

**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: Luz del Carmen Ibañez Carranza
Nationality: Peruvian
Nominating State: Peru
Legal Background (<i>mark as appropriate</i>): List A <input checked="" type="checkbox"/> B <input 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)?

The International Criminal Court is the highest permanent tribunal in the world that has jurisdiction over the most heinous crimes and atrocities. These crimes involve grave violations of human rights, such as crimes against humanity, war crimes and genocide. It is exactly with these types of crimes, that I deal with as prosecutor in Peru.

I am a Senior National Criminal Prosecutor in my country, I have been doing this work for more than 30 years, always prosecuting high profile cases. In the last 14 years, I have been prosecuting in a special manner, terrorism, mass atrocities, crimes against humanity and serious violations of human rights. All of them, international crimes.

Additionally, I am the National Prosecutor Coordinator of the specialized sub system for prosecuting cases of terrorism, torture, enforced disappearances, extrajudicial executions, genocide, rape in context of crimes against humanity, etc. The sub system that consists of 17 prosecution agencies across the country, that I have to supervise and monitor.

Therefore, after all these years of experience with these types of crimes, I believe I am prepared to work as a judge of a Court that has jurisdiction over the same crimes but in an international level.

Furthermore, before working as a trial prosecutor, I was an investigation prosecutor for almost 20 years. In such capacity, I not only dealt with high profile cases of common

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crimes, but also investigated cases of organized crime, bribery and corruption, related to high officials. It was there that I learned how to manage international cooperation and to succeed in the work, despite the immunities of the officials involved.

I understand the aforementioned issues are of the utmost importance to the work of the ICC, and it would be a true privilege for me to contribute with this working experience to it.

Moreover, I have been a university professor for more than 20 years in criminal law and procedural criminal law; subjects that I have managed to master and that have provided me with the necessary academic knowledge that the position for a judge of list A of the ICC would entail.

In addition, I would like to contribute to make the International Criminal Justice more effective, and to work for its globalization, universality, complementarity, and total accessibility of the information of the Court to the domestic jurisdictions. I am sure that working on these issues I will contribute to a positive impact in the prevention of major atrocities and in the fight against impunity, and I have designed a plan of action that focuses on these issues.

Conversely, I would like to note that in the last 30 years, Latin America has gone through several violent periods, which caused that various countries experienced transitional justice. My own country is still in this process, and the crimes I prosecute, most of them, were committed during the non-international armed conflict of Peru.

Therefore, finding legal frames to characterize the crimes was a real challenge at the beginning, but observing on how the countries of my region have dealt with similar issues, not only have helped me to solve my cases but also enriched my vision over the different solutions to the same problem, always taking into account International Law and international jurisprudence, and making prevail human rights.

Undoubtedly, the Latin-American reality and its transitional justice experience, placed me in front of the reality of the victims. In particular, victims of sexual and gender based violence, child soldiers, and victims of enforced disappearances. In the Peruvian case, the authorities (including myself) had to build very creative responses to the complex issues raised by the victims; and it is precisely that experience and those solutions and points of view, the ones that I would like to bring to the Court, in order to enhance the vision of the Court on these matters and the effectiveness of its work.

Furthermore, I would like to be part of the large and worldwide important effort that the ICC represents in the fight against impunity, and in the prevention of atrocities and serious crimes that affect the international community as a whole, and the real protection of Human Rights.

Finally, I believe I have the experience, the skills, the knowledge, the vocation, the moral character, and the passion for justice that a judge of such an important Court should have. I am certain that from the Peruvian experience and my own personal experience, I can contribute to the International Criminal Justice and to the fight against impunity, that has been my commitment along my entire career. I have been serving my country with loyalty for more than 30 years already, and now I would like to put myself at the

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service of the world and the peace, which would be a great honor for myself and my country.

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

The ICC is the first international permanent criminal court. Since the beginning it has faced several challenges, but at its very young age, it has achieved some important goals.

The first of them was to establish itself in the international community as a respectable institution, placing the concept and the need of accountability in the international agenda, taking a great step against impunity, and setting the way towards universality with 124 States parties to the Rome Statute.

Additionally, the Court has managed to start investigations in 10 countries, with 10 preliminary examinations currently ongoing and, 25 cases that so far have led to 5 judgements. This is certainly a major achievement, given that its judicial activity implies to deploy all sorts of resources in different countries across the globe and to deal with conflictive and often not ICC friendly and cooperative scenarios. Thus, moving forward with each investigation and each case, is the result of the success of the Court in overcoming a number of obstacles in its fight against impunity.

Moreover, the judgments, sentences and other decisions of the Court have contributed to build and enrich concepts of International Criminal Law, International Criminal Procedural law, and International Humanitarian Law, that are the foundations for future decisions, and that create predictability in the decisions of the Court.

In relation to the effective prosecution of the core crimes of the Rome Statute, these types of crimes are often committed by very high political and military leaders. In this regard, the Rome Statute in article 27, provides that there are no immunities or special procedural rules that could bar the Court from exercising its jurisdiction over these persons. This provision, although difficult to enforce, has been respected and followed in the case of the president Al Bashir, who is currently investigated by the Court, and there is also a warrant of arrest against him.

Consequently, the Court made its part, by initiating an investigation in a situation where apparently heinous crimes were committed by a head of a State. This is certainly an achievement despite the difficulty of the execution of the warrant of arrest, and the need of the international cooperation for doing so.

Furthermore, the Court has started an important activity and work on reparations of victims in some cases, such as Lubanga, Katanga and Al Mahdi. The judicial activity and the work of the trust fund has benefited thousands of victims. However, this is just the beginning and there is still a lot to do on reparations, which remains as a challenge for the upcoming years.

Regarding the challenges of the Court, one of the most important ones is the international cooperation. The Court does not have an enforcement force, which makes

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very difficult to execute its orders, and to conduct acts of investigation and elicit evidence. Thus, for its functioning, the Court completely relies on the States and their will to cooperate, and the lack of it has caused not only delays but in some occasions the dismissal of the cases.

Another challenge faced by the Court was related to the procedure. The Court intended to gather the civil and common law tradition in its proceedings, creating a hybrid procedure, leaving a broad space for interpretation. It is precisely in this space that several issues were raised, such as the related to accepting alternative accusations, preparation of witness, the moment to decide on the admissibility of the evidence, the moment of the application of Rule 55, etc. Some of the procedural issues have been solved and reached agreement on the conduct of proceedings, but since it is very difficult to always conjugate both legal traditions, this will remain as a challenge in the future.

The victims and witnesses play a key role in the cases of the Court. Nevertheless, the approach that the Court had for them has not always been the most effective. Although it is a great progress that the Court permitted the participation of the victims in the proceedings; there has been some issues regarding the protection and safety of witnesses and victims.

It is well known that several witnesses and their families experienced intimidation and some of them were killed, hence their protection and support is fundamental. However, it has been very difficult to achieve a balance between the right of the accused of confronting the witness, and the need of protection of them, especially because due to the young age of the court there was a lack of experience and precedent. Hopefully, with these past cases, the Court is learning some lessons, and will find the right balance to protect the victims and witnesses without causing any detriment to the accused rights.

One last challenge that I would like to point out, is the one referred to the case management. The past cases have received critiques for the delays in the investigations and trials, and it is necessary to review and improve the criteria for the management of cases in order to make them faster and more effective.

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

The Court has been facing challenges since it was born. Some of them were overcome, and some others have not been solved yet. This is the case of international cooperation, which has not always been fluid with the Court, and which is fundamental to fulfill its mandate.

The ICC is a judicial institution that, as mentioned before, does not have a police force or the enforcement officials required to execute its orders, such as the warrants of arrest or the activities for gathering evidence, both fundamental aspects of the criminal proceedings. Therefore, in order to execute its orders, the Court depends on the States, and according to Article 86 of the Rome Statute, they have the obligation to fully cooperate in the investigation and prosecution of the crimes under the Court's jurisdiction.

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Nevertheless, the States parties have not always been cooperative and have executed the orders, or facilitated the work of the prosecution to conduct the acts of investigation. This has been the case of Al Bashir, who despite having visited States parties, was not arrested; and also the case of Kenyatta where the charges against him were withdrawn, because of the lack of evidence. Consequently, in order to succeed in the fulfillment of its mandate, the Court needs the cooperation of the States, which is one of the major challenges that the Court has faced since its establishment and will keep doing so in the foreseeable future.

Additionally, in the upcoming years, universality will continue to be a major challenge. Although the Court was going in the right way to achieve it, the withdrawals of some States in the last year are a major setback in the way towards the universality of the Rome Statute. Besides, there are still a significant number of States that remain outside of the jurisdiction of the Court, and that have not included the core crimes of the Statute in their national legislation and are therefore not prosecuting them. It is important to highlight, as well that among the States that are not parties to the Rome Statute, three of them have an important impact in the work of the Court, because of the permanent seat they have in the Security Council.

