

**Coalition for the International Criminal Court (CICC)
Questionnaire for ICC Judicial Candidates
December 2017 Elections**

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

To fill in the document please click in the grey box, which will then expand as it is filled in.

Name: Ariela Peralta
Nationality: Uruguayan
Nominating State: Uruguay
Legal Background (<i>mark as appropriate</i>): List A <input type="checkbox"/> B <input checked="" type="checkbox"/>
Gender: Female <input checked="" type="checkbox"/> Male <input type="checkbox"/>

Background

1. Why do you wish to be elected a judge of the International Criminal Court (ICC)?

I have always believed that justice is vital for enhancing a strong rule of law and for building a more equal, secure and fair world. In this respect, the establishment of the ICC was one of the most extraordinary achievements accomplished by the international community. I have devoted my entire life to the fight against impunity; being an ICC judge would put me in a unique position to bring this fight against injustices in the world to a higher level. Moreover, given the strong impact of the ICC in defending the innocent and in putting an end to injustices and atrocities, I would be honored to be part of this Court. At this point in my life I feel as compelled as ever to contribute to the ICC goals in terms of enforcing justice in a troubled world. I believe that holding accountable individuals who are responsible for the most serious crimes is of paramount importance for social justice and equality but also as a message to prevent and deter potential brutalities.

I have dedicated my life to defend victims of gross violations of human rights in my country and abroad with great determination and commitment. I have contributed as a litigator representing victims and as an ombudswoman to bring about changes towards a better protection of people's rights and, now, I want to do so at the Court with the same determination and commitment. I have studied and worked abroad with the purpose of learning about different legal systems, and to understand human rights law

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in different national, regional and global contexts. Hence, I believe that I can bring a variety of perspectives and experiences to the Court. I am aware that the Court faces challenges but, since I have never feared challenges, I will use all of my competences towards the following goals: a) delivering justice effectively, b) executing its jurisdiction only as a complementary body, c) accurately applying the legal criteria established by the Rome Statute, and d) assuring a fair trial to alleged perpetrators as well as genuine participation and reparation needed by victims.

My vision, my hope, my dream is that the impact of the ICC will bring the world to a tipping point, finally changing the way it thinks and behaves about accepting victimization and atrocities.

2. What do you believe are the most important challenges and achievements of the ICC in its first 15 years?

As the world's first permanent international criminal court, the ICC faced and still faces unique challenges based on its global nature. I will point out some:

-Universalization. Although the ICC is a global court, it needs to be ratified by more States, in order to become a worldwide and stronger Court, and enhance its legitimacy and effectiveness. It is essential to preserve the members and to convince other States to become party to the Rome Statute.

-Cooperation. The ICC cannot work effectively without the cooperation of States. The ICC depends on it for collecting evidence, submitting information in a timely manner, protecting witnesses and victims, resettling victims under threat, complying with arrest warrants and enforcing its sentences. It is crucial to achieve a voluntary cooperation of States, and also that more States sign agreements on Privileges and Immunities.

-Effectiveness in delivering justice. Although many policies were developed in a short amount of time, the Court must continue to improve its core processes (including trials), in order to deliver high quality justice that is both expeditious and fair. The ICC is a permanent Court with a very wide jurisdiction.

-Security. The ICC sometime has to work in contexts of violence. Ensuring that witnesses and victims are protected is extremely important. The Court also faces threats of interference in evidence collection.

-Technology and evidence. The Court has to make full use of new technologies, in order to get evidence in a timely manner with limited resources, and deliver justice efficiently.

-Selectivity. The Court has limits, imposed by the Rome Statute provisions, with regard to cases in which it can exercise its jurisdiction. This has led to a lot of criticism or misconceptions regarding selectivity.

In terms of achievements, in its first 15 years the Court has had many achievements that are worth mentioning. The ICC has enhanced its credibility. The ICC is today a robust judicial institution. The Court also established in the international agenda the idea that perpetrators should be held accountable regardless of their position or domestic political power, and impunity should come to an end. The Court plays an important role in preventing and avoiding recurrence of the most serious crimes, and helps to preserve peace, while being an important actor in conflict resolution.

