



Questionnaire de l'ABCPI pour les candidats au poste de juge de la CPI en 2026

ICCBA questionnaire for ICC 2026 judgeship candidates

L'Association du Barreau près la Cour pénale internationale (ABCPI) est l'organe représentatif indépendant des conseils exerçant devant la Cour pénale internationale (CPI), chargé de promouvoir les droits de la défense, la représentation des victimes, l'égalité des armes et la bonne administration de la justice. Par le biais de ce questionnaire, l'ABCPI vise à aider les États parties et les parties prenantes à évaluer les candidats aux fonctions judiciaires de la Cour. Nous vous invitons à compléter et à retourner ce questionnaire au Directeur exécutif de l'ABCPI à l'adresse dkennedy@iccba-abcpi.org au plus tard le **17 juillet 2026**, et vous remercions par avance du temps que vous y consacrerez.

The International Criminal Court Bar Association (ICCBA) is the independent representative body of counsel practicing before the International Criminal Court (ICC), mandated to promote the rights of the defence, victims' representation, equality of arms, and the effective administration of justice. Through this questionnaire, the ICCBA seeks to assist States Parties and stakeholders in assessing candidates for judicial office at the Court. We kindly invite you to complete and return this questionnaire to the ICCBA Executive Director at dkennedy@iccba-abcpi.org by **17 July 2026**, and we thank you in advance for taking the time to provide your responses.

Questions d'ordre général / General questions

1. Pourquoi souhaitez-vous être élu(e) juge à la Cour pénale internationale ?

What motivates you to seek election as a judge of the International Criminal Court (ICC)?

My professional life has been dedicated to advancing justice, accountability, and the protection of human dignity through service in the judiciary, public prosecution, legislative reform, international organizations, and

humanitarian institutions. Throughout these roles, I have worked extensively on issues that lie at the heart of the ICC's mandate, including criminal accountability, sexual and gender-based violence, victims' rights, and institutional responses to serious human rights violations.

I seek election to the Court because I believe that the ICC remains an indispensable institution in the fight against impunity. My experience has shown me that justice is essential not only for individual victims but also for sustainable peace and the prevention of future atrocities. I would welcome the opportunity to contribute to the Court's mission by bringing my judicial experience, commitment to fairness, and expertise in victim-centred justice to its work.

2. Qu'est-ce qui vous distingue en tant que candidat(e) ?

What sets you apart as a candidate?

I offer a unique combination of experience across all dimensions of justice. I have served as a Criminal Prosecutor, legislator, constitutional reform expert, humanitarian protection officer, regional human rights specialist, and for more than fifteen years as a Judge of the Supreme Court of Kenya.

My career has combined practical criminal litigation experience with judicial decision-making at the highest level. In addition, I have devoted much of my professional life to strengthening legal responses to sexual and gender-based violence, including sponsoring Kenya's Sexual Offences Act, one of the most significant criminal justice reforms in the country's history. I have also worked extensively on refugee protection, conflict-related violence, constitutional reform, and victim protection.

These experiences have given me both the legal expertise and the broader understanding of the human impact of international crimes that are essential for service on the ICC.

3. De quelle manière votre État vous a-t-il sélectionné(e) en tant que candidat(e) au poste de juge à la CPI ?

What was the process employed by your State to select you as a candidate for ICC Judge?

The selection process in Kenya follows a set procedure under Article 166 of the Constitution of Kenya for appointments to the highest judicial offices. Following notification of the election of judges to the International Criminal Court by the Attorney General, the Chief Justice then invited expressions of interest from all eligible judges. Three judges submitted their applications, which were forwarded by the Chief Justice to the Judicial Service Commission. The Judicial Service Commission, