

ADVISORY COMMITTEE ON NOMINATIONS OF JUDGES

QUESTIONNAIRE

A. Nomination process

1. The Statute requires every candidate for election to the Court to 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 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. Could you please describe your experience and competence in the areas specified below? For how long? In which capacity?

(a) A graduate and postgraduate legal education, recognising the assets of postgraduate studies and specialisation in the legal fields relevant for the work of the Court.

I hold a Bachelor of Laws (LL.B (Hons)) degree from Fourah Bay College, University of Sierra Leone, following four years of study. I thereafter attended the Nigerian Law School in Lagos for a full year, sat the Bar examinations, which I passed, and was awarded a Certificate of Call to the Bar, qualifying me to practise as a Barrister and Solicitor. In 1998, I was awarded a Master of Laws (LL.M.) degree by the University of London, following a course of study at the London School of Economics and Political Science, with specialization in Environmental Law. I have pursued postgraduate studies in peace and conflict resolution which included specialised modules in international humanitarian law and the law of human rights, all of which are directly relevant to the judicial work of the Court.

(b) Professional activities in relevant capacities such as judge, prosecutor, advocate, legal scholar or similar.

I have more than thirty-five years of legal experience, the great majority of which has been in criminal law. Since March 2023, I have been a sitting Judge of the Court of Appeal of The Gambia and an *ad hoc* judge of the Supreme Court. I have been a prosecutor at the national and international levels.

As a national prosecutor, I began as a State Counsel shortly after being called to the Bar and progressively rose through the ranks to become Principal State Counsel in the Office of the Director of Public Prosecutions.

Between 2005 and 2011, I served as a Trial Attorney at the International Criminal Tribunal for Rwanda, where I prosecuted, as part of a team, four cases involving genocide and crimes against humanity, and led the case of Prosecutor v. Emmanuel Rukundo.

Between September 2017 and December 2018, I was seconded to the International Residual Mechanism for Criminal Tribunals as Officer-in-Charge of the Office of the Prosecutor at the Arusha Branch, where I oversaw requests for evidence from Member

States, dealt with applications for review of convictions and sentences, and managed cases of contempt of the Tribunal.

(c) Proven experience in dealing with complex criminal cases.

At the International Criminal Tribunal for Rwanda, I dealt with complex cases that involved voluminous witness statements, video and audio evidence, multiple visits to crime sites, the identification and interviewing of witnesses located in countries across the world, the handling of victim witnesses who had suffered profound trauma, and the consistent search for and disclosure of exculpatory evidence.

As Head of the Office of the Prosecutor at the Arusha Branch of the International Residual Mechanism for Criminal Tribunals, I simultaneously handled the application for review in the *Prosecutor v Ngirabatware* whilst investigating the case of the *Prosecutor v Turinabo* and others for contempt of the Tribunal. Both matters required the careful coordination of investigations across jurisdictions, the protection of witnesses who had been subjected to interference, and the management of complex disclosure obligations.

On the appellate bench I have determined complex criminal appeals raising substantial questions on the proper application of the standard of proof, the admissibility of identification and confession evidence, the right of an accused person to be represented by counsel throughout the trial, and the constitutional rights of the accused in capital cases.

(d) Relevant international experience of the candidate, namely his or her involvement in the broader field of international justice.

I have extensive experience in the broader field of international justice.

Between 2009 and 2010 I served as Senior Analyst at the United Nations International Commission of Inquiry into the Assassination of the former Prime Minister of Pakistan, Benazir Bhutto. The work involved the analysis of voluminous documentary material, the conduct of sensitive interviews and the production of substantive findings on a high-profile international investigation.

Between 2019 and 2020 I served as Senior Legal Adviser and Head of the Sexual and Gender Based Crimes and Crimes Against Children Unit at the United Nations Investigative Team to Promote Accountability for Crimes Committed by ISIL/Da'esh (UNITAD), with responsibility for investigating and documenting the relevant atrocities in Iraq.

At the United Nations Office on Drugs and Crime (UNODC), my work included the design and delivery of training for investigators, prosecutors, magistrates, and private legal practitioners on transnational organised crime, including drug trafficking and trafficking in persons, and support for judicial cooperation across the West and Central Africa region and beyond.

In addition, I have regularly engaged with international and regional bodies, including ECOWAS and the African Union, on questions of international criminal justice, transitional justice, and the prosecution of serious crimes.

(e) Proven ability to work effectively within a diverse and multicultural environment.

Over nearly 18 years at the United Nations and 6 years at the Commonwealth Secretariat, I worked as part of multicultural teams drawn from diverse national backgrounds, faiths and cultures. I hold great respect for the value of multiculturalism and understand the benefits it brings. As a member of staff at the United Nations, I worked in line with the core institutional value of respect for diversity, and I was consistently and successfully assessed against that value in my annual performance appraisals. I have led multinational teams at the Office of the Prosecutor of the Residual Mechanism and at UNITAD and have built constructive working relationships with colleagues from both common law and civil law traditions.

(f) Proven expertise and experience in the specific issues including but not limited to violence, discrimination, sexual assaults, or other similar conduct, inflicted on women and children.

At UNITAD in Iraq, I led the investigation of sexual and gender-based crimes and crimes against children committed by Da'esh and ISIL. In that capacity, I developed the standard operating procedures for the interviewing of victims of sexual violence and of children, interacted with affected communities and with specific victims and their families, and worked closely with the psychologist on the team who supported my Unit's interactions with victims so as to minimise secondary trauma and to provide support and referrals where necessary.

Whilst at the International Criminal Tribunal for Rwanda, in prosecuting the case of the *Prosecutor v Emmanuel Rukundo*, I dealt with a charge of sexual assault as a constituent act of genocide. I also benefited from the specialised training organised by the Office of the Prosecutor on trauma-informed interactions with victims of sexual violence and on the proper presentation of victim testimony.

In my work at the United Nations Office on Drugs and Crime, I supported the development of model law instruments on the protection of witnesses and victims, including children and victims of sexual violence, and the training of national criminal justice actors across the Sahel and West and Central Africa on the handling of vulnerable victims in criminal proceedings.

These combined experiences have given me a deep, practical understanding of the substantive and procedural questions that arise in the prosecution and adjudication of crimes of sexual and gender-based violence and crimes against children, both at the investigative stage and in the courtroom.

(g) Proven knowledge of the main provisions of the Rome Statute and of the jurisprudence of the Court.

I am familiar with the main provisions of the Rome Statute. Many of them are similar to those of the ad hoc Tribunals and represent a codification of customary international criminal law, particularly the provisions setting out the crimes of

genocide, crimes against humanity and war crimes. The crime of aggression under Article 8 bis is new even to the ICC. The general principles of international criminal law set out in the Statute, such as *ne bis in idem* (Article 20), individual criminal responsibility (Article 25) and superior responsibility (Article 28), are familiar principles which were engaged in the work of the International Criminal Tribunal for Rwanda.

My knowledge of the provisions of the Rome Statute is evident from my work during the drafting of the Statute of the Special Tribunal for The Gambia. In executing that assignment, the Rome Statute and customary international law were our principal points of reference. I drew copiously on the elements of crimes set out in the Statute and was guided by its principles in determining the regime proposed for the Special Tribunal, including the regime for the participation of victims in proceedings.

Whilst at UNITAD, I referred to the judgement of the ICC in the case of the *Prosecutor v Dominic Ongwen* in a research paper on the rights of children born of sexual violence in conflict as victims of serious international crimes. More recently, I referred to the Reparations Decision in the same case in a paper on reparations prepared for my Chief Justice. Beyond these examples of direct application, I have followed the legal developments at the Court and have read many of its judgements.

(h) *Familiarity with the hybrid procedure governing the Court.*

The Court is similar in its hybrid nature to the International Criminal Tribunal for Rwanda, with whose Rules of Procedure and Evidence I am familiar. The Rome Statute and the Rules of Procedure and Evidence of the ICC blend the common law adversarial tradition with the civil law inquisitorial one. The Court has a strong adversarial framework in which the Prosecutor and the defence build and present their own cases and examine and cross-examine witnesses. It also borrows certain civil law features that a purely adversarial system would not recognise.

The pre-trial confirmation procedure under Article 61 reflects the civil law tradition of a judicially supervised filter before trial, which the common law lacks. A further feature of the ICC procedure is that the Chamber is not a silent actor. Judges may request the submission of evidence and may question witnesses themselves under the Statute and the Rules of Procedure and Evidence.

The Court's victim participation regime is itself a civil law transplant which exists alongside an otherwise adversarial structure that, in its common law form, traditionally allows victims only a very limited role at trial.

A further hybrid feature is the Court's adoption of co-perpetration under Article 25(3)(a) as a mode of participation in crime, in contrast to the joint criminal enterprise mode applied by the International Criminal Tribunals for Rwanda and the former Yugoslavia. The two doctrines are similar but distinct, and the difference reflects the influence of civil law on the Statute.

(i) *Proven knowledge of the organisation and functioning of the Court.*

The Court is organised in many respects similarly to the International Criminal Tribunal for Rwanda, at which I worked. The Court has three principal organs, namely

the Chambers, the Office of the Prosecutor and the Registry. The Chambers are responsible for ensuring the fair trial of accused persons. The Office of the Prosecutor is responsible for the investigation and prosecution of accused persons. The Registry is responsible for the general administration of the Court, including the management of the Court's facilities, the support of the defence, detention matters and the protection of victims and witnesses.

The Court is nonetheless distinct from the *ad hoc* Tribunals in several important respects. The Chambers are organised into three judicial divisions, namely the Pre-Trial Division, the Trial Division and the Appeals Division, with judges assigned to each division in accordance with Article 39 of the Statute. The Presidency, comprising the President and the First and Second Vice-Presidents elected by an absolute majority of the judges under Article 38, plays a more prominent administrative role than at the *ad hoc* Tribunals. The Presidency is responsible for the proper administration of the Court, other than the Office of the Prosecutor, and for assigning judges to the divisions and Chambers.

The Court also has institutional features designed to give effect to the enhanced role of victims under the Statute. The Office of Public Counsel for Victims and the Office of Public Counsel for the Defence are independent offices established within the Registry that provide support and, where appropriate, representation to victims and to the defence. The Trust Fund for Victims, established under Article 79 of the Statute, is a separate institution governed by its own Board of Directors and supports reparations and assistance to victims of crimes within the jurisdiction of the Court.

Finally, the Court operates on the principle of complementarity, under Article 17 of the Statute. The Court does not displace national jurisdictions but only acts where the State concerned is unwilling or unable genuinely to investigate or prosecute. This is a fundamental difference from the *ad hoc* Tribunals, which enjoyed primacy over national courts in the situations for which they were created.

(j) Practical skills, including excellent knowledge of and fluency in at least one of the working languages of the Court.

I am fluent in English, which is my working language and my main language of official communication. I also have a very good working knowledge of French. I read, write, and understand French, and I can express myself in French very well, although not as fluently as in English.

2. Have you ever been investigated for, charged with, or otherwise been the subject of any disciplinary, administrative, civil or criminal proceedings involving allegations of corruption, criminal or administrative negligence, misconduct, including sexual harassment, or any matter calling into question your professional or ethical standing? If yes, please provide full details, including any determinations or outcomes.

No.

B. PERCEPTION OF THE COURT

1. What is your vision of the International Criminal Court and its dual nature as a court and an international organisation? How do you see the main differences between the ICC and the two *ad hoc* Tribunals for the former Yugoslavia and for Rwanda?

The dual nature of the ICC is necessary to enable it to function as the creature of an international Statute, namely the Rome Statute. Unlike a typical national judiciary, which is an arm of a national government, the ICC must be an international organisation with judicial functions in order to possess the legal personality required to operate effectively, enter into cooperation agreements, engage in contractual relations, and recruit staff. As an international organisation, the Court is governed by the Assembly of States Parties, which elects its judges and other principal officers, and which controls its budget. This structure can create tension with the Court's core function of trying those accused of the most egregious crimes and can at times affect the cooperation the Court requires to conduct its work.

My vision of the ICC is of an institution that, notwithstanding these structural challenges, exercises its core judicial function with independence, rigour, and full respect for the rights of all parties before it. It is a Court that secures justice for victims of the gravest violations of international law and, by doing so, contributes to preventing such crimes in the future.

The *ad hoc* Tribunals were also subject to the policies of Member States. However, because they were creatures of the United Nations Security Council acting under Chapter VII of the United Nations Charter, the obligation to cooperate was binding on all States, thereby making cooperation with the Tribunals less complicated than it can be with the ICC.

The ICC has general subject matter jurisdiction over genocide, crimes against humanity, war crimes and the crime of aggression, which in principle can be exercised over any situation within its temporal jurisdiction where a State is unable or unwilling to act. That is the principle of complementarity. The *ad hoc* Tribunals did not have jurisdiction over the crime of aggression and were focused on the specific situations for which they had been created, over which they wielded primary jurisdiction. The question of complementarity did not arise for them.

2. What would be the main criticisms you are aware of in relation to the Court's proceedings?

Several criticisms have been advanced in relation to the Court's proceedings.

One of the main criticisms is that cases take a long time to be heard and completed and that they are costly. Whilst justice should not be rushed, particularly in trials as serious as those before the ICC, the criticism is that mechanisms ought to be employed to minimise the length of time it takes to try cases before the Court.

Some observers take the view that victim participation results in undue bias against the accused person and undermines fair trial rights.

A further criticism is that the Court permits the calling of an excessive number of witnesses for the proof of particular elements of crimes.

The Court has also been criticised for what is described as targeting the weak whilst allowing the powerful to escape accountability. Related to this is the perception in

some quarters that the Court has been selective in its focus on particular regions of the world.

Other criticisms concern the level of cooperation that the Court receives from States, the security risks faced by witnesses and the recent imposition of sanctions on officers of the Court, which has compounded the existing operational and reputational challenges.

3. Do you have any suggestions on changes that could be proposed in order to improve the perception of the Court in the eyes of the international community?

The Court can adopt case management strategies that reduce the time and cost of trials. The 2020 Independent Expert Review produced a long list of institutional recommendations, one of which is this. In my view, a Trial Chamber can and should be able to limit the number of witnesses that may be called to prove particular elements of offences. It is an established principle that the testimony of even one witness, if credible, can prove a particular element of a crime. There is therefore no merit in allowing multiple witnesses to prove the same element. The Court has the authority to require either party to limit the number of witnesses it calls. The Trial Chambers can also manage the time and the opportunity afforded to counsel to conduct cross-examination, as part of broader case management strategies.

To counter the perception that the Court targets only the weak, and to change it, it is imperative that the Court continue to demonstrate that justice and accountability have no borders.

In recent times a false perception has gained currency that the ICC was created to end impunity single handedly. The Court must focus on communicating to the public what a court of last resort such as the ICC can and cannot do, in order to manage expectations and to align them with what is realistically achievable. This will directly reduce the criticisms that arise from measuring the Court against unrealistic objectives.

Strengthening the Court's outreach work, particularly in situation countries, and ensuring sustained engagement with victims, civil society and affected communities, are further measures that can help build public understanding of the Court's work and improve its perception.

4. Which are, in your view, the most important decisions issued by the Court in the past years, that have had an important impact in relation to its perception vis-à-vis the States Parties and the public? Could you give and explain at least one positive and one negative example?

In my view, one of the most consequential decisions of the Court in recent history was the decision in the Situation in the State of Palestine to issue arrest warrants. For many States Parties and civil society organisations, this decision demonstrated the Court's impartiality and lack of bias. The decision serves both as a positive and as a negative example. It cements the Court's independence and its focus on its core mandate. At the same time, the sanctions imposed on certain officers of the Court that have followed pose serious existential challenges for the institution.

Another significant decision was the confirmation of charges against Rodrigo Roa Duterte, the former President of the Philippines. The decision reaffirmed the principle that a Head of State can be indicted for serious international crimes. Of further significance to States Parties was the decision relating to the temporal jurisdiction of the Court, in which the Pre-Trial Chamber held that, although the Philippines had effectively withdrawn from membership of the Rome Statute on 17 March 2019, the Court retained jurisdiction with respect to alleged crimes committed on the territory of the Philippines whilst the State remained a Party.

In the Dominic Ongwen reparations decision, the Court recognised transgenerational harm as a legally cognisable category of harm for reparations purposes, which is a significant development in international criminal law. In recognising the extent of the harm suffered by the various victims of Mr Ongwen's crimes, the Court ordered reparations in the sum of €52,429,000. Mr Ongwen is unable to pay that sum. This has been a disappointment for the victims, who came forward to describe in detail the harm they had suffered in the hope of receiving some form of compensation. The Court called upon the Trust Fund for Victims to do its best to provide reparations. There is nonetheless great scepticism among the public that such a sum will ever be available for reparations, and orders of this kind are sometimes seen as merely symbolic. This experience underscores the need for the Court, the Trust Fund and the Assembly of States Parties to engage seriously with the question of how reparations orders can be translated into meaningful relief for victims.

C. JUDGE'S INDEPENDENCE

1. What in your view should be the relationship between a Judge and the authorities of his or her country of origin? Similarly, how do you envisage your future relationship with bodies such as universities, courts or non-governmental organisations with which you have been involved or to which you have been affiliated, if elected to the ICC?

In my considered view, the judge of the Court must be entirely disconnected from the authorities of his or her own country in the exercise of his or her functions as a judge of the ICC. He or she must not be influenced in any way or form by the country's internal policies or foreign policy considerations, for the judge must always guard the independence of the ICC.

There may nonetheless be times when the judge requires, and ought to receive, the protection of his or her country as a Member of the Assembly of States Parties, for example where the independence of the judge and of the Court is threatened. In such circumstances the judge should be able to seek and to be afforded the full protection of his or her country. Such support and protection must never be allowed to undermine the independence and judicious execution of the judge's functions.

Affiliations with universities should be maintained, as they provide a vehicle for the judge to share knowledge and experience with students and faculty. They can also serve as a vehicle for educating the public about the Court, which benefits students and the wider public and helps dispel misunderstandings about the Court. Affiliations with non-governmental organisations may be maintained with care, depending on the organisation's mandate and ethos. Where the ethos of the organisation does not conflict with the Court's mandate, continued affiliation can foster a greater understanding of the Court. It is also my view that remaining connected with the

national judiciary is advantageous for a judge who is to return to national judicial service at the end of his or her term at the ICC.

2. In your view, can a Judge participate in a trial involving a national from his or her country of origin? Why?

My honest view is that a judge of the ICC will have the independence and the moral courage to try any person accused before the ICC and to judge that person fairly and according to law. Even so, I do not think it advisable for a judge to participate in the trial of a person from their own country. The simple reason is that doing so would create a perception of bias, which may affect the Court's credibility in the public eye. Moreover, given the seriousness and widespread nature of the cases that come before the ICC, it would be difficult for a judge from a Situation country to remain entirely unaffected by the impact of crimes emanating from that country, thereby raising the possibility of actual or perceived bias. For that additional reason, it is advisable for a judge not to participate in a case involving his or her own country.

3. Which jurisprudence and decisions do you consider necessary, useful and appropriate to be considered during proceedings at the ICC? From national courts? From international courts? From human rights bodies?

Article 21 of the Rome Statute establishes a hierarchy of sources. The Court applies, in the first place, the Statute, the Elements of Crimes and the Rules of Procedure and Evidence. It applies, in the second place, where appropriate, applicable treaties and the principles and rules of international law. Failing those, the Court may have regard to general principles of law derived from national legal systems of the world. Crucially, Article 21(3) requires that all interpretations be consistent with internationally recognised human rights. It follows that decisions from other tribunals and bodies may be drawn upon by the ICC where they assist in an interpretation consistent with the ethos of the Rome Statute.

Human rights treaty bodies have consistently taken the lead in developing the human rights norms which form the basis for many of the crimes prohibited under international law. In my view, their interpretations are necessary and appropriate for consideration in ICC proceedings.

Jurisprudence emanating from the *ad hoc* Tribunals, which interpreted and settled similar questions of international criminal law, is necessary, useful and appropriate to be considered in proceedings at the ICC. The jurisprudence of the *ad hoc* Tribunals remains an expansive external resource and is extremely useful for substantive definitions. Examples are the use of the ICTR judgement in *Akayesu* on genocidal intent and on rape as an instrument of genocide, the ICTY judgement in *Tadić* on the nature of armed conflict and the nexus requirement, the ICTY judgement in *Kunarac* on the contextual elements of crimes against humanity and on sexual slavery, and the ICTY judgement in *Krstić* on Srebrenica and on aiding and abetting genocide.

I also consider that decisions of national courts can be of persuasive authority, in particular, where they help to illuminate a point of law on which the Court has not yet pronounced. The law is not static, and well-reasoned decisions from comparable national jurisdictions can be of real assistance in interpreting the Statute consistently with internationally recognised human rights.