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Moreover, one of the most important achievements of the Court is the impact of the complementarity principle.

In terms of proceedings and fair and expeditious trial, the Court has improved its policies, working processes and structure, while openly reviewing its own strategies. As more cases come to trial and judgment, and as the Appeals Chamber renders more decisions, this trend will only strengthen. I believe that as the jurisprudence of the Court grows and settles, it will eventually make an even larger contribution to international law. Other international and national courts and other actors will look to the ICC as a leader in substantive humanitarian law and international criminal law, but also with regard to procedural guarantees and innovations and participation of victims. Indeed, participation of victims in early and further stages of investigation, prosecution and reparation was a unique achievement for the Rome Statute. I consider the possibility of meaningful participation of victims to be one of the great promises of the ICC.

The Court's case-law now covers the use of child soldiers, arms attacks to civilian population, sexual violence, and the destruction of cultural heritage. The Al Mahdi case regarding cultural destruction is an example of the power of the Court to draw attention to relatively lesser known causes and legal areas. Although not the first international criminal tribunal to address cultural destruction, the ICC managed to focus attention on the international law's ability to respond to cultural destruction at a time when the need for such protection is clearer than ever. Finally, the Rome Statute and the Rules of Procedure and Evidence reflect a unique combination of elements of the world's major legal systems, while the Court's judges all arrive at the Court with a particular legal background and experience.

3. What do you believe are some of the major challenges confronting the ICC and Rome Statute system in the coming years?

Some of the major challenges confronting the ICC in the coming years are among the ones that the Court has been facing in the past years.

Universalization; it is necessary to coordinate efforts of cooperation among the member States and the Court in order to achieve more States to become members of the system.

Cooperation; the Court needs cooperation from the international community as a whole, including state parties and non-parties as well as international and non-governmental organizations.

Efficiency and effectiveness; enhancing the efficiency and effectiveness of the Court is one of the most important challenges. As I mentioned the Court has made enormous progress in this area, including development of performance indicators for the Court aimed at measuring progress made and goals to be achieved. In addition, the Court also needs greater cooperation by the United Nations Security Council regarding referrals to secure proper procedure.

Legitimacy, the Court faces the challenge of executing its jurisdiction with limited resources that need to be allocated properly. That challenge, in a way, is linked to

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another one which is the alleged bias in terms of the selection of cases. The Court faces the challenge of legitimacy.

Selectivity and legitimacy are problems related to the lack of universal participation in the treaty. The Court cannot address all situations of crimes that would deserve its attention in an equal manner. Public communication and outreach are necessary to explain the problem but enhancing participation in the Rome Statute is the crucial and only real remedy.

Expectations, another challenge faced by the Court is being able to live up to expectations. There are a lot of expectations in terms of the Court's capacity to deliver justice around the world and to tackle current crises, often based on misconceptions or lack of information about the Court's competence to act.

Nomination Process

4. What are the qualifications required in the State of which you are a national for appointment to the highest judicial offices? Please explain how you meet these qualifications.

The Uruguayan Constitution requires the following conditions to be met, in order to be elected as a member of the Supreme Court of Justice – the highest judicial position: forty years of age; natural citizenship in exercise thereof, or legal citizenship with ten years exercise thereof and twenty-five years residing in the country; ten years of experience as a lawyer or eight years working in such capacity at the Judiciary or the Prosecutor's Office and be appointed by a two-thirds majority of the members of the General Assembly (Senate and Chamber of Representatives in joint session).

Due to an awareness of the importance of this position and the need for independence of the person who occupies it, the Uruguayan Law of Cooperation with the International Criminal Court (Law No. 18.026) states that in order to be nominated as an ICC candidate, the same conditions required to be appointed as judge of the Supreme Court of Justice must be met. In addition, potential candidates must go through a public hearing before senators and representatives. ICC candidate is the only position for which the law (Law No. 18.026) requires the vote by the General Assembly (Senate and House of Representative jointly). This is not the case for candidates for the International Court of Justice or to run intra-governmental bodies.