Thus, universality is fundamental to fight against impunity worldwide, not only because of the cases that can be referred to the ICC, but also because when the States become party to the Rome Statute, they have the obligation to adapt their legislation to investigate and prosecute the core crimes of the Statute.

To fight this challenge, it is necessary that the Court reflects in its decisions fairness and effectivity, so it can be perceived by non-signatory countries as an efficient Court, that work to ensure the prevention of major crimes and atrocities in the world. The judges are called to play a main role in this endeavor.

Furthermore, it is important to improve the work of the Court with the victims and witnesses. In order to find creative ways to improve the protective measures and to respect the rights of the accused at the same time, and to strengthen the work on reparations that has already been initiated. Reparations must not only be monetary and individual, but also collective. They should include symbolic apologies, and other kinds of reparations that would effectively benefit a large number of victims.

Finally, the globalization of the action of the Court is a challenge for the future years. The Court needs to expand its activity to other problematic areas of the world. There are a number of regions in the world where mass atrocities are being committed with impunity, and that need the intervention of the Court because the States are not investigating or prosecuting them.

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.

In Peru, prosecutors and judges are both considered as magistrates and their careers are ruled by the same laws. There is a National Council of Magistracy, that is in charge

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of the evaluations for the appointment, ratification of the appointment and promotion of the prosecutors and judges.

For the appointment of supreme judges or supreme prosecutors, the National Council of Magistracy must observe the Peruvian constitution that requires that in order to be a supreme magistrate, the candidate should have been born in Peru and hold the Peruvian citizenship; it also has to be older than 45 years, and the candidate must have been a magistrate at a superior level for 10 years, or a law professor for 15 years, or lawyer for 15 years.

Additionally, for those who follow the judiciary career, it is desirable that they have completed the course of instruction for prospective supreme magistrate at the National Academy for Magistracy.

In my particular case, I meet all the constitutional requirements. I was born in Peru, and also hold the citizenship. I meet the required age, and I have been working as a superior prosecutor for the last 14 years. Moreover, I have been a law professor for more than 21 years, and a lawyer for more than 35 years. Thus, I could present myself to run for a supreme magistrate in any of my three capacities (as a prosecutor, professor or lawyer).

Besides I already followed the course of instruction for prospective supreme magistrates, covering even the desirable requirements.

Furthermore, in the regulations of the National Council of Magistracy, it is required for being appointed as a magistrate, and ratified at any level, to have an ethical personal and professional path, a solid legal education, a career defending democracy and the rule of law, and to be independent when deciding over the cases.

The National Council of Magistracy, has recognized that I have met these specified requirements when I was promoted from investigation (or district) prosecutor to trial (or superior) prosecutor, and the two times that my appointment was ratified with outstanding grades. It is precisely for these reasons that the Council has supported my candidacy.

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.

Yes, I have.

Legal System

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

- a) Which legal system is your country part of?

My country is part of the civil law system. However, a new procedural criminal code, that entered into force in 2006 and that is still in the process of implementation, has several elements of common law, and establishes a new criminal procedure with adversarial elements.



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

In the first place, as I mentioned before the criminal procedure has changed since 2006 with the new procedural criminal code, and nowadays the criminal procedure mixes elements of both traditions, common and civil law. Consequently prosecutors, and practitioners in general, have been trained and work with legal institutions of both systems.

Secondly, as an investigation prosecutor, in the year 2000 I worked as a special prosecutor in the office of the General Prosecutor of my country, leading and conducting the investigation against high officials of my country (included a former president), accused of bribery and corruption. In such capacity, since the investigation involved transnational organized crime, with international money transactions, I had to deal with criminal proceedings from common and civil law. In particular, on issues of extraditions and mutual legal assistance, I closely worked with the systems of the USA, Switzerland, Luxemburg and some Caribbean islands.

In addition, as a prosecutor, I have participated in international seminars, courses, and training, on how to combat transnational organized crime, that included proceedings from common and civil law systems.

Finally, as a university professor in criminal procedure, I teach the institutions of the new criminal procedural code, and I am constantly studying and researching on the different criminal procedures and legal systems.

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?
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.

I learned English as a teenager. I reached the highest level in the English language course at the Peruvian-American language institute. Because of the high performance I had during my English language course, I was awarded with a scholarship from the American Field Service (AFS), to Study in Belgium during 1972-1973. There, in a multicultural environment, I had the first opportunity to practice my English together with other languages

Furthermore, as I mentioned before, in my capacity of investigation prosecutor I worked in English, when I had to deal with transnational organized crime. I had to work together with non-Spanish speaking countries in that language, obtaining successful results.