4. In your view, what should be the approach of an independent Judge when faced with precedents established by the Appeals Chamber of the Court?

As a judge raised in the common law tradition, the principle of stare decisis is of great importance to me. The decision of an appellate court should ordinarily bind the lower court. Even so, occasions do arise when the facts permit a prior decision to be distinguished.

An independent-minded judge faced with a precedent established by the Appeals Chamber must first articulate clearly to his or her peers on the Chamber why the particular case ought to be distinguished from what has already been established, and why the precedent should be departed from. The law is not static, and his or her colleagues may be persuaded. Where the judge is unable to persuade colleagues, or conversely where colleagues are unable to persuade the judge that the precedent should be maintained, my view is that the judge should proceed to deliver a dissenting opinion and articulate why a departure from the established precedent is necessary.

5. Do you consider that a Judge or a Chamber of the Court, in order to ensure efficiency, should be allowed to implement innovative procedural practices? If yes, please give examples.

Innovative practices to improve efficiency are important in ensuring an expeditious trial, which is central to fair trial rights. Judges must be open to trying new practices provided that they do not impede the just disposal of the case or undermine the integrity of the proceedings.

I recall a particular practice adopted by a presiding judge in one of the cases I was involved with at the International Criminal Tribunal for Rwanda. To facilitate uninterrupted proceedings, she instituted a practice requiring the Prosecutor to have three witnesses ready on every trial day. One witness would be in the witness box giving evidence. A second would be in the witness room, waiting to be called if the witness in the box was unable to continue testifying. A third witness would be at the safe house, prepared and ready to come to court at short notice. This practice ensured there was no interruption during the window of days allocated for the trial session. When, as sometimes happened, a witness fell ill, became too emotional or was unable to proceed, the proceedings were not stopped. The waiting witness would simply step in, and the trial would continue. This practice helped to speed up the trial and contributed to greater efficiency in trial management.

I do not, however, consider that a judge should adopt practices that are alien to or far removed from the Rules of Procedure and Evidence already accepted by the Court. The Rules of Procedure are set out for a reason. They allow for set procedures that are followed by all, and they make for uniformity of practice and of procedure, so that parties who appear before the Court know what to do and what to expect. When judges are allowed to adopt procedural practices on their own initiative, that can create inconsistencies which lead to confusion and sometimes to a perception of unfairness. Any innovative practice that touches upon established procedure must therefore be properly considered, agreed upon and, where necessary, used as the basis for amendment of the established rules.

6. How do you envisage working with a hybrid criminal procedure, different from the one you experienced in your national functions? How do you envisage your working relationship with other Judges from different backgrounds and from different legal systems?

As a judge at the national level, some of the procedures of the ICC are quite familiar to me, whilst others are less so. My jurisdiction operates a pure common law system in which victims continue to play a very limited role in criminal trials, mainly as witnesses of fact. The ICC, by contrast, has a robust victim participation regime that gives victims a central role in proceedings.

I am, however, not a stranger to a hybrid criminal justice system, having worked at the International Criminal Tribunal for Rwanda, which also embodies aspects of both legal traditions. I also have a good understanding of civil law criminal procedure, gained through working with, interacting with, and training criminal justice personnel from civil law traditions in West and Central Africa over many years.

I envisage my relationship with judges from different backgrounds and legal systems as one of mutual support and learning, focused on the important task of implementing the ICC's mandate. Each tradition brings particular strengths, and the careful blending of those strengths is one of the defining features of the Court's practice and procedure.

7. Are you used to working as part of a team? How would you deal with a disagreement in relation to a certain aspect of a decision? What are your views in relation to writing separate concurring and dissenting opinions?

I am used to working as part of a team. For more than twenty years in the service of the Commonwealth and the United Nations, I worked as a member of a team, at times as a team member and at other times as a team leader. I presently sit on a panel of three judges in the Court of Appeal and on a panel of five judges in the Supreme Court.

In such panels, disagreement does arise from time to time. My approach is to engage with my colleagues respectfully and substantively. I begin by articulating clearly the reasoning that underlies my view, with reference to the record, the law and to the relevant jurisprudence. I listen carefully to the reasoning of my colleagues and ask questions in good faith. Often what initially appears to be a disagreement is, on closer examination, the product of a difference of emphasis that can be reconciled through further discussion. Where the disagreement is substantive, I am open to revising my position when persuaded by the better argument, and I expect my colleagues to do the same. The discussion remains focused on the law and the facts and is conducted with respect for one another.

Where, after that process of substantive engagement, a genuine disagreement remains, I consider that separate concurring and dissenting opinions have an important place in the work of the Court. A well-reasoned concurring opinion can clarify the basis on which a particular judge has joined the majority and can contribute to the doctrinal coherence of the Court's jurisprudence. A well-reasoned dissenting opinion can preserve a minority view for the consideration of future Chambers and may, in time, become the foundation for a development in the law. At the same time, separate opinions should be written sparingly and only where they advance the substantive

understanding of the matter. The proliferation of separate opinions in routine matters can dilute the authority of the Court's judgement and complicate compliance by parties and States. My view is that collegiality and the search for consensus should be the starting point, and that separate opinions should be reserved for cases in which the matter is of real substance and the disagreement cannot be resolved through internal deliberation.

8. Have you considered the risk of being subject to sanctions imposed by one or more States due to the exercise of your judicial functions?

