

Statement of qualifications

Statement submitted by the Republic of Botswana in accordance with article 36, paragraph 4 (a), of the Rome Statute of the International Criminal Court and resolution ICC-ASP/3/Res.6 of the Assembly of States Parties on the procedure for the nomination and election of judges of the International Criminal Court

In accordance with article 36, paragraph (4) (a), of the Statute of the International Criminal Court, the Republic of Botswana hereby nominates Honourable Justice Sanji Mmasenono Monageng, a citizen of Botswana, as a candidate for one of the judicial vacancies of the International Criminal Court in the year 2009.

(1) Justice Sanji M. Monageng fulfils the requirements under article 36, paragraph (3) (a), (b) and (c), of the Rome Statute of the International Criminal Court.

(i) In fulfilment of article 36, paragraph 3 (a), of the Statute, Justice Monageng possesses a high moral character, impartiality and integrity and has served as a magistrate in the Republic of Botswana for over 10 years after being admitted to the Botswana Bar. Justice Monageng served as a judge of the High Court in the Republic of the Gambia for two years, and is currently serving as a judge of the High Court in the Kingdom of Swaziland under the Commonwealth Fund for Technical Assistance Scheme. Justice Monageng, having over 10 years experience post qualification and admission to the Bar, qualifies for appointment to the highest judicial offices in Botswana. In recognition of her immense qualities, she was nominated by the Republic of Botswana and elected by the African Union Assembly of Heads of State and Government to serve as a member of the African Commission on Human and Peoples' Rights. In terms of article 31 of the African Charter on Human and Peoples' Rights, the Charter that established the African Commission, "members of the Commission must be African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights".

(ii) In fulfilment of article 36, paragraph 3 (b), Justice Monageng possesses wide experience and competence in the area of international law and, in particular, international human rights and humanitarian law, and extensive practical experience in a professional capacity, which is relevant to the judicial functions of the Court. Justice Monageng was appointed as Commissioner in the African Commission on Human and Peoples' Rights in July 2003 and is currently the Chairperson of the Commission. The African Commission is an organ of the African Union charged with the promotion and protection of human rights in Africa. Justice Monageng has also served as Chairperson of the African Commission's Working Group on the prohibition and prevention of torture. In this capacity, she spearheaded the Commission's programme on prohibition and prevention of torture in Africa, through, among other things, using the Guidelines that have been produced by the Commission. She has also served as the Chairperson of the working group on economic and social rights. As a member of the Commission, Justice Monageng has worked relentlessly to promote other special mechanisms of the Commission, such as the rights of refugees, internally displaced persons and migrants and women in prisons and other places of detention.

Justice Monageng has visited several African countries to promote and protect human and peoples' rights through, among other things, human rights promotion missions, fact-finding/investigative missions (which have equipped her with the ability to identify crimes that are proscribed in the Rome Statute) and participation at seminars and conferences. Furthermore, in June/July 2007, she

attended a course in International Criminal Law at the Grotius Center for International Law Studies in The Hague, the Netherlands. She has also been invited by organizations in Europe and the Americas to speak on the African human rights system.

As a member of the African Commission, and, in particular, as Chairperson of the Commission, Justice Monageng has contributed enormously to building an African human rights jurisprudence, through the consideration of complaints/communications submitted to the Commission.

With respect to international humanitarian law, Justice Monageng has worked very closely with the African Commission's Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa, as well as with various networks of non-governmental organizations having observer status before the African Commission. She has presented several seminal papers in many different forums covering a wide range of issues, many of them focusing on human rights and humanitarian law.

Justice Monageng, a graduate of the University of Botswana, has served for many years in the judicial system of Botswana in various capacities, as well as in the subregion and region of Africa. In this regard, she has established competence and knowledge in both criminal law and international law relevant to the work of the International Criminal Court, including, but not limited to, the following:

- As an attorney, magistrate and judge, Justice Monageng dealt with a wide range of criminal matters relevant to the work of the Court. She tries cases, writes and delivers judgments thereto and passes sentences on convicts. She was the only judge in charge of the Criminal Division of the High Court in Banjul, the Gambia, for two years, and, in this regard, gained exceptional skills in criminal work particularly with regards to analysis of facts, trial of criminal matters and judgment writing. As a human rights practitioner, she is very proficient in the application of human rights standards in a criminal court, which is one of the attributes that will benefit the Court.
- As the first Chief Executive of the Law Society of Botswana, she single-handedly opened the office of the Society, created by an Act of Parliament, the Legal Practitioners' Act No. 13/96 (Cap: 61:01) of the Laws of Botswana, which was to become a success story. In this capacity, she was the Society's personnel and financial administrator, liaison officer and spokesperson and also its first officer. Among other things, her role was to identify and investigate criminal acts with the police and give statements. She was also involved in drafting charge sheets and in preparations for prosecution. She was also involved in the preparation of documents to be used in civil matters, for example, disbarment of attorneys.
- Justice Monageng is a strong advocate for women's rights and has been actively involved in various national and regional initiatives, aimed at scaling up women's empowerment and gender mainstreaming on the continent – as a member of Emang Basadi, a women's non-governmental organization based in Botswana, and also as a member of Women in Law and Development in Africa (WiLDAF), a continental African women's organization operating in the area of law.

- As a Commissioner in the African Commission on Human and Peoples' Rights and in implementation of the Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa, Justice Monageng was involved in the drafting of the Protocol and is among the eleven Commissioners who are mandated by the African Union to promote and implement the Protocol. This is done through, among others, seminars and conferences, as well as training, and consideration of cases brought to the Commission against States Parties to the Charter.
- As a Commonwealth Judge in the Republic of the Gambia and the Kingdom of Swaziland, Justice Monageng brings excellent credentials in diversity of legal systems, which are English law, common law, Roman Dutch law and civil law.

In fulfilment of article 36, paragraph 5, of the Statute, Justice Monageng fulfils the requirements of both article 36, paragraph 3 (b) (i) and (ii). As indicated in her curriculum vitae, she has proven competence in criminal law and procedure and in relevant areas of international law, such as international humanitarian law and international human rights law.

Justice Monageng has a wealth of experience in a professional legal capacity, which is relevant to the work of the Court. She is, therefore, amply qualified for both list A and list B. However, for the purpose of paragraph 5 of article 36 of the Statute, she is nominated for list B.

(iii) Pursuant to article 36, paragraph 3 (c), Justice Monageng possesses an excellent command of both written and spoken English, one of the working languages of the Court. This is in view of the fact that she did all her formal and higher education in English. She also has a working knowledge of French.

(2) Pursuant to article 36, paragraph 8 (a) (i) to (iii), of the Statute, the information is as follows:

(i) Justice Monageng is trained and has practised in the dual legal system of Botswana. In addition, in her capacity as judge in the Republic of the Gambia and the Kingdom of Swaziland, she has worked and continues to work in the legal systems of those countries. As a member of the African Commission on Human and Peoples' Rights, Justice Monageng, who is an African, has a working knowledge of the legal systems in Africa and many Commonwealth countries. Her nomination has therefore been made with due regard to the principal legal systems of the world and geographical representation. Justice Monageng hails from a common law jurisdiction, and her election will present a fairer representation.

(ii) She is a national of the Republic of Botswana, which is a member of the southern subregion of the African Group of States.

(iii) Justice Monageng is female.

(3) For the purposes of article 37, paragraph 7, of the Statute, Justice Monageng is a national of the Republic of Botswana and she does not hold any other citizenship.

(4) In fulfilment of article 36, paragraph 8 (b), of the Statute, Justice Monageng is an advocate for the rights of women and children, as well as victims of torture and domestic violence. As Chairperson of the Working Group on prohibition and prevention of torture,

inhuman, degrading and other treatment, within the African Commission, she has competency in this area of the law, an area that the Court works in. Justice Monageng has also worked tirelessly within the Commission to ensure the establishment of special mechanisms to protect the rights of vulnerable groups such as refugees, internally displaced persons and migrants in Africa.

(5) Given her strong personal and moral character and integrity, internationally recognized competence in international law, and, in particular, international human rights and humanitarian law, as well as her proven competence in criminal law and procedure, the election of Justice Monageng as a judge of the Court will substantially contribute to the work of the Court in particular, and to international criminal law in general.