there was no mention of any charges of sexual violence against those victimized by this crime.

This first trial in which I was involved with two esteemed colleagues, one from the UK and the other from Bolivia, rendered the first judgement of the court on March 14, 2012. The court found Lubanga Dyilo guilty for war crimes committed against girls and boys that had suffered physical and sexual violations from the moment they were recruited. I wrote up a minority vote in partial opposition to examine the charges and facts with a gender perspective that, in my opinion, was protected under the statute. Through the vote, I resolved that the impact of the suffering that the girls faced was different than that of the boys involved in these crimes.

I left the ICC in September of 2012 with a bitter taste in my mouth after seeing nearly a decade of sexual violence crimes committed during and outside of war times, with many adjudicated

without further prosecution or obligation of reparations. But to be fair, very important changes began to foster a judicial attitude in the ICC after the appointment of a woman in the role of The Prosecutor, Fatou Bensouda. In 2014, for the first time the Office of the Prosecutor published an important document that established the policies that applied to the investigation and charges of sexual violence crimes. Because of this change in perspective, the Office of the Prosecutor presented a very important case against the political and military leader, Jean-Pierre Bemba, Vice President of Congo and leader of a militia accused of war crimes and crimes against humanity committed in the Central African Republic. For the first time, all of the charges included different sexual violence crimes, because of Prosecutor Bensouda. The Court that delivered a sentence of condemnation in 2016 included women, among them its President, Judge Silvia Steiner. They drew up a historical sentence which condemned Jean-Pierre Bemba to 18 years in prison. The ICC still has a long way to go, however, as the court of appeals annulled the sentence in its entirety and the defendant was set free. It was a dramatic reversal for international criminal justice and for the victims of the crime.

Fortunately, in 2019 the Court delivered two crucial sentences regarding sexual violence, one of them against another man from the war in Congo, Bosco Ntaganda, that included a crime against humanity for sexual slavery. In the courtroom that delivered the sentence, there was one woman. This sentence was recently confirmed by the court of appeals, which was excellent news. The other sentencing was on February 4th of this year [2021] in the case against Dominic Ongwen of Rwanda. This case was also very important because it was the first mention of forced pregnancy and marriage that was introduced in the Rome statute. I sincerely hope that

the court of appeals confirms this sentence. Very slowly, much slower than in the ICTY, the sexual violence crimes committed against women in armed conflicts and in times of peace, are beginning to appear in the jurisprudence of the ICC. It is expected that this tendency will become more prominent with the passage of time and that at some point dreams of justice will become reality for the thousands of women in attendance at Rome in 1998. It is also important to note that the only female president in the ICC as of now, the Argentine judge Silvia Fernández de Gurmendi, inspired many of these changes that are in effect. And now, for the first time, in the ICC as of this past March there are nine female and nine male judges. There is gender parity for the first time in the ICC. We are making progress.

V. - Inter-American Court of Human Rights, San Jose, Costa Rica, 2016

And now the Inter-American Court of Human Rights in San Jose, Costa Rica in 2016. As we know well, the international law of human rights arose from the ruins of World War II. As much in international regulations as in national legislation, respect toward the fundamental rights of people in states is the backbone of international law of human rights. The Universal Declaration of Human Rights, adopted in 1948 by the recently formed United Nations, established in the second half of the twentieth century as the cornerstone of the ubiquitous development of pacts, conventions, declarations, resolutions, etc. of this new international law that also was included in political constitutions of modern states of law. The first article in the Universal Declaration of Human Rights is the starting point for all of the legal elaboration that followed, and it affirmed categorically the equality, dignity, and rights of all human beings without

discrimination of any kind, such as “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