Indeed, I have considered the risk of being subject to sanctions for exercising my judicial functions. I understand that life can become very complicated for those concerned and that daily tasks presently taken for granted will be greatly hampered.

Even so, I am of the view that the responsibility of executing the Court's mandate far outweighs the personal risks occasioned by sanctions. I have the courage and resilience to fulfil the functions of an ICC judge despite those risks. The Court's judges must not be deterred from the impartial discharge of their duties by the prospect of unilateral measures from any quarter. The integrity of international justice depends on the willingness of judges to decide cases according to the law and the evidence, without fear or favour.

D. WORKLOAD OF THE COURT

1. Are you prepared and available to serve at the commencement and for the duration of your term, if elected and if called to work at the Court full-time?

I am aware of the need to be available to commence service when called upon by the Court, and to serve for the full duration of the term. I am committed to doing so.

2. Work as a Judge of the ICC frequently involves many hours a day, including into the evenings and over some weekends. Holidays can only be taken at fixed periods during the year when, for instance, there are no hearings. Are you prepared for that?

I am well aware of the demands of sitting as a judge, including long hours and late nights, as I have experienced them at the national level. I was also accustomed to working long hours during my years at the International Criminal Tribunal for Rwanda and at the United Nations Office on Drugs and Crime. I am therefore under no illusions about the demands of being a judge of the ICC.

In my present role as a sitting Judge of the Court of Appeal, we have set judicial vacations during which I am able to take holidays, save in exigent situations such as health or family emergencies when I take short leave. I will accordingly be able to function comfortably within the ICC judicial calendar.

3. The Court has two working languages. What is your opinion about this matter? How could multilingual challenges be better addressed by International Criminal Court judges?

The Court, like the rest of the United Nations system, works in French and English at the working level and in six languages during the major meetings of States Parties. It is also my understanding that, where required for proceedings in the Court,

interpretation is provided to accommodate accused persons, witnesses and victims. The current arrangement serves a pragmatic purpose, having regard to the resource challenges that the Court faces.

In my view, having more languages at the Court might make it more inclusive and afford other qualified persons greater opportunities to serve the Court, thereby enhancing its diversity. The question of which languages to include must, however, be considered very carefully, both in terms of reach and, most importantly, in terms of cost and potential impact on efficiency.

Multilingual challenges can be addressed by ICC judges in several ways. There should be language training for judges and their staff in the Court's working languages as part of the judges' induction. The Court could consider providing translation and language-support tools to judges and their chambers to facilitate understanding of documents in languages other than the judge's primary working language. The Language Services of the Court can be engaged to prepare basic glossaries of common terms used by victims and witnesses in a given case. For example, in a case involving witnesses who give evidence in a regional dialect or a specialised vernacular, a short glossary of the most basic terms used by the witnesses will enable the judges to follow the testimony more readily and appreciate the nuances of what the witnesses are saying.

4. What is your approach to writing decisions? Will you undertake this work yourself? To what extent would you delegate drafting to assistants or interns?

I presently write my own judgments. In my jurisdiction, legal researchers are few and shared among judges. They are not always available to support the needs of all judges. I therefore conduct a substantial part of my own research.

At the ICC, the nature of the judicial work is complex. It involves a high volume of evidence, difficult legal questions and interlocutory applications which require decisions to be issued expeditiously. Legal officers, associate legal officers and interns therefore play a vital role in supporting the work of the judges. If elected, I will take the lead in writing my own judgements. I will rely on the assistance of legal officers and interns for relevant legal research, the sieving of evidence, and the preparation of summaries, all under my supervision. The substantive analysis, the assessment of credibility, the weighing of evidence and the articulation of the reasoning and the conclusion remain, in my view, the personal responsibility of the judge.

5. Which are, in your view, the decisions that could and should be issued by a Single Judge in order to expedite proceedings?

Article 57 sets out the general regime under which a Pre-Trial Chamber may issue orders by a Single Judge. It enumerates the decisions that must be made by a majority of a full panel of three judges and leaves the possibility of all other decisions being made by a Single Judge. The decisions that must be made by a full panel are those relating to the Prosecutor's institution of an investigation proprio motu under Article 15, preliminary rulings relating to investigations by the Prosecutor following a referral by a State Party under Article 18, decisions on challenges to the jurisdiction of the Court or the admissibility of a case under Article 19, decisions touching on judicial

cooperation with the Court or on investigations that concern such cooperation under Article 54, decisions on the confirmation of charges under Article 61(7), and decisions relating to information affecting the national security of a State under Article 72.

This confers wide discretionary power on the Pre-Trial Chambers to determine many issues by a Single Judge in order to expedite proceedings. In my view, so long as the orders excluded by Article 57 are not engaged, a Chamber may assign a Single Judge to deal with any application that will advance the efficient determination of the case and that will not cause prejudice or impact the integrity of the proceedings. Examples of decisions that a Single Judge should be able to issue are those relating to applications for protective measures for victims and witnesses, motions for special measures for traumatised victims or witnesses, applications for victim participation (including those relating to the Registrar's categorisation of victims), applications for the appointment of counsel for victims, and scheduling orders.

6. Are you used to working under pressure from States, governmental authorities, national or international organisations, the media or the wider public? Can you provide an example?

