

HUMAN RIGHTS WATCH

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January 13, 2008

Ministers of Foreign Affairs
States Parties of the International Criminal Court

Via facsimile

Dear Excellency:

In advance of next week's election of six new judges to the International Criminal Court (ICC) at the Assembly of States Parties' (ASP) resumed session, we write to urge the election of the most highly qualified candidates. States parties should reject vote trading in favor of principled consideration of candidates' relevant experience and expertise.

The ICC bench will be an essential part of building the court's credibility as the institution develops. The six new judges elected next week to nine-year terms will greatly influence the work of the ICC for many years. States parties, in turn, as the electors of judges, have the greatest opportunity to influence the success of the court by providing it with the best possible bench.

As you are aware, many elections at the United Nations and other international institutions are characterized by "vote trading," where states agree to support one another's candidates with minimal regard to the individual's qualifications.

Vote trading in ICC judicial elections could lead to the selection of poorly qualified judges and to a bench that will not be the most skilled and representative.

At a time of increasing activity at the court, including the management of complex judicial challenges, this would certainly undercut the ICC's effectiveness and credibility. The Assembly itself recently emphasized "the importance of electing the most highly qualified judges in accordance with article 36 of the Rome Statute" in the omnibus resolution adopted during the seventh Assembly session in The Hague (ICC-ASP/7/Res.3, paragraph 12). Vote trading is antithetical to this commitment.

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States parties should build on the better practice of the initial 2003 judicial elections, and, when casting their ballots, ensure that relevant experience and expertise are given primary consideration.

States parties should, thus, take seriously the responsibility to give careful consideration to each candidate's qualifications in light of the requirements set out in article 36 of the Rome Statute. We believe that as a general matter judges elected to the ICC should have criminal law expertise and prior experience in criminal proceedings as judges, prosecutors, or defense attorneys. This is of particular importance for this election given that the ICC is now moving into the trial phase in several of its cases.

After reviewing the qualifications of the candidates nominated for the upcoming elections, we wish to highlight additional criteria that we believe are important to the identification of the most highly qualified candidates within this pool:

- Prior experience at an international or hybrid, national-international, tribunal can bring important lessons learned at these tribunals to bear on the ICC's development.
- Established expertise in international criminal law, international humanitarian law, or international human rights law can contribute to the development of a strong, coherent, and consistent jurisprudence.
- Demonstrated independence and impartiality is necessary to build and preserve the credibility of the court.
- Strong commitment to human rights and experience on gender issues can help ensure consistency of ICC case law and of practice with other relevant international norms.
- Ability to fulfill judicial functions for the entirety of the nine-year term is critical to avoid disruption in the efficient functioning of the court.

Thank you for your attention to these important matters. We look forward to interacting with your delegates during the upcoming ASP resumed session.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Dicker', with a stylized flourish at the end.

Richard Dicker
Director
International Justice Program