

Announcement to the Assembly of State Parties on The Independent Panel on International Criminal Court Judicial Elections

As the members of the Assembly of States Parties are well aware, the Coalition for the International Criminal Court (CICC) includes more than 2,500 organizations around the world working in partnership to strengthen international cooperation with the Rome Statute system and the International Criminal Court (ICC); to ensure that the Court is fair, effective and independent; to make justice both visible and universal; and to advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity, and genocide.

In 2011, the Assembly of State Parties will elect six new judges to the Court, as the first full-term class of judges complete their nine-year terms in March 2012. For the Coalition, the upcoming judicial nomination and election process is of the highest importance. It is essential that states nominate and elect the most qualified candidates for the term from 2012-2021.

Civil society is very concerned about the success of the ICC and international justice, which are under constant scrutiny by governments, parliaments, international organisations, the media and others. Many question the lengths and costs and efficacy of international judicial processes. Of course, political and military leaders and warlords threatened by the ICC are opposed to the Court and seek to discredit and undermine this historic achievement.

Thus, the Coalition will be making extraordinary efforts in 2011 regarding the judicial elections.

It is important to note the following from Article 36 of the Rome Statute on qualifications, nomination and election of judges:

3. (a) The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices.

(b) Every candidate for election to the Court shall:

- (i) Have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings; or*
- (ii) Have established competence in relevant areas of international law such as international humanitarian law and the law of human rights,*

and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court;

Also in Article 36:

*5. For the purposes of the election, there shall be two lists of candidates:
List A containing the names of candidates with the qualifications specified in paragraph 3 (b) (i); and
List B containing the names of candidates with the qualifications specified in paragraph 3 (b) (ii).
A candidate with sufficient qualifications for both lists may choose on which list to appear. At the first election to the Court, at least nine judges shall be elected from list A and at least five judges from list B. Subsequent elections shall be so organized as to maintain the equivalent proportion on the Court of judges qualified on the two lists.*

The Coalition believes that it is extremely important that these provisions are strictly upheld and that the candidates proposed possess the necessary qualifications to sit on the Court. In particular, the Coalition is of the firm opinion that the judges assigned to the Pre-Trial and Trial Chambers have considerable and demonstrated practical experience in dealing with complex criminal cases at the trial level in their own countries or in international courts.

Past experience demonstrates that States Parties to the Rome Statute may not have paid sufficient attention to the requirements established by Article 36 when they have put forward candidates for judges. Therefore, in order to enhance the nomination and election process, the Coalition has decided to establish a panel of independent experts to assess the candidates put forward by States Parties: **The Independent Panel on International Criminal Court Judicial Elections.**

The purpose of the proposed Panel is to help fill a significant gap in the procedures – the lack of a competent, fair, independent assessment of whether the nominees actually fulfil the qualifications prescribed by the Rome Statute. According to William R. Pace, Convenor of the Coalition, “Our 2,500+ Coalition civil society member organisations are monitoring all aspects of the ICC and international justice efforts, and we feel that no facet is more crucial to the success of the Court than impartial, competent judges. Judicial competence and integrity must be emphasized in all judicial elections of the ICC.”

The Independent Panel on International Criminal Court Elections will assess and raise awareness of the qualifications of candidates. The initiative will establish a procedure akin to those undertaken by many national bar associations in assessing domestic judicial candidatures. The Panel will base its assessments on the qualifications in Article 36 of the Rome Statute (listed above), and primarily on the nomination documents submitted by governments to the Assembly and other public and relevant information provided by the candidates.

The Panel will make an assessment of the qualifications based on the materials provided. The Panel will not be ranking or evaluating the candidates. The Panel will not endorse or

oppose any individual candidates. The Coalition also does not endorse or oppose any individual candidates for ICC elections.

The Panel will be composed of esteemed experts, representing legal systems from the five geographical regions recognized at the United Nations. Because such experts understand the value of selecting the highest qualified nominees and are closely familiar with the demands and skills required of a judge in an international tribunal, these eminent individuals can provide a relevant and impartial assessment of the nominations. The panel will report its findings and conclusions in advance of the ICC elections.

Members of the Independent Panel on International Criminal Court Elections include:

- **The Honorable Hans Corell**, Former Judge of Appeal and former Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations
- **The Honorable Justice Richard Goldstone**, Former Chief Prosecutor, International Criminal Tribunals for Rwanda and the former Yugoslavia
- **Judge O-Gon Kwon**, Vice President of The International Criminal Tribunal for the former Yugoslavia and former Presiding Judge at the Daegu High Court
- **Dr. Cecilia Medina Quiroga**, Co-Director of the Human Rights Centre at the University of Chile and former President of the Inter-American Court of Human Rights
- **The Honorable Patricia Wald**, Former Chief Judge of the United States Court of Appeals for the District of Columbia and former Judge of the International Criminal Tribunal for the former Yugoslavia

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