I have never had the unfortunate experience of being pressured by any governmental authority, national or international organisation, media or member of the wider public, either in any of my past roles or presently as a judge. Were any such pressure to come my way, I believe I have the courage to withstand it and focus on discharging my duties. I also have the courage to resist such pressure or to resign as I should consider fit.

The closest I have come to any form of pressure was in my work at the United Nations, where we worked under the constant gaze of Member States, navigating the sometimes thin line between satisfying the interests of donor countries and the stated needs of recipient countries, whilst remaining true to the mandate of the organisation.

7. Are you in a health condition allowing you to work under pressure, given the Court's heavy workload?

I undergo an annual health check and receive a clean bill of health. I believe my health condition fully allows me to work under the pressure of the Court's heavy workload.

E. DEONTOLOGY

1. What is your definition and understanding of an independent Judge?

My definition and understanding of an independent judge is grounded in the first of the Bangalore Principles of Judicial Conduct, which provides that judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial, and that a judge shall therefore uphold and exemplify judicial independence in both its individual and its institutional aspects.

An independent judge is one who judges solely on the facts and law presented before him or her. Without undermining the cohesion necessary to function as a member of a panel, an independent judge decides cases free from unnecessary influence by colleagues and can deliver a dissenting opinion where required. A judge who respects the rule of law and the separation of powers, and who guards them jealously, is independent. He

or she will protect the law in the face of threats and interference from outside forces. An independent judge is fair and is free from interference, whether from his or her home country or from any other outside source. The independent judge is guided by conscience and has the courage to judge fairly and without favour. Independence requires the ability not to allow social, political or religious biases to interfere with a judge's decisions, and to decide cases justly and judiciously. An independent minded judge applies the law and respects the rights of all parties, irrespective of their status. By his or her conduct within the courts and in public, an independent judge upholds and protects the independence of the judicial institution of which he or she is a member. Most importantly, an independent judge is neither corrupt nor corruptible.

2. In your view, what would constitute a conflict of interest for a Judge?

A conflict of interest arises when a judge is called upon to determine a matter with which he or she is associated, whether by reason of a relationship with any of the parties or by reason of an association with the subject matter of the trial. If a judge holds strong personal views on a particular issue, he or she will be conflicted in deciding that matter. For example, if a person is accused of a crime to which the judge is connected through the accused or any of the victims of that crime, a conflict of interest will arise if that judge sits to determine the case. A conflict of interest need not be real. It is sufficient for a situation to give rise to a perception of conflict. Judges must therefore be careful in their utterances, in their public comportment and in their associations, as these may give rise to perceptions of a conflict of interest.

3. Should considerations relating to race, colour, gender or religion be taken into account when assessing a candidate's suitability to be a judge at the ICC? Why?

The primary consideration for the appointment of a judge should be competence, qualification and experience. In a Court such as the ICC, geographical representation is also an important consideration, as the Court must reflect its international character. Geographical representation, although different in concept, can result in the inclusion of race, colour or religion, since some regions are, by their nature, more homogeneous in those respects and are more likely to produce candidates who reflect the races, colours and religions of those regions.

Gender stands in a different category. There is a specific and identified need to achieve gender parity in international appointments. The advantages of greater representation of women in senior international positions have been debated, settled and accepted as beneficial to the institutions they serve and to the world at large. The Rome Statute itself, in Article 36(8)(a), requires the States Parties, in the selection of judges, to take into account the need for a fair representation of female and male judges. In my view, considerations of race, colour and religion should not, in themselves, be determinative of suitability. The Court's legitimacy depends on its being composed of jurists of the highest competence drawn from across the regions and legal systems of the world, with proper attention to gender parity and to the representation of the principal legal systems.

4. What measures and decisions would you take, if you are elected, to ensure the effective participation by victims in the proceedings?

The measures and decisions that I will take to ensure the effective participation of victims in proceedings will depend on the stage of the proceedings at which participation is being considered.

At the Pre-Trial stage, my focus will be on the prompt resolution of applications for victims to participate in the proceedings leading to a determination of whether or not to authorise the opening of an investigation. At that stage, victim participation is expected to provide the Chamber with a clearer understanding of the specific Situation and to assist the Chamber in determining whether or not to authorise the investigation. A further important decision at the Pre-Trial stage concerns the determination of which victims fit the criteria of Article 68 of the Statute and qualify under Rule 85 of the Rules of Procedure and Evidence as victims for the purposes of participation, in particular as regards the assessment of the remoteness of the harm suffered as a consequence of the offences charged. A related decision concerns the legal representation of victims, which should focus not only on the qualification and fit of the legal representatives chosen by the victims, but also on the willingness and the preparedness of counsel to represent the victims' interests in an effective and inclusive manner.

At the Trial stage, victims are allowed to attend and to participate in the trial through their legal representative. Such participation occurs in a manner that the Chamber deems appropriate. This gives a wide discretion to the Chamber, which discretion is properly constrained by the need to ensure that the rights of the accused are not compromised. Any decisions I make in that regard will be informed by the need to ensure a fair trial and by the principle that the burden of proof beyond reasonable doubt rests throughout on the Prosecutor. A decision, for example, on an application by victims to examine an expert, a witness or the accused will need to be carefully considered in that light. Decisions of that nature, when properly taken, will not only facilitate the efficient participation of victims but will also contribute to confidence in the integrity of the proceedings, giving victims a voice whilst at the same time ensuring that the accused receives a fair trial.