On March 14th of 2017, I was voted by more than two thirds of the members of the General Assembly of the Uruguayan Legislative Branch and with the unanimous vote of members present. One hundred and four members of the Senate and the House of Representatives were present, and one hundred and four voted unanimously, congressmen and congresswomen from various parties (*Frente Amplio, Partido Colorado, Partido Nacional, Partido Independiente, Union Popular*).

5. 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, please provide an explanation for this omission.

I provided the statement on May 19th 2017.

Legal System

6. The Rome Statute seeks judges representing all of the world's major legal systems.

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a) Which legal system is your country part of?
Civil Law system

b) Please describe any knowledge or experience you have working in or with other legal systems.

Since the very beginning of my work as a lawyer I decided to represent the most underprivileged and vulnerable people of my country, defending their basic rights. I was a litigator in my own country at the national criminal system. I worked for many years as a human rights lawyer in non-governmental organizations in Uruguay and also at private practices under the civil law system. Some years later, I was offered the position of Deputy Director of the Center for Justice and International Law (CEJIL) in Washington D.C., where I represented victims of gross violations of human rights all over the Americas before the Inter American Commission on Human Rights and the Inter American Court of Human Rights. As a result of my experience in international litigation of gross violations of human rights that may qualify as international crimes, described above, I have the required knowledge and experience working in or with other legal systems. I represented cases along with the Center for Constitutional Rights (CCR), example (PETITION P-900-08) before the Inter American Commission on Human Rights. Among other activities, invitations and presentations, I was invited to promote gender-based cases at the African System by INTERIGHTS in Dar es-Salam, Tanzania in 2010 and as a Judge at the Inter-American Human Rights Moot Court Competition, Academy on Human Rights and Humanitarian Law at the Washington College of Law, American University, Washington, D.C., U.S.

I have studied in depth human rights law and humanitarian law in countries with different legal systems and I hold a Master's Degree in International Legal Studies.

As I mentioned above, I worked on cases related to common law and civil law systems. This provided me with strong foundations of theoretical and practical knowledge about different legal systems and about how to get supranational systems to better serve the need for justice, bringing reparation to victims and having an impact at regional and global level. In my view, criminal justice systems throughout the world have similar goals and face similar challenges. There is much more common ground than there are differences. I am convinced that each system has features that balance each other out to protect fairness and ensure efficacy. The procedural system of the Court is a hybrid system that combines elements of both systems and it is important to keep the balance achieved by it.

I am confident that I will adapt easily to the environment of the Court works.

Language Abilities

7. The Rome Statute requires every candidate to have excellent knowledge of and be fluent in English or French.

a) What is your native language?
My native language is Spanish.



- b) What is your knowledge and fluency in English? If it is not your native language, please give an example of your experience working in English.

As shown in more detail in my CV, I have undertaken extensive studies abroad in English. I studied at The Hague Academy and the Netherlands Institute of Human Rights in 1998; in 2002 I attended the Geneva Training Course in International Human Rights Law and Diplomacy organized by the International Service for Human Rights.

I was then selected, in 2004, to work at the Association for the Prevention of Torture (APT) in Geneva, Switzerland, with English as the working language. I was then awarded the Hubert H. Humphrey Fellowship Program at American University, Washington College of Law, in Washington D.C., where I obtained a Master's Degree in International Legal Studies; both the fellowship and the Master's program required fluency in spoken and written English as well as advanced reading comprehension skills to read complex technical legal texts. Afterwards, I was offered the position of Deputy Director of CEJIL in Washington DC. I was required to work in English and Spanish.

I have presented and participated in a wide variety of academic and legal events in English. I am a member of foundations, organizations and initiatives that work exclusively in English.

Apart from academic, technical and work experiences in English, during my time living and working in US, I married a native English speaker.

- c) What is your knowledge and fluency in French? If it is not your native language, please give an example of your experience working in French?

I studied French in High School, and I currently have a passive fluency of this language, which (as a Romance language) shares many of the grammatical structures of Spanish, my mother tongue. I am very interested in gaining a deeper understanding of French, and I am confident that I will be able to improve my command of this language as part of my work and commitment.

