

# OPEN SOCIETY JUSTICE INITIATIVE

Assembly of States Parties, 18<sup>th</sup> session

General Debate

The Open Society Justice Initiative welcomes efforts made throughout 2019 to initiate a review process for the International Criminal Court (ICC). The Court has struggled to meet the expectations of many, and there has been growing consensus among key stakeholders, including States Parties and civil society, that fundamental change is needed. Impunity for atrocity crimes around the world continues to be rampant, and a strong and resilient ICC is more needed than ever.

One of the most urgent priorities identified by States for a review of the ICC are improvements to the process for the nomination and election of ICC officials, including ICC judges. Earlier this year, the Justice Initiative published *Raising the Bar*, a study that focuses on how to improve the nomination, assessment, and election of ICC judges. Our report identifies a series of shortcomings on national nomination practices and other aspects of the election process. In particular, we found that States Parties could take better advantage of the Advisory Committee on Nomination of Judges.

The Justice Initiative commends the negotiation process leading to the draft resolution on elections that is before this Assembly for adoption. We applaud, in particular, New Zealand's efforts to facilitate a discussion on a complex and technical matter within a limited timeframe. The Justice Initiative calls on the Assembly to adopt the draft resolution as it appears in the Working Group's report.

The draft resolution text provides guidance to States Parties on the nomination of candidates for judicial elections at the ICC, including by setting the path for a collection of good practices that can support States in reconsidering their current nomination processes.

Importantly, the draft resolution also introduces a number of key amendments to the Advisory Committee's Terms of Reference to ensure that the committee can conduct a more thorough assessment of candidates and prepare a report that can better support States in their voting decisions.

Other critical aspects of the resolution include advancing the judicial calendar to ensure that the committee's report is made available to States well before the elections, and organizing roundtables with candidates to ensure greater transparency on applicants and their qualifications.

The Justice Initiative believes that such measures are of utmost importance and their adoption is critical as the ICC heads into another election cycle in 2020. The importance of the Court's leadership cannot be underestimated. ICC judges are entrusted with ruling on complex cases concerning mass atrocities and establishing jurisprudence that serves as a point of reference for jurisdictions around the world. In addition, the ICC's leadership—including its judges—have a critical role to play in securing the institution's long-term health: managing it well, steering its trajectory wisely, and providing an overall sense of mission and purpose.

No review of the ICC will be successful unless States take their obligations to nominate and elect the most qualified candidates seriously.