Following conviction and during the reparations phase, victims take centre stage, and their participation is vital to determining the extent and nature of the reparations to be ordered. At that stage, the question of whether to expand the victim group beyond those who have already been recognised and represented at the earlier stages of the case becomes an important decision. Hearing from a wider group of victims, victims' groups and organisations will assist the Chamber in making a fair and appropriate reparations order that takes into account both individual and collective harm.

5. In reaching a decision, how would you approach the need to balance the rights of an accused person and the rights of victims, which are both protected by the ICC's legal texts?

The Statute consistently reminds judges of the need to ensure that the protection and participation of victims do not override the rights of the accused person to a fair trial. Article 64 of the Statute places upon the Trial Chamber the duty to ensure that the trial is fair and expeditious and is conducted with full respect for the rights of the accused and with due regard for the protection of victims and witnesses. Article 67 sets out in detail the rights of the accused, including the presumption of innocence, the right to be informed of the charges, the right to have adequate time and facilities

for the preparation of the defence, the right to communicate freely with counsel, the right to be tried without undue delay, the right to examine the witnesses against him or her, and the right not to be compelled to testify or confess guilt. Article 68 establishes the regime for the protection of victims and witnesses and for the participation of victims in proceedings and provides that such participation must be conducted in a manner that is not prejudicial to or inconsistent with the rights of the accused and the requirements of a fair and impartial trial.

During trial I will be guided by the Court's rules on the admissibility of evidence, the weighing of evidence, the credibility of witnesses and the effectiveness of the defences raised. I will be mindful of the risk of allowing the victims' representative to lead evidence that ought ordinarily to be adduced by the Prosecutor. I will be mindful at all times of the responsibility of the Prosecutor to prove the crimes alleged beyond reasonable doubt, and of the role of the defence in raising reasonable doubts as to the Prosecution's case. This delicate balance will inform any decision concerning the making of statements by victims' representatives during trial, the examination of witnesses or experts and any questioning of the accused. I will be careful to ensure that the victims' participation serves the purpose for which it was intended by the Statute, namely, to give victims a voice that is more than that of a witness or a spectator, to allow the judges to form a clear picture of the crimes committed and of their impact on those affected, and to assist in the just determination of the case. At the same time, I will be mindful of the risk that victim participation might be used by either party to fill gaps in its case.

6. How do you see the possibilities and the limits of the use of Artificial Intelligence in the work of the Court? Do you have any experience in using AI in your work?

Artificial intelligence carries positive advantages for the Court and also disadvantages which, if not properly managed, may undermine the credibility of the Court.

In terms of possibilities, artificial intelligence can be a useful research tool. It can assist in synthesising and summarising the large volumes of information and evidence that the Court must handle regularly. It can assist legal officers and judges in summarising evidence, tracing information and evidence quickly and accurately, and supporting the writing of judgements. With sufficient familiarity with the subject matter under study, artificial intelligence can be of great assistance in quickly identifying relevant material. This speed is helpful to the Court, having regard to the high volume of work that it handles. Without that familiarity, however, artificial intelligence can be misleading, as it may include irrelevant or inaccurate material.

The limits of artificial intelligence in the context of the work of the ICC, in my view, include the following. First, there are challenges in the authentication of documentary material, video, images, and audio recordings, given the capacity of artificial intelligence to manipulate images and voices. Second, where the Court uses artificial intelligence to analyse information, mechanisms must be put in place to ensure that the tool's built-in biases are not inadvertently adopted in the Court's work. Artificial intelligence has been known to exhibit particular biases, for example, regarding racial stereotyping arising from the underlying programming. Third, to protect the integrity of proceedings before the Court, it will be necessary to provide for means of verifying filings by parties whose documents may have been generated by artificial intelligence and may contain false or inaccurate information or fictitious authorities.

Even so, with sufficient training for judges, legal officers, and staff, artificial intelligence can be used to make the Court's work more efficient. Clear guidelines for the ethical use of artificial intelligence, together with amended rules of procedure on authenticity and admissibility of evidence, can help to reduce the risks of admitting evidence generated by artificial intelligence.

I have used artificial intelligence in my own research. I subscribe to a legal research database called Law Companion, which uses artificial intelligence to generate search results. It can also summarise long judgements. I find the tool useful in helping me to identify authorities on particular legal issues, whilst being careful to verify the results against the underlying sources.

F. ADDITIONAL INFORMATION

1. Do you have any other nationality, other than the one indicated in your nomination, or have you ever requested another nationality?

I do not have any other nationality, and I have never requested another nationality.

2. Have you familiarised yourself with the conditions of service (which include the remuneration and the pensions' scheme) for the Judges of the Court? Are you aware of, and do you accept, the Terms and Conditions of work?

I have familiarised myself with the Terms and Conditions of service for Judges of the Court and accept them.

3. Is there any other information which should be brought to the attention of the Committee and which might call into question your eligibility for judicial office?

I have no further information that might question my eligibility for judicial office.

G. DISCLOSURE TO THE PUBLIC

1. You have the option to make your answers to this questionnaire public. What is your preference in this regard?

I have no objection to the public disclosure of my answers to this questionnaire. The transparency of the nomination process is an important guarantee of the integrity of the election of judges to the Court, and I am content for my responses to be made available to the Assembly of States Parties, to civil society and to the wider public.