List A or B Criteria

8. Your response to this question will depend on whether you were nominated as a List A candidate or a List B candidate. Since you may have the competence and experience to qualify for both lists, please feel free to answer both parts of this question to give the reader a more complete view of your background and experience.

- a) For **List A** candidates:

- Briefly describe your qualifications as a List A candidate.

- How would you describe your competence in criminal law and procedure?

- How would you describe your experience as a judge, prosecutor, counsel, or in another similar capacity, in criminal proceedings?

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b) For **List B** candidates:

- Briefly describe your qualifications as a List B candidate.

I am qualified as a litigator with years of experience defending victims of violation of human rights at the national criminal system and at the international level. I have also published and presented extensively on this topic at numerous national and international venues. I was elected as member of the National Human Rights Institution (NHRI) in my country in the institution's first mandate, and I served there as an Ombudswoman. In my position as Deputy Director of CEJIL, as second in command I oversaw all of CEJIL's areas of work and as advisor to the Executive Director, I worked in tandem on deciding which cases to bring to the Inter-American Commission and the Inter-American Court of Human Rights through a strategic litigation approach to seek reparations, and policy and/or legal reforms. In 2005, I was hired as National Consultant on Human Rights and Legislative Policy under a special United Nations Development Program designed to support new legislators. My task was to facilitate an open dialogue, enhancing and enforcing legislators' contributions to human rights. Before this I worked at the APT reaching out to countries to promote ratification of the Optional Protocol of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). This experience provided me with strong diplomatic and advocacy skills, a thorough knowledge of the United Nations system and of torture case-law.

In fact, I was one of the two reviewers of the publication "Torture in International Law-A guide to Jurisprudence" published by the APT and CEJIL.

- How would you describe your competence in relevant areas of international law, such as international humanitarian law and international human rights law?

I have studied extensively and in depth supranational legal systems (both at a global and regional level), and the applicable legal framework based on binding treaties-bodies and non-binding instruments, as well as mechanisms under international humanitarian law and international human rights law. I firmly believe that human rights law and Case-law have made fundamental contributions to International Criminal Law, and I possess extensive knowledge and experience in this regard. I have studied international law and, more specifically, international human rights law and humanitarian law at the Inter-American Institute of Human Rights based in San José, Costa Rica; at The Hague Academy; in Geneva, Switzerland; and at the Washington College of Law, American University, in Washington DC, United States. I have published extensively on these topics and I presented at events, academic courses and book launches.

Finally, I am the Academic Director of the Post Graduate Degree: "Human Rights, Democracy and the Rule of Law" at *Facultad Latinoamericana de Ciencias Sociales* (FLACSO).

I have also contributed to the following publications, just to mention a few:

- Truth, Justice and Reparation. The Rights of the Victims in the Justice and Peace Process, with a Focus on the Female Victims and Medellín. Report from a Mission in Colombia (co-authored). Swedish Foundation for Human Rights (2007).

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- Historical Investigation of enforced disappearances in compliance with Article 4, Law N. 15.848, Solicited by the Presidency of Uruguay, (co-authored).
- “Human Rights Standards regarding Justice (No Impunity and Proportionality)” within Colombia context, Fundación Social & al., Bogotá, Colombia (2006).
- Studies on Legislative Harmonization in Accordance with the Human Rights Treaties Ratified by Uruguay and Other Legal Entities with Binding Force (Manuscript Evaluator). Office of the United Nations High Commissioner for Human Rights and the United Nations Development Program, Montevideo, Uruguay (2006).
- “The Challenges for the Protection of Women and Girls’ Rights at the Inter-American System” (co-authored) in Gazeta 15, Center for Justice and International Law, Washington, D.C., U.S. (2002).
- “The Moral and Monetary Reparation for the Victims of Gross Violations of Human Rights” Costa Rica (2002).

