



Coalition for the International Criminal Court (CICC)
Questionnaire to ICC Judicial Candidates
2009 Elections

Please reply to some or all the following questions as comprehensively or concisely as you wish

Name: Cecilia Medina Quiroga

Nationality: Chilena

Nominating State: Chile

List: A ____ or B __x__

Background:

1. Why do you want to be a judge at the ICC?

One reason is because I could contribute to the ICC my experience during my 8 years at the UN Human Rights Committee, where I had a chance to have a comprehensive view of different legal systems and different human rights problems in the various regions of the world. I interacted with delegations from over a hundred countries and that is an important knowledge to have some idea of various idiosyncrasies in Africa, Asia, Europe and Latin America. I could also contribute with my 8-year experience at the Inter-American Court; that Court is the most progressive on in terms of reparation to victims, which is, I think, something that has not been much developed in the ICC. Moreover, I have been a judge for 6 years, a position that is quite different from that of a defense lawyer or a prosecutor. Although I have been myself a victim of human rights violations, I have had to learn to look at situations with my reason although cases often touch my soul very forcefully.

From another point of view, I am eager to come to the Court because I could learn one side of human rights law in which I have not practiced. I believe human rights law is a unit, a corpus juri that attempts to fill all the gaps so that the deterrent effect that law might have does its work properly. I would like to find ways to integrate the inter-American perspective, with all we have learned in a continent plagued with atrocities, with the ICC.

2. What do you think will be the biggest challenges facing you as an ICC judge?

Trying to bring some reparation to victims

3. What do you believe are currently some of the major challenges facing the Court and what do you believe will be some of the major challenges in the coming years?

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One important challenge is to build up the Court's legitimacy both with regard to states and to the people. I hear complaints from Africans, who have the feeling that the Court is used only against them and I think there is an important task to carry out, certainly with the help of others, to convince people that the existence of this Court speaks well of the conviction of those who established it and those who ratified it. This is a strong signal of their desire to put an end to the atrocities in the world

List A or B Criteria:

While this question is relevant to either list A or list B candidates, we know that some candidates have competence that would qualify for both lists. Candidates with competence in both criminal and international law should feel free to answer any question in 4 a) or 4 b) to give the reader a more complete view of their background and experience.

4 a) For candidates on list A:

- How would you describe your competence in criminal law and procedure?
 - o As a judge in the Court, I have had to deal almost constantly with criminal law and procedural criminal law in the cases we have seen, due to the fact that when examining compliance with article 8 of the American Convention we examine the internal legal order of the states appearing before the Court.
- How would you describe your experience as judge, prosecutor, counsel, or in another similar capacity, in criminal proceedings?

4 b) For candidates on list B:

- How would you describe your competence in relevant areas of international law, such as humanitarian and human rights law?
 - o I have taught international human rights law for many years, and the course comprised always humanitarian law and lately international criminal law in the form of the ICC, genocide and others
 - o At the Inter-American Court I have dealt often with the Geneva Conventions in terms of its overlapping with the American Convention
 - o I have a doctor's degree in law and my thesis was about gross, systematic violations and the inter-American system
- How would you describe your professional legal experience that is of relevance to the judicial work of the Court?
 - o Both at the Human Rights Committee and the Inter-American Court I have decided cases, that is, applied the law to concrete situations. That is an important experience for the Court.
 - o As a President of the Court, I have had to deal with various problems facing a Court. For example, how to streamline the procedure to shorten the length of the examination of cases while respecting the rights of the parties to a thorough defense; how to deal with difficulties that suddenly appear and were not foreseen (reaction of victims at the time of deposition; reaction of states' delegates to the Commission)
 - o During my time as President I have dedicated a significant time to try to find ways of making access to the Court easier, from the point of view of legal aid (which does not exist) or of the simplicity to explain problems to victims.

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Nomination Process:

5. What are the qualifications required in your nominating State for appointment to the highest judicial offices? How do you meet these qualifications?

According to the Constitution, you can become a member by promotion in your career as a Judge or as an outsider. If one is an outsider, the requirements are: 15 years in possession of your law degree, outstanding performance either in the academic field or in the area of private practice, besides requirements of honesty, independence and impartiality.

I meet these qualifications: I have been a lawyer since 1959; I have worked in the academia since 1966, with interruptions of a few years as a consequence of my exile. I have a doctor's degree, publications and others that show that I have stand out among my peers. I have never belonged to a political party and never have had a political position.

6. Article 36 of the Rome Statute provides for two possible nomination procedures. Please describe in detail the procedure used for your nomination.

I was nominated by what is called the National Group, composed of 5 distinguished internationalists, a procedure allowed to be used to nominate a candidate to the ICC

7. Have you provided the statement required by article 36(4)(a) of the Rome Statute and by the nomination and election procedure adopted by the Assembly of States Parties? If not, why not?

The statement was made by this Group on the basis of their knowledge of my work plus the information that I provided.

Legal System and Language Abilities:

8 a) Which legal system does your country belong to? Do you have knowledge or experience working in other legal systems?

I come from a civil law system, but for 8 years I worked at the Committee with experts from the common law system and our endeavor was to learn the benefits of each in order to transcend them and work with a standard that would provide the possible fairness to all

At the Inter-American Court, there is always a common law judge from the Caribbean islands, so I have had much experience with the two systems.

8 b) What difficulties do you envision encountering working with judges from other legal systems? How would you resolve such difficulties?

As I said, I have so far not had encountered difficulties working with judges from other legal systems. At the Committee there were experts from Asia, Africa, Europe (West and East) and we faced problems, for example, with family law in countries where personal laws prevailed over the law of the states. I am used to variety.

9 a) What is your knowledge and fluency in English, if it is not your native language? Do you have experience working in this language?