Moreover, in my capacity as a trial prosecutor, I have to research in English and in French, in the jurisprudence of international tribunals, and other domestic

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jurisdictions to find the right legal frame to prosecute the cases of crimes against humanity, and genocide occurred more than 30 years ago.

I have also received legal training on transnational organized crime in English when I attended an International Senior Seminar in Japan at the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (2000); and I have attended courses in Human Rights, International Humanitarian Law, and International Criminal Law in English at the American University in Washington D.C (2013).

Moreover, in numerous occasions I have been designated as a Peruvian delegate to give statements or reports in English before various international organisms, such as the Inter-American Commission for Human Rights, the Committee on the Elimination of Discrimination against Women, and the Inter-American Committee against Terrorism, Financial Action Task Forces, etc.

Finally, I have also attended and participated as a lecturer in several conferences abroad my country, presenting topics of my expertise in English.

- 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 learned the French language, during the time I lived in Belgium, especially when I lived in the southern part and I attended the Lycée Royale d'Herstal

Moreover, I have worked in French in my capacity of investigation prosecutor. In the investigation of corruption against high officials, I had to work with national authorities of Luxembourg, France and Switzerland, using French as the language of communication.

Additionally, as I mentioned above, in my capacity as a specialized prosecutor, I have to research and read in French the jurisprudence of International Criminal Tribunals, in order to strengthen the legal frame of my cases.

Finally, in order to obtain my doctor degree, I took English and French language courses at the university and passed the required language examinations to earn the degree.

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.

I have a strong educational background and solid experience in criminal law. I hold a Master of Laws degree in Criminal Law, and a Doctor's Degree that I obtained with a research focused on criminal law. Additionally, I have attended a

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number of specialization courses in various aspects of criminal law in national and international institutions, such as the International Senior Seminar in Japan at the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders .

Besides I have publications and three books on various subjects of criminal law, such as the perpetration by means through an organized apparatus of power, modes of liability in terrorism organizations, military crimes and common crimes (human rights violations) committed by military and police officer on duty, etc.

Regarding my experience on criminal law, I have been working in criminal matters for more than 35 years and I have been a prosecutor for 33 years.

First, as an investigation prosecutor, I had to work on cases where different types of crimes were committed, such as murder, robbery, rape, tax fraud, etc.

Afterwards, during my last years as an investigation prosecutor, I was designated as a special prosecutor to the Office of the General Prosecutor of Peru, to investigate the cases of corruption against high officials such as the Former President Fujimori.

Furthermore, the last 14 years I have been a senior trial prosecutor with national jurisdiction, and I have been prosecuting cases of terrorism, crimes against humanity and grave violations of human rights, such as torture, forced disappearance, extra judicial executions, gender and sexual based crimes, etc. Most of these cases have complex and massive evidence and involved a large number of accused persons and victims.

I am also in the academia. I am a university professor at a public university and I teach the subjects of criminal procedure and criminal law. Furthermore, I occasionally give lectures on terrorism, corruption, and crimes against humanity in seminars, conferences, workshops etc.

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

My entire professional career has been focused on criminal law and procedure. I have been a lawyer dedicated to criminal law for more than 35 years. In addition, I have been a prosecutor for more than 30 years, dealing with different types of high profile cases.

The last 14 years, I have been prosecuting cases of terrorism, crimes against humanity, grave violations of human rights such as torture, enforced disappearances, extrajudicial executions etc. Besides, I have been a professor in criminal law and procedure in a public university for more than 20 years.

These experiences have forced me not only to study in depth criminal law and procedure, but also to learn their application in complex cases that I had to investigate and prosecute; coming across with difficult issues that I had to solve

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with criminal law and procedure theories as well as with previous experiences of other domestic jurisdictions and International Tribunals.

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

As I mentioned above I have an extensive career as a Prosecutor, working with all different kinds of criminal cases. I have dealt with high profile cases since the beginning of my career.

I joined the Public Ministry in the year 1982, as an assistant Legal Officer of the Prosecution Agency of Lima - Peru. In the year 1984, I was appointed as a Deputy District (investigation) Prosecutor, and in the year 1988 I was promoted to District (investigation) Prosecutor of Lima. Ever since I had investigated all kinds of crimes, such as murder, rape, robbery, and so forth.