I have also presented on a wide variety of issues related to international human rights and humanitarian law. Here are some examples:

- “The ratification and implementation of international human rights treaty bodies at the domestic level, challenges and opportunities in the region” in Regional Seminar for Latin American Members of Parliamentary Commissions of Human Rights, organized by the OHCHR Regional Office for South America, School of Government, House of Representatives, Legislative Branch, Uruguay, 2017.
- “Hannah Ardent Legacy” at the Public National Library, Uruguay, 2017.
- “Towards Gender Parity in International Representation”, XIII Regional Conference on Women in Latin America and the Caribbean of the Economic Commission for Latin America and the Caribbean, Uruguay, 2016.
- “An agenda to prevent challenges and how to make connections that articulate Inter-Institutional Efforts”, Course Taught for the Seminar “Genocide and Mass Atrocities prevention policy strategies”, the United Nations Office of Prevention and The Responsibility of Protect, Colombia, 2016.
- “Atrocities and Human Rights Violations in Latin America in the 1970s and 1980s”, Texas Christian University. Discovering Global Citizenship, Texas, U.S., 2016.
- “Promoting Safeguards through Detention Visits”, Washington College of Law, American University, Washington D.C., U.S., 2011.
- “The Relationship of the European Union and the Regional Mechanisms of Human Rights” 12^o Non-Governmental Human Rights Organizations Forum of the European Union, Belgium, 2010.
- “Legal Frameworks in the *decriminalizing* process in Colombia”, organized by a Special Committee of the Sweden Congress, Stockholm Sweden, 2007.
- “Justice, Truth and Reparation on Enforced Disappearances”, Colombia, 2006.
- Final Report of Colombia “Justice and Peace Law” presented at the Special Committee, Congress of Sweden, Stockholm, 2005.

Last but not least, my work representing and hearing several victims of the worst violations of human rights has allowed me to understand the challenges faced by

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victims when providing testimony and the assistance required in order to allow them to testify in a non-traumatic environment.

- How would you describe your professional legal experience that is of relevance to the judicial work of the ICC?

During my professional life, I have litigated cases based on responsibilities established in international human rights law, and in international humanitarian law. I personally led the litigation of the Gelman vs. Uruguay case, which not only resulted in reparation for the victims, but also in the overturning of the amnesty law in my country. That case was the first case that Uruguay faced at the Inter American Court of Human Rights; I represented Juan Gelman and Macarena Gelman. I have litigated several cases, and conducted training on litigation specifically applying principles and jurisprudence of international humanitarian law and international human rights law. In my CV I selected some of the main cases I have litigated under the jurisdiction of the Inter American Commission on Human Rights, and Inter American Court of Human Rights. In addition to the above, I have litigated many cases related to human rights violations committed during the internal armed conflicts that took place in most countries of Latin America. In many cases, the litigation strategy required the crafting of arguments related to human rights violations and their interaction with humanitarian law, including the status of hors de combat, the use of disproportionate armed force, the protection of civilians, the specific protection of women, children and displaced population during armed conflict, and others. I have also represented women who suffered gender and sexual violence during conflict and in times of peace. In that regard, I am very familiar with the international legal framework that protects women and girls from violence. I have represented relatives of children that were victims of forced disappearance, and children who were abducted and given for adoption during dictatorships. During the last five years, I served my country as an Ombudswoman at the National Human Rights Institution which has a broad mandate in terms of human rights violations, with powers to issue resolutions and recommendations as a quasi-judicial body applying principles and standards of international law (specifically international human rights law). I left the NHRI as the Chair person.

Other Expertise and Experience

9. Please describe the aspects of your career, experience or expertise outside your professional competence that you consider especially relevant to the work of an ICC judge.

I had the duty to set up the National Institution of Human Rights in its first mandate and – when I finished my mandate as chairperson of the organization on August 31st 2017 – I left an established Institution, running for the service of the inhabitants of Uruguay. I believe I am a unique candidate because of my extensive practice as defender of victims in national and international court-rooms, because of my vast experience leading complex litigation cases and, finally, because of my quasi-judge role (in terms of issuing resolutions and recommendations in order to improve supranational systems) in my previous capacity as first Ombudswoman at the first term of the National Institution of Human Rights in my country.