The states are guarantors of the validity and respect of those human rights that are indivisible, universal, irrevocable, and unalienable. Any violation to this obligation of respect could result in a demand for legal responsibility. The peoples whose rights have been violated can appeal for justice to the national tribunals and if they do not find help there, the claim might fall under the international jurisdiction of one of the regional tribunals. The Inter-American Court of Human Rights is one of the three regional tribunals that exist today in the international community. The other two are the European Court [of Human Rights] and the African Court [on Human and Peoples’ Rights], whose jurisdictional power guarantees justice to victims of violations against their fundamental rights. The Inter-American system consists of the commission since 1948 and the court since 1979, both bodies established to use and dedicate their respective powers for the obligation of the states to offer respect and protection of the fundamental rights of all people. The American Convention on Human Rights, also known as the Pact of San José, Costa Rica, was signed in 1969 and came into effect in 1979, the same year that the Inter-American court began its role as its judicial body. From that year, 1979, on to this day the court has done outstanding work in delivering sentences of immense importance with respect to the responsibility of states and the rights of reparations to victims for violations of all of the rights included in the American Convention and other international documents.

With this brief introduction of the Inter-American Court, you can understand that my appointment as judge to this court in 2016 was a radically different experience to my previous experiences. First of all, it was not a criminal court that had barely just begun, and perhaps most importantly, I had already had many years of experience in the field and in dictating jurisprudence and justice of the law for victims of human rights violations. I was introduced to the world of international criminal law during my professional training and activism in human rights, particularly those of women. In the ICTY and the ICC I learned so much and those experiences have given me, to this day, a maturity both personally and professionally for which I am very grateful. In these courts I had the unique opportunity of acquiring new perspectives in the examination of women's rights and their protection in armed conflicts.

When I joined the Inter-American Court with all of my previous experiences, I felt that I was closing my existential circle. It began with human rights that took me to Vienna in 1993 and now I had returned to this world that felt so familiar. Since 2016, being the only woman in the court for this period that will conclude this year in 2021, I have had the privilege of contributing to dictating sentences, decisions, resolutions, etc. that have expanded the boundaries that encompass human rights in our countries. It was in this challenging twenty-first century that the court introduced for the first time in its sentences a clear perspective on gender. It did this in 2006 in the criminal case of *Castro-Castro Prison v. Peru*. The court declared in its sentence that a group of women had suffered every form of abuse and sexual violence by prison staff that violated their rights protected in the American Convention and the Convention of Belém do Pará. The state of Peru was declared responsible and was obligated to provide important

reparations. In 2009, a symbolic sentence drafted by Judge Cecilia Medina established an explicit and precise framework for the obligations of the state of Mexico and all other states that are a part of the system in order to prevent, eradicate, and sanction all types of violence committed against women. The reparations section of this sentence contains well founded regulations for how these obligations should come into effect.

It is never easy hearing the voices of women who were violated, tortured, humiliated, and mistreated time and time again—of mothers, fathers, brothers, sisters, childhood friends of those who disappeared or were killed outside of the court, survivors of massacres. It is never easy. Judges have to have moral strength, independence of judgement, professional strength, and empathy. Nor is it easy listening to how criminals violated the economic, social, and environmental rights of people and social groups that affected their health, personal and workers' rights, ancestral lands, and trying to think of a way to help them recover these rights through a sentence. In my years in the courts, which are shortly coming to an end, I have been able to make contributions to maintaining and further developing the gender perspective that should also be necessary to include the section on reparations and the vital task of ensuring these sentences be carried out. Aside from the decisions that were unanimous, in these years I have voted in the majority with those judges who support and uphold the economic and social rights included in the Convention.

Last year in 2020, my colleagues elected me President of the Court [the Inter-American Court of Human Rights]. Throughout its 40-year history, as of today, the court has only ever had five

women as elected judges and only two of us have been president. It is but a temporary duty in a human rights court as well as a continued fight for women all throughout the continent. This past year in 2020, around the entire world and on this continent in particular, we have suffered the ferocious attack of a pandemic that has hit us hard without mercy and has brutally impacted the fundamental rights of us all. Women, as reported and documented, have been terribly affected by the effects of the pandemic. In the Inter-American Court [of Human Rights], we adopted a declaration on April 9, 2020 that determined a framework for the public policies that states should adopt in order to combat and reduce the effects of the pandemic, while still carefully observing and respecting all peoples' human rights of those living within our countries.