In the year 2000, I was appointed as a Special Prosecutor to the Office of the General Prosecutor of Peru, to conduct mega -investigations on cases of corruption, bribery, and illicit enrichment, cases against high officials (such as the former president Fujimori etc.). In such capacity, I successfully conducted very complex and transnational financial investigations, and worked in extradition and mutual legal assistance with several countries.

In the year 2004, I was appointed as a Senior National Criminal Prosecutor (trial prosecutor). Since then, I have been carrying out a full-time and highly specialized work in two sensitive areas. In one hand, I have been prosecuting cases of terrorism in all of its forms, with emphasis in new forms of terrorism, including kidnapping and training for terrorist activities of children, transnational terrorism, international terrorism and the financing of terrorism.

On the other hand, I have been prosecuting grave violations of human rights, crimes against humanity, including enforced disappearances, massacres, torture, extrajudicial execution, genocide, rape and gender violence, cases of child soldiers, mass sterilizations, and so forth; committed by the terrorist organization "Shining Path" (Sendero Luminoso) and the terrorist organization "Revolutionary Movement Tupac Amaru" (MRTA).

Most of these crimes were committed during the non- international armed conflict that Peru went through between the years 1980 to 2000, and are susceptible to international prosecution, and are covered by the jurisdiction of the International Criminal Court, committed by military leaders of state armed and police forces and high political officials.

The cases were extremely complex, because of the high number of victims and perpetrators, and the difficulty for gathering evidence. There, in order to succeed in the prosecution of these cases, as I did, I had to be very cautious when applying the law, because in the past wrongful law frames and bad legal practices led to impunity



Simultaneously, in January 2005, I was appointed as the first National Coordinator of the specialized national subsystem to prosecute serious violations of human rights, crimes against humanity and terrorism. In that capacity, I was in charge of monitoring, coordinating and supervising the work of 17 special prosecution agencies across the country, in the investigation and trials of hundreds of cases.

Along all these years as a prosecutor, I have had significant and satisfactory experiences. I believed that with the most difficult and dangerous cases I prosecuted as an investigation and trial prosecutor I have not only increased my skills, but I have also enriched my vision of justice, fair trial, the problems that the victims face, and the way of gathering evidence in complex cases.

Additionally, I have learned to maintain objectivity and impartiality, even in difficult circumstances; and to overcome all sorts of obstacles to make justice happen, observing always the national and international law, and making prevail human rights.

b) For **List B** candidates:

- Briefly describe your qualifications as a List B candidate.

I am not a candidate of list B, but I have some qualifications in this area. I have attended a number of specialization courses and diplomas on Human Rights, International Humanitarian Law and International Criminal Law in my country and abroad, such as the Program of Advanced Studies on Human Rights and Humanitarian Law of the American University, Washington College of Law, and the Interdisciplinary Course on Human Rights of the Inter- American Institute of Human Rights, in the Inter-American Court of Human Rights.

Additionally, along my experience as a trial prosecutor I have applied concepts of Human Rights, International Humanitarian Law and International Criminal Law to the cases of terrorism, grave violations of Human Rights and crimes against humanity that I prosecute.

Furthermore, I have prepared reports and I have given statements related to these matters whenever I participated as member of the Peruvian delegation before various international organisms of Human Rights.

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

I have a wide and deep understanding of International Humanitarian Law and Human Rights Law. I studied these areas of law, and I have been applying concepts and standards of them, in the cases of terrorism and grave human rights violations I prosecute.

Additionally, in a number of occasions, I have given lectures and conferences in specific subjects of Human Rights, and the challenges of prosecuting mass human rights violations.



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

The last 14 years I have worked prosecuting the same type of crimes over the ones that the ICC has jurisdiction. I prosecute crimes against humanity, such as torture, enforced disappearance, extrajudicial executions, etc.; as well as crimes committed during the non-international armed conflict and genocide.

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.

In my capacity as a coordinator of the specialized system to prosecute serious violations of human rights, crimes against humanity and terrorism, I am in charge of monitoring hundreds of cases of the 17 prosecution agencies across the country. This, allowed me to develop and strengthen my skills in management, organization and supervision of personnel and resources, which are fundamental to achieve the goals of any judicial institution.

Moreover, in such capacity, I had also to work together with other governmental and civil society institutions, such as the Ministry of Justice of Peru and the International Committee of the Red Cross, in order to achieve justice and provide reparations to the victims. This, has taught me formulas to cooperate among different institutions in order to serve the purposes of justice, which is also important for the work of the Court, because it needs not only the cooperation of the states, but also the cooperation of national institutions and international organizations to succeed in the fulfillment of its mandate.