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Among other things, and as a consequence of my commitment and contributions in the human rights field, I was selected as a member of the Mandela Dialogues on Memory Work with “Opinion Leaders” and “Change Agents” from eleven countries (South Africa, the Balkan States of Serbia, Croatia, Bosnia and Herzegovina, Germany, Cambodia, Kenya, Canada, Nigeria, Argentina and Uruguay), organized by the Global Leadership Academy (GIZ) and the Nelson Mandela Foundation. As a result, I learned to understand the perspective of victims and of younger generations trying to build democracy in these societies.

I am an appointed member of the Academic Advisory Honorary Council of the International Public School on Policies on Human Rights of Mercosur.

- 10.** Please provide examples of your legal expertise in other relevant areas such as the crimes over which the ICC has jurisdiction, the management of complex criminal and mass crimes cases, or the disclosure of evidence.

In previous answers I have mentioned my experience in positions in which I have been faced with complex crimes and mass crimes cases. Some of these cases relate to human rights violations against numerous victims; others are complex because of the passage of time, the lack of access to evidence or very extensive judicial case files.

Additionally, while I am not a judge, in my role as an Ombudswoman at the NHRI in my country, I had powers to issue resolutions and recommendations.

I am also a trainer and member of the Latin American Network for Genocide and Mass Atrocities Prevention.

- 11.** The ICC is a unique institution, and ICC judges will face a number of unprecedented challenges (including managing a regime of victims’ participation and witness protection in situations of ongoing conflict). Even judges with significant prior experience managing complex criminal trials may not necessarily possess requisite skills and knowledge needed to manage these challenges.

- a) Are you willing to participate in ongoing workplace training aimed at promoting legal innovation and coordination among all judicial chambers in adjudicating complex questions relating to law and policy?

I am willing to be trained as much as necessary, promoting legal innovation to improve the effectiveness and credibility of the ICC, and coordinating with colleagues from different judicial chambers. Any training that favors Chambers and judges also favors the ICC.

- a) Do you consider such training to be important?

I consider training to be important for all judges and judicial staff. It is essential to fulfill in a better way my future duties as an ICC judge, as well as to exchange experiences, lessons learned, and obtain a more in-depth knowledge of other legal systems.

Experience (and perspective) related to gender crimes and crimes of sexual violence

- 12.** Historically, many of the grave abuses suffered by women in situations of armed conflict have been marginalized or overlooked. Please describe any experience you may have in dealing with sexual and/or gender-based crimes and where you have

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applied a gender perspective, i.e. inquired into the ways in which men and women were differently impacted.

I represented women who suffered different forms of violence in times of war and peace. To give just a few examples, I have represented women who have suffered forced sterilization, rape and other forms of sexual violence, torture, and the abduction of their infants for illegal adoptions, domestic violence and other forms of violence.

I am convinced that it is extremely important for all judges to have skills, knowledge and sensitivity regarding sexual and gender-based crimes. Gender perspectives in litigation, as well as the application of a gender-based analysis, are key elements in understanding the impact of these crimes, especially on the lives of women. As I have often witnessed during my work, and as it is widely recognized, women and men suffer a differentiated form of violence due to their gender. Hence, I believe it is important to understand that these crimes are not only grave abuses of human beings, but are also related to stereotypes and social roles and, ultimately, culturally constructed. Sensitivity and knowledge in this field are essential to properly understand the different impact of these crimes on their victims, the post-trauma effects suffered by them and their (possible) latent re-victimization.

Victims-related work

13. Victims have a recognized right to participate in ICC proceedings and to apply for reparations under Article 75 of the Rome Statute. Please describe any experience that you may have relevant to these provisions and that would make you particularly sensitive to/have understanding of the participation of victims in the courtroom.

