

# **amnesty international**

## **International Criminal Court:**

### **Amnesty International's urgent appeal to countries that have ratified the Rome Statute creating the International Criminal Court to address the disturbing lack of nominations of female candidates for judges**

With just over one month until the nomination period for judges to the International Criminal Court closes, Amnesty International is deeply concerned by the lack of female candidates nominated by those states that have ratified the Rome Statute and the widespread refusal of executive authorities to conduct open nomination procedures involving consultation with civil society. This refusal denies women equal opportunity to be considered as judges on the world's most important court. The prospect that a court designed to deal with victims, the majority of whom are women, could have few or no women judges is one that should deeply trouble the international community.

The urgency of the appeal is underscored by the deadline for nominations of 30 November. The election will take place at the UN Headquarters in New York on 3 to 7 February 2003. As of 26 October, 16 candidates have been formally nominated of which only four are women. Even more disturbingly, based on discussions with the majority of states that have ratified, it is estimated that by that deadline approximately 40 states will nominate candidates, of which less than ten will be women.

Such a situation could likely result in a small number of female judges being elected to the 18 positions, which would violate the requirement in the Rome Statute that there must be a "fair representation of female and male judges."

In practice, it could mean that women and children who are victims of sexual violence, including, rape, sexual slavery, enforced prostitution, forced pregnancy and enforced sterilization will be required to give testimony to all male panels of judges. This is unacceptable. Victims of these horrific crimes must not be subject to such practices before the International Criminal Court, which will stand as a pillar of international justice ensuring the dignity of victims.

## **Background**

To be a judge on the International Criminal Court candidates must 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;
- 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.

States in selecting judges must take into consideration “the need to include fair representation of female and male judges” and “the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children.”

In every state there are women candidates who are highly qualified in these fields, many of whom have expertise in violence against women and children.

Many states that have nominated and states that have selected their candidates but not yet officially nominated them have done so in non-transparent processes and have failed to encourage highly qualified women to apply and in many cases to even bring the nomination process to their attention.

Many other states, for political and other reasons are refusing to conduct a nomination process at all. In doing so, they are denying highly qualified candidates, including women, in their countries the opportunity to apply for the position. Given the current lack of nominations of women candidates, these states have a responsibility as parties to the Rome Statute to conduct transparent nomination processes which encourage highly qualified women to apply and should engage civil society to assist in identifying such qualified candidates. It is essential that these states start their processes immediately. Failure to establish and conduct open nomination processes involving consultation with civil society discriminates against women and only reinforces the overwhelmingly male pool of candidates for the world's most important court.

Amnesty International in *International Criminal Court: Checklist to ensure the nomination of the highest qualified judges* (AI Index: IOR 40/023/2002) - <http://web.amnesty.org/ai.nsf/index/ior400232002?OpenDocument> - calls on states to take steps to notify highly qualified women candidates, to encourage them to apply and to ensure fairness in the selection process including:

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- To advertise the nomination process immediately and widely, including in national newspapers and legal publications, noting the requirement in the Rome Statute of “ a fair representation of female and male judges” and “legal expertise on specific issues, including, but not limited to, violence against women or children.” The advertisement should specifically state that female applicants are encouraged to apply;
- To ensure that legal organizations and professional legal bodies are notified about the process and to encourage them to bring it to the attention of their members including potential women applicants;
- To notify civil society, including women’s organizations, to assist in bringing the process to the attention of potential applicants;
- Nominees should be selected by a panel, which includes a fair representation of female and male members;
- The criteria for selection of a nominee should be public and should note the requirement for a “fair representation of female and male judges” and “legal expertise on specific issues, including, but not limited to, violence against women or children”.