Furthermore, as I have prosecuted (in investigation and trial) very mediatic cases, I have learned to handle the media, and instead of confronting them I have found the way to make them an ally in the fight against impunity. Since the international community and the media are continuously observing the activity of Court, media management is an important skill for the work of the ICC.

In addition, I have developed people skills, that have been useful not only to keep the staff motivated, but also to approach the victims, and to establish a bond of trust, that made them feel comfortable when giving their testimonies in the court room, and which allowed the Chamber to obtain more accurate, detailed and non-contradictory information.

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.

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In the last 14 years, I have prosecuted very complex and massive cases of terrorism, crimes against humanity, and grave violations of human rights, such as enforced disappearances, tortures, extrajudicial executions, recruitment of children, sexual and gender crimes etc. All of them occurred many years ago, which made eliciting evidence very difficult, in addition to its complexity. Besides, most of the cases I have prosecuted, are against a large number of accused persons, and for several crimes that had as a result numerous victims.

I prosecute cases of crimes committed during the non-international armed conflict that Peru went through, which entails prosecuting the perpetrators from both sides. In one side the members of the terrorist groups, and in the other side, the members of the state armed and police forces.

One case from the side of the state armed forces, and where I recently achieved the conviction of the accused persons, is the one named "Los Cabitos", which is an emblematic case included in the Final Report of the Truth and Reconciliation Commission of Peru.

This case was about massive crimes of torture, kidnapping, enforced disappearance, inhuman treatment, and extrajudicial executions occurred in the context of crimes against humanity, occurred in the year 1983, in a military headquarters known as "Cabitos", and in intelligence building known as "the pink house". Both buildings were located in the andenean city of Ayacucho.

These crimes had as a result around 104 victims that were represented in the trial. The case had 10 accused persons, all high-level military and political officials; charged with 529 criminal counts.

The evidence in the case was very voluminous and complex, because of the numerous classified documents to be disclosed, the difficult search and identification of human remains (many of the victims were burned in a big oven located in the back yard of the headquarters) and also the participation of a large number of witnesses, including protected ones.

From the side of the terrorist group, I have worked prosecuting the highest leader and the leadership group of the terrorist organization "Shining Path" (Sendero Luminoso) in the mega trial that lasted from 2005 to 2006.

Shining Path, is the terrorist group responsible for the murder and disappearance of more than 40 000 victims in Peru.

In the case I prosecuted, there were 24 accused persons of the charges of perpetrating 72 grave terrorist attacks, and one mass murder of a whole andenean town (Luccanamarca). They were accused of having created, organized, and executed the aforementioned crimes through an organized apparatus of power (the terrorist organization).

The case had voluminous and complex evidence, consisting in documents from the terrorist organization itself, videos, photos, audios, hand writing letters, flags, maps, the

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terrorist attack statistics. Besides there were a large number of victims and witnesses that testified in court, that included several protected witnesses.

All of the accused persons were convicted, and receive high sentences, except for four of the highest leaders that were sentenced to life imprisonment. Nowadays, it is considered a land mark case for the jurisprudence and history of Peru.

Furthermore, I have other cases with similar characteristics, such as the one named "El Fronton", that is about a mass murder and extrajudicial execution of 123 victims occurred in a prison called "El Fronton" in 1986.

In this case there are 33 accused persons, all members of the navy force, and the evidence has scientific and forensic issues, that make it very complex and voluminous. It has recently started the trial phase.

Likewise, I am currently prosecuting the case named "Soras", that is about the massive murder of the whole town (Soras) by the terrorist organizations Shining Path in 1983.

The charges are acts of terrorism and murder as a crime against humanity, against 130 victims. There are 18 accused persons, including the leadership group of Shining path, and the direct perpetrators. The evidence is very voluminous and complex because of the scientific and forensic issues on identification and the means and methods of murder.

Conversely, in my capacity as a national coordinator of the specialized subsystem, I have to supervise, monitor and manage the work in investigation and trial on these types of cases of 17 prosecution agencies across the country.

During my first term as a national coordinator (2005- 2007) I promoted and oversaw more than 560 investigations of serious human rights violations, perpetrated during the non-international armed conflict in Peru (1980-2000). Additionally, I monitored the trials that led to the conviction and high and life sentences of the leader and the leadership group of the terrorist organization "Revolutionary Movement Tupac Amaru" (MRTA). Besides, in such capacity, I promoted the search and identification of missing persons that were victims of enforced disappearances,

In my second and current term (2015 -) I continue to promote, supervise and monitor investigations and trials in human rights violations and crimes against humanity, such as extrajudicial executions and disappearances, that even involved one former president.