I have often worked in English. I wrote my doctoral thesis in that language and I have written legal articles in that language. I speak it with fluency

9 b) What is your knowledge and fluency in French, if it is not your native language? Do you have experience working in this language?

I can understand educated spoken French and I can also read it. I have no fluency speaking it. While I was Chair of the Human Rights Committee, I followed the debates in English French and Spanish, without an interpreter.

Expertise and Experience:

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10. Please explain your qualifications for this position. What aspects of your career, experience or expertise do you consider especially relevant to the work of an ICC judge?

I think I have answered this before

11. Do you have any specific legal expertise, including, but not limited to, violence against women or children?

- a. For many years I have worked intensely in women's human rights. I designed and teach a course for Latin American Lawyers called Women and Human Rights: Theory and practice, where feminisms, gender and international human rights law are taught. The areas we work in are autonomy of the body, economic autonomy and political participation. We deal there with all forms of violence against women, sexual and reproductive rights, discrimination in politics, labor, etc.

12. Historically, many of the grave abuses suffered by women in situations of armed conflict have been marginalized or overlooked.

- a) What experiences have you had dealing with crimes of sexual and/or gender based violence?

I have dealt with them in cases against states, trying to evaluate evidence in a way that will not make the crimes and violence invisible and interpreting substantive law with a gender perspective so that human rights as conceived will cover all these situations

During my time in the Human Rights Committee, I drafted General Comment 28, which was a new reading of the Covenant rights so that women and the violation of their rights would be placed under the corresponding rights, something that had not been done before. I began with this work even before it was conceived but consistently building up Committee's opinions in the final observations produced at the reporting procedure.

- b) Are there situations or cases in the past where you believe you have applied a gender perspective, i.e. inquired into the ways in which men and women were differently impacted? If so, to what effect?

One example could be the judgment in the Castro Castro case, where the Court finally stated that some general rules did not cover the situation of women and therefore had to be changed to be made universal. In General Comment 28, although it was not a case, the Committee's opinion as to what it meant to use a gender perspective has been particularly useful, I have been told, to women's organizations struggling in their own territories for visibility. Legal opinions of an international body of experts is a powerful instrument

- c) Are there situations where you did not analyze the different impacts of a situation on women and men but on reflection now think such an analysis would have been appropriate?

Yes. IN my early years teaching international human rights law I was not very aware of ways to introduce the gender perspective, although I had felt discrimination against me many times. In Latin America and in my younger days, one did not dare to speak out and one did not even think that this had much to do with law. That was the way things were. This experience has taught me much on what women feel and what their inner obstacles to fight discrimination are

13. Victims have a recognized right to participate in ICC proceedings and to apply for reparations under Article 75. What experience relevant to these provisions do you have?

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Again, the Inter-American Court has been a pioneer in introducing the possibility of victims to participate in its proceedings and has managed to go from a start where the Convention apparently did not give victims any right to one where victims have the right to make demands, present evidence and even participate in the investigation and trial at their own countries

14. Did you help advocate for the adoption of human rights or international humanitarian law treaties or other instruments? Please describe your experience.

I participated actively in the effort to make Chile take the step to ratify this Convention. I organized, for the Dutch Embassy a couple of seminars to that effect; I gave talks to the military and to students and lawyers.

15. Have you served on the staff or board of directors of human rights or international humanitarian law organizations? Please describe your experience.

No. I am in some consultative boards and I have been asked by various organizations to do training course for them, which I have done. I am convinced that the motor to make human rights advance in the world is the effort that civil society makes in this regard.

16 a) Please provide us with a list of your writings and opinions relevant to evaluating your experience.

I have provided a list of my publications in my cv

16 b) Please provide us with an electronic copy of any writing or opinion describing your experience. I have to look this up and send you the information later on.

Other matters:

17. Have you ever resigned from a position as a member of the bar of any country or been disciplined or censured by any bar association of which you may have been a member? If yes, please describe the circumstances.

No

18. Have you ever been found after an administrative or judicial hearing to have discriminated against or harassed an individual on the grounds of actual or perceived age, race, creed, color, gender, sexual orientation, religion, national origin, disability, marital status, socioeconomic status, alienage or citizenship status? If yes, please describe the circumstances.

No

19. It is expected that a judge shall not, by words or conduct, manifest or appear to condone bias or prejudice, including, but not limited to, bias or prejudice based upon age, race, creed, color, gender, sexual orientation, religion, national origin, disability, marital status, socioeconomic status, alienage or citizenship status and shall require staff, Court officials and others subject to his or her direction and control to refrain from such words or conduct.

a) Do you disagree or have difficulty with this expectation? I agree

b) How will you be able to meet this expectation? As best I can

20. Article 40 of the Rome Statute requires judges to be independent in the performance of their functions. Members of the CICC and governments are concerned about the difficulties judges might experience in interpreting articles of the Rome Statute where their government has already expressed an opinion.

a) Do you expect difficulties in your taking an independent position? None at all

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b) Would you be able to judge impartially whether an investigation by your government was genuine?
Yes

21. A judge is expected to be on the bench or otherwise handle legal matters for at least seven hours per day, five days per week, and at times a judge's responsibilities may require him or her to be on the bench or at work into the evenings and on weekends. Do you expect to be able, now and in the foreseeable future, to perform these tasks on your own or with reasonable accommodation? If no, please describe the circumstances.

Yes. I expect to be able to fulfill these duties without problems. I have always done it before

22. Do you know of any factors that would adversely affect your ability to competently serve as a judge, to comply with a judge's ethical responsibilities, or to complete the day-to-day responsibilities that a judge is required to assume? If yes, please explain.

No; I do not know of any factors that could affect this ability

Thank you.

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