VI. - Closing Remarks

In Vienna in 1993, motivated by the pain of the female victims coming from an atrocious and unnecessary war, like any of the wars around the world, I said that I could never be a judge. Many years later, on a spring night, already in the autumn years of my life, I could tell you that the unknown plans of my destiny allowed me to experience extraordinary moments that have enriched my life, that of loved ones around me, and of my family, all while proudly wearing a judge's robe. I learned over the years that justice is not completely a theoretical ideal and that there is not just one form of justice; I learned that a punitive justice cannot solve the problems faced by the victims, who require a form of restorative justice; I learned that empathy and objectivity are not opposing ideals; I learned that justice within a sentence should always be an instrument of the truth. I have strengthened my values and faith in human rights as well as in women and men who fight every day to make those rights the reality for all.

I will end by extending my gratitude again to Dr. Sara Sharratt, who has accompanied me, supported me, and uplifted me in all of my judicial adventures and to you all for listening to them. Thank you very much.

VII. - Question and Answer Session

Q: Do you have time for a few questions?

A: Yes, of course, of course. I am here. Thank you again. I want to reemphasize something. Patty Sellers talked about what we did in the ICTY, working together and what we were achieving. Although we were very few women, what was important about this empathy that women can provide, as Ruth Bader Ginsburg said, is that we as women should be there making decisions, because we can make a difference. This is very important. This is what we have been doing in the international courts and what we will continue to do in the international courts. And so, of course if there are any questions, I would be glad to answer them. Thank you, Alex, thank you again.

Q: What advice would you give for people who are graduating from Binghamton University this year and are passionate about these ideas and for people who are in law school and who hope to have the positions and impacts that you have had?

A: We can never lose sight of the importance of the human rights ethics shown in peoples' actions, in public policy, and in national politics. We have to fight from wherever we stand because human rights will always be the backbone [of society]. From there, the responsibility

that we take on for human rights and international criminal justice is to guarantee and take care to ensure these rights for all in the policies of our countries and in regional tribunals. It is vital that we are committed to and never lose sight of this. Something else very important, especially for women, is that we can never give up. Women *never* give up. This is very important. Nor can we be afraid to speak up, to denounce, and to knock on every door that we have to. This is very important. This is my call to young people. In the United States, there is a huge tradition of the fight for women's rights and the feminist movement in the 1970s, which Ellyn Kaschak and Sara Sharratt took part in and perhaps Patty Sellers and Gaby MacDonald as well. But the battles continue. We have seen many setbacks and we are still seeing them, but we cannot give up the fight.

Q: How did you develop the understanding of the relationship among gender, power, law, and human rights?

A: Thank you, Provost, but this is what we have been talking about this morning. In my first years of professional training, since I was a student in the Department of Law at the University of Costa Rica, I began to realize that the rights of men and women were not equal. And since then, in my first few years as a professional and a professor, we began to discuss the fight for women's equality of rights in groups of friends and colleagues in Costa Rican society, as we call it the "Real Equality." This led to me get involved in the World Conference on Human Rights in Vienna in 1993 and there, as I mentioned, I found out about the strategy, that you heard about today (and I lived through there), of sexual violence as a weapon of war used against thousands of women in the Yugoslav Wars as well as thousands of women in the genocide of Rwanda. The

respect for human rights, for women's rights, makes one consider the indignities mentioned in the Universal Declaration of Human Rights, which translate in the case law and in the work of the ICTY as part of international criminal law. We begin to classify these crimes as war crimes, as crimes against humanity, as weapons of genocide, etc. This allows us to focus on the impact that women suffer, in an armed conflict and in their daily lives, which is different than the effect on men. This is the same thing we are seeing with the pandemic; with what is happening to women in confinement, in the restrictions we are facing, and labor rights that we have achieved all have a different effect [on men]. This perspective of gender is nothing more than a means of analysis for determining how social impacts that happen to all of us in society or in a war have different effects for women and men. That is it. It is not very complicated. It is really a matter of, with analysis and empathy, getting rid of prejudices and stereotypes and using education as a tool in making these changes.

Q: Is there a commitment to cite their legal resolutions mutually as a persuasive authority and thus strengthen the legitimacy of all three [The Inter-American Court of Human Rights, the European Court of Human Rights, and the African Court on Human and Peoples' Rights]?