Moreover, I encourage, support and supervise the work of, search and exhumation of many mass graves, burial sites and tombs; and also the identification of the victims through a number of specialized forensic methods; and the restitution with dignity of these human remains to the relatives of the victims.

Furthermore, in the last years I have been promoting and participating in the rescue of children that were abducted by the terrorist organization shining path, to use them in the hostilities (as child soldiers); as well as in the rescue of adults also abducted by this terrorist organization, who were living in enslavement.

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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?
Yes of course.

a) Do you consider such training to be important?
Yes, I firmly believe that it is important to attend to these trainings to debate, coordinate and reach agreements and set a unique practice among the Chambers.

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

As I mentioned above, most of the cases I have prosecuted in the last 14 years were committed in the armed conflict that Peru went through, and in order to hold the accused persons accountable for sexual crimes, I had to apply a gender perspective.

For instance, in the case "Los Cabitos", that I explained in question number 10, some female victims that testified in Court, attended first as witnesses of crimes occurred against other people or against themselves, but that did not include sexual crimes, while they were kidnapped in the military headquarters. However, they ended up as victims of sexual crimes, because as hostages of the headquarters they suffered sexual violence of all sorts, that at the beginning the victims themselves did not recognize as such. Thus, the prosecution had to, first make the victims acknowledge the abuses, and then make them visible for the Chambers as sexual crimes committed in a context of crimes against humanity, otherwise they would have prescribed and the proof would have been impossible.

Another case where I had to apply gender perspective was one of forced sterilizations occurred from 1996- 2000. Thousands of women were sterilized without consentment in various regions of the highlands and the pacific coast of Peru. However, after all these years the case remains in the investigation phase, as the investigation prosecutor alleges the prescription of the crimes as they were framed as the crime of grievous bodily harm.

When the case was submitted to my office, in order to provide a legal opinion on the prescription, I considered the consequences the victims suffered a cause of the sterilizations, that went beyond not being able to have children. They suffered the stigma and shame of their communities. Additionally, I took into account the widespread and systematic practice of the State, and I framed the forced sterilizations as crimes against

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humanity, and considered that the crimes had not prescribed and the investigations were ready to move to the trial phase.

Additionally, in all the cases that I prosecute, I put effort on making the sexual crimes visible, because usually the judiciary does not pay attention to these types of crimes occurred in the non-international armed conflict, and perpetrated either by the members of the terrorist groups or the members of state armed or police forces.

Besides, in my capacity as a National Coordinator I promote among the 17 Prosecution agencies, the application of gender perspective in the investigation and trials that they conduct.

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.

In Peru, it has always been permitted the victims participation as a civil party. Thus, in all the cases of crimes against humanity, terrorism and human rights violations there have always been victims' participation, and I have closely worked with their representatives to build bridges of communication, and to facilitate the examination and the cross examination.

In the cases I prosecute, I have had to conduct examinations in chief of victims that have been severely affected by the crimes committed against them. In many occasion, I have had to ask to the court for a translator, since the victims did not speak Spanish, and they only spoke their native language (quechua).

Additionally, since the victims suffered stress and trauma as a consequence of the crimes committed against them, I realized that they needed psychological assistance before the testimony and in the court room, and I asked the chamber to allow it. Also I sought for support on giving this assistance in various public and private institutions.

Furthermore, from this experience, I noticed that the victims of sexual crimes, torture and children and adults that were abducted by the armed groups, are the ones who are especially sensitive and need the most this psychological assistance.

Moreover, in the Peruvian criminal procedure, the prosecutor is the one in charge to ask for the reparations, that include restitution, compensation and rehabilitation of the victims. Therefore, in the cases I prosecute, I have to ask for them on behalf of the victims.

Besides, in my capacity as a coordinator of the specialized system I have carried out activities that implied reparations, such as massive ceremonies of restitution of human remains of the victims of extrajudicial executions to their relatives, after they were analyzed by the forensics. In some occasions, I managed to coordinate with the Ministry of Justice, that a representative, or the Minister him or herself attends the ceremonies and give public apologies to the victims.

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All these experiences have made me more aware and sensitive to the participation in Court of the victims, the reparations, and the place they deserve in the justice process.