As a lawyer representing several victims throughout my whole career, I am convinced that litigation of serious crimes must be carried out with the key participation of victims; the only ones who truly experienced the violations, the only ones who have a vivid recollection of their sufferings, the only ones in need of reparations to heal their wounds. Indeed, in litigation before the Inter-American Court of Human Rights, victim reparation is an essential part of the point of litigation. In my wide experience legally representing victims, supporting and focusing on victims has been a key factor, always with appropriate consideration and concerns for the rights of the accused. In my capacity as Deputy Director of CEJIL, not only did we litigate involving victims from an early stage (I had direct contact with them) but also after reparations were granted, publishing guides, accounts and experiences regarding the need to protect victims of serious crimes. Furthermore, as a result of my participation as a member of the Mandela Dialogues on Memory Work with “Opinion Leaders” and “Change Agents”, I have learned to understand the perspective of victims and of younger generations trying to build democracy in these societies.

14. How would you address the need for a balance between victims’ participation with the rights of the accused to due process and a fair and impartial trial? Do you have any relevant experience in dealing with this issue?

I believe the purpose of the ICC goes beyond merely issuing judgments of conviction or acquittal. The Court must both do justice and be seen to do justice, and to do so it must conduct trials that are scrupulously fair and that actually have meaningful impacts

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upon international, national and local communities, and most importantly reach victims. Guarantees of accused persons are established in the Statute, especially in articles 63, 66, 67. I believe that these provisions offer the accused all guarantees foreseen by major human rights treaties and courts (ECHR, IACHR, etc.) – presumption of innocence, right to cross-examine and call witnesses, etc. The Rome Statute is clear on this, and on the fact that the Court needs to function properly, by conducting fair and expeditious trials. The Rome Statute guarantees victim participation, by considering their views and concerns at different stages of the proceedings as determined by the Court, and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Both things are equally important, fair participation of victims and a fair trial for the accused perpetrator. If expeditious trials or victim participation are in conflict with fairness, the Court must assure fairness. In my experience as a lawyer litigating at a national level in Uruguay, and before the Inter American Court of Human Rights, I am very aware of the importance of the equality of arms in order to assure a fair trial. Applying the Rome Statute in terms of victim participation ensures that said participation does not constitute an imbalance in terms of rights of the accused, nor in terms of guarantees of a fair trial.

Human rights and Humanitarian Law experience

15. Do you have any experience working with or within international human rights bodies or courts and/or have you served on the staff or board of directors of human rights or international humanitarian law organizations? If so, please briefly describe this experience.

Yes, from June 2012 to September 2016 I was elected by the Uruguayan Congress as a member of the Board of Directors for the first mandate of the National Institution of Human Rights, and I have chaired that Board since June 2016. From 2006 to 2012, I held the position of Deputy Director at CEJIL. As second in command, the Deputy Director oversees all of CEJIL's areas of work. In my work as Deputy Director at CEJIL I also led processes to strengthen the Inter-American Human Rights System in dialogue with other actors involved (States, Committee on Political and Judicial Affairs, civil society organizations and victims), advocating for more transparency, dialogue, accessibility and efficacy in the management and processes of bodies. As mentioned in my CV, I am also member of numerous boards, where I have had the opportunity to refine my organizational skills, while pursuing each organization's and institution's goals and purposes.

16. Have you ever referred to or applied any specific provisions of international human rights or international humanitarian law treaties within any judicial decision that you may have issued within the scope of your judicial activity or legal experience?

In the prominent cases that I litigated, which are mentioned in my CV as part of my legal expertise, I applied provisions of international human rights or international humanitarian law treaties. In addition, I also applied these provisions in recommendations issued as an ombudswoman in the NHRI.

Implementation of the Rome Statute and International Criminal Law

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17. During the course of your judicial activity, if any, have you ever applied the provisions of the Rome Statute directly or through the equivalent national legislation that incorporates Rome Statute offences and procedure? Have you ever referred to or applied jurisprudence of the ICC, *ad hoc*, or special tribunals? If yes, please describe the context in which you did.

I did on several occasions, during my experience as a lawyer and as an Ombudswoman for Uruguay, mostly in relation with sexual violence, or gender-based crimes as well as in terms of the need for victim participation in proceedings.

Other matters:

18. 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.

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.