A: Yes, of course. The Inter-American Court celebrated its 40th anniversary this past year. Representatives were honored and invited to celebrate from the European and African counterparts; their presidents even came to San José. In a series of activities that we all participated in together, we formed an alliance and signed an agreement that gives us reciprocal support for a collective case law. Since then, the secretaries from our courts met, as well as our full courts. The first meeting was in Africa and the second was in Europe. We were

able to go to the meeting in Africa because it was in 2019 but unfortunately this year's meeting in 2021, we were not able to have in person and we had it virtually. So yes, we have this agreement to work together and use the same protocols and we have worked together a lot, well maybe not a lot but I can tell you that a sentence in the European Court would be the same in the African Court and in the Inter-American Court, because we reference the precedent of the other courts. We also cite national case law because our courts are complementary and so it is very important for us to reference and use previous case law. The relationship between the regional courts is very important and it is only becoming stronger.

Q: Would you comment on how this provision [Article 4.1] affects the rights of women in member states and do you think the Convention should be amended?

A: The jurisprudence of the Inter-American Court has become increasingly engaged with this article that includes relevant information with respect to the right to life, which is obviously central because if there is no life then there would be no reason for the other rights to exist. The Court has expanded its references to the article and been very thorough in the analysis process, and in many sentences, the article has been referenced, not only in cases involving forced disappearance. One of the first sentences in the Court was in 1980 that involved the forced disappearance and since then, a lot of cases have relied on and referenced this right. Women obviously have the same rights as men and should be respected in the same way as men, which is something that is analyzed in the court with cases of sexual violence. There is no reason to modify the article, as the Court has been very specific regarding it. This article, among others from the Convention, has protected the sexual reproductive rights of women in a crucial

way. They were referenced in the case *Artavia Murillo et al. ("In Vitro Fertilization") v. Costa Rica* (2012), which was a symbolic sentence made by the Court. There was also a case of a sterilization of a woman without her consent among our cases. We began to examine previous sentences of the court. So, no, there is no need to modify the article. What we need to do is analyze it correctly by looking at previous sentences.

Q: How do you keep up the emotional strength to do this work? How do you create that balance for yourself as a judge?

A: I want to ask Patty Sellers to help me answer this question because she also knows a lot about these struggles. As I've said, it is not easy. Sometimes there are moments where you feel this overwhelming sense of depression and despair and as if you cannot escape it. I will tell you a little story about this when I was in the ICTY in the beginning. The proceedings from the Office of the Prosecutor rotated with each judge and for this instance it was my turn. I was responsible for examining a lawsuit—the first one I was presented with as a judge. For this case, the defendant was a soldier. I remember I took the case documents home with me one afternoon and I read them that night. I could not sleep. I laid in bed terrified. The next day, I came to court and I looked for Gaby [MacDonald] and I said to her, "I cannot do this. I can't. I am not going to be able to make it." And in that moment, we talked about why we were there, what our purpose was, and we agreed that we would not give up. So, having the support of the beloved people around you, having the strength to remain committed to a cause, and knowing that you are there for a reason is what drives you forward. In The Hague, we learned that going

to museums and exhibitions to see works of art that have survived for centuries—and will continue to survive—helps feed the soul to persist, as well as music and opera.

I am not sure if Patty would like to add anything from these experiences [in The Hague] because they are not just mine. [Patricia Sellers adds her perspective]

Yes, Sara [Sharratt] and I have talked about this as well, about what we are able to achieve throughout our experiences. But what Patty said is absolutely right. Earlier I mentioned Thomas Buergenthal, the youngest survivor of Auschwitz; he arrived at Auschwitz at six years old where he lost his father but thankfully not his mother. Everything that he and other Europeans of the Jewish faith during World War II knew to be their country and their life was the Holocaust. Thomas Buergenthal, who emigrated to the United States and studied International Law of Human Rights, has dedicated—and continues to dedicate—his life to human rights. And finally, he even recently wrote a book about his experiences and his childhood. It shows that traumatic life experiences and events can affect us in a way that makes us give it our all, and we do it.



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