- 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 that the victims participation is one of the most important issues in the proceedings of the ICC. This participation is well regulated in article 68 of the Rome Statute and has specific purposes.

Furthermore, I think the victims' participation is necessary not only to observe the victims' rights, but mainly to respect the rights of the accused persons. In that sense, article 67 (e) of the Rome Statute provides that the accused has the right to examine the witnesses (including victims) against him, which I believe guarantees the due process and the right to fair trial of the accused person.

Finally, I have experience dealing with this issue, and I will address this problem by ensuring that the participation does not make lengthier the proceedings. The delays of process are due to a several circumstances, not only to the victims' participation. The balance between the victims' participation and the rights of the accused, should be regulated by the judges on a case by case basis.

Human rights and Humanitarian Law experience have prepared

- 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.

I have experience working with international human rights bodies and international humanitarian law organizations. In my capacity as a national prosecutor and coordinator of the specialized system of crimes of terrorism, crimes against humanity and human rights, I have worked in cooperation with the International Committee of the Red Cross for several issues, such as the restitution of human remains to the victims

In addition, in a number of occasions I have prepared Reports for UN Rapporteurs on Enforced disappearances and Torture, and I also work closely with the Interamerican System for Human Rights, making reports for the Inter-American Commission of Human Rights, and enforcing judgements of the Interamerican Court of Human Rights in my area.

Conversely, I have participated as a Peruvian delegate, giving statements, and answering questions on various human rights issues, before international organisms such as the Committee on the Elimination of Discrimination against Women (CEDAW - UN), and the Inter-American Commission for Human Rights.

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- 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?

Yes, in all the cases I have prosecuted in the last 14 years, I had to apply provisions of international treaties. Since the cases occurred during the non-international armed conflict, I have referred in most of my cases to the Geneva Conventions, specifically the common article 3 and the Protocol Additional.

Besides, since the cases involved grave human rights violations I continuously refer and base my arguments on Human Rights treaties such as the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel Inhuman Degrading Treatment or Punishment, the International Convention for the Protection of All Persons From Enforced Disappearance, and the Convention on the non-Applicability of Statutory Limitation to War Crimes and Crimes Against Humanity.

Additionally, I also refer to the regional treaties on human rights, such as the American Convention on Human Rights, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, and the Inter-American Convention on Forced Disappearance.

Finally I often refer to soft law in my cases, such as the principles of Nuremberg, the UN principles to investigate and prosecute Extrajudicial executions, and so forth.

Implementation of the Rome Statute and International Criminal Law

- 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.

Yes, in my daily activity as Prosecutor I frequently apply the provisions of the Rome Statute, and I try to integrate both, the provisions of the Statute and the domestic criminal law. I usually resort to this legal integration for defining the crimes, and the modes of liability.

In addition, I have continuously referred to the ICC and the Ad-hoc Tribunals jurisprudence and reasonings. For Instance, in the case "Los Cabitos" that I mentioned before, I referred to the jurisprudence of the ICTY for the definition and the comprehension of the elements of the crimes against humanity.

Moreover, in the same case, I referred to the ICC jurisprudence on the interpretation of the modes of liability of article 25 (3)(a) of the Rome Statute in the case of Katanga, and of command responsibility in the case of Bemba.

I have done the same in other important cases, such as "El Fronton" that I mentioned above. There, I had to refer and apply the provisions of article 7 of the Rome Statute, and the regulations of the Elements of Crimes (7, 1, a) together with the domestic regulations for mass killing, in order to accuse of murder as crime against Humanity.

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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, I have never resigned from such a position or been disciplined or censured.

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?
No.

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, never.

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?

No, I would not have difficulties in taking a position independent or contrary to the one of my government. Along my career as a prosecutor I have dealt with cases that involved high officials of the government and even former presidents, and I have always remained objective and independent in my work, in despite of any attempt of political interference

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?

Yes, I am completely certain I can remain impartial in a judicial decision involving a matter in which my government has an interest. I have always remained impartial along my career even when my government has had an interest.

However, I am aware that the concept of impartiality implies also an appearance of impartiality, and if under any circumstance, although I remain impartial, the fact that I participate in a decision that affects my country, undermines in any extent that



appearance of impartiality, I would recuse myself for the sake of the legitimacy of the decision.

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, absolutely, I could immediately retire as a superior prosecutor in my country.

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, I believe I will be able to perform the judicial tasks under the aforementioned conditions. Besides, due to the complexity of my cases I am used to work long hours and during holidays if necessary.

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.

no

Thank you.