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

Every single person deserves the full enjoyment of rights, without distinction. People are equal in dignity and discrimination on any grounds is unacceptable in the defense, promotion and protection of human rights.

- b) Have you ever been found by a governmental, legal or professional body to have discriminated against or harassed an individual on these grounds? If yes, please describe the circumstances.

No.

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 a judge may experience in independently interpreting articles of the Rome Statute on which his or her government has expressed an opinion.

- a) Do you expect to have any difficulties in taking a position independent of, and possibly contrary to, the position of your government?

During my professional life, I have never represented any government nor have I pursued in any way a political career. I have always been a defender of the rights of those who were often neglected, mistreated or underrepresented, and my last mandate was as Chairperson of the National Institution of Human Rights in Uruguay, based on Paris Principles, an independent body from the government. As a lawyer, I have dedicated my life to human rights advocacy and protection, and I am very well aware that this mission requires absolute independence and impartiality. The defense of rights must be based on a legal perspective only. The opinion of Uruguay Government in a particular matter has never influenced my own opinions, and never will. My judgment will always be guided by my duty as a judge, by the rights of defendants and victims, rights that States have committed to respect.

You may send your completed questionnaire by email to judicial-elections@coalitionfortheicc.org;
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- b) Article 41 requires a judge's recusal "in any case in which his or her impartiality might be doubted on any ground." Do you feel you could participate in a judicial decision involving a matter in which your government has an interest, such as on whether an investigation by your government into a matter of which the ICC was seized was genuine?

I would not find it difficult at all to be part of a Court decision that involves a criticism of or a position against the position defended by the Uruguayan government. The Court has all the elements of judgment required to assess whether an investigation is genuine or not, and all of those exercising such an honorable position should abide by that. This is the only way to guarantee the Court's impartiality and, therefore, its credibility. I am independent from the position of the Government of Uruguay, as I have shown on numerous occasions during the past five years in my capacity as an Ombudswoman and Chairwoman of the NIHR. Once elected a judge, I will fulfill my duties based on totally independent judgment criteria. It has been an honor to be proposed as an ICC candidate by my country, and it would also be an honor to be elected by the Assembly of State Parties, but such proposal and election entail carrying out the job according to independent criteria based on legal regulations. My work as judge will never be influenced by my home country's political situation, not even if Uruguay were to be under investigation for some matter. Nevertheless, if I were ever faced with a situation where my impartiality was strongly put to question by the judges under reasonable grounds, I would request to be excused in accordance with Rule 35 of the Rules of Procedure and Evidence.

- 21.** The Rome Statute requires that judges elected to the ICC be available from the commencement of their terms, to serve a non-renewable nine-year term, and possibly to remain in office to complete any trials or appeals. A judge is expected to handle legal matters for at least seven hours per day, five days per week.

- a) Do you expect to be able to serve at the commencement and for the duration of your term, if elected?

Yes. I am very aware of the mission that I would be entrusted, and I feel ready to fulfill the mandate with the best of my ability, efforts and commitment. I have faced difficult and demanding tasks before, and I have always fulfilled them working with devotion and commitment.

Although the Uruguayan law would allow me to run at the same time for ICC and for a second mandate at NIHR, I decided to focus on my candidacy to ICC only, in order to be ready to immediately take on my new responsibilities if I were bestowed the honor of being elected. I am fully committed to embark on this journey because being part of ICC would be a dream come true.

- b) Do you expect to be able to perform the judicial tasks described above on your own or with reasonable accommodation? If no, please describe the circumstances.

Yes, indeed.

- 22.** If there are any other points/issues you wish to bring to the attention of the CICC in this questionnaire, please feel free to address them here.

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**Coalition for the International Criminal Court (CICC)
Questionnaire for ICC Judicial Candidates
December 2017 Elections**



My commitment with the rule of law, with the eradication of impunity, with justice for all without distinction, with a life free from any discrimination or violence, and with respect for human dignity, are the main pillars of my personal and professional commitment. My greatest capital is my commitment, along with my dedication and I wish to put it all at the ICC's service towards the peace, security and well-being of the entire world.

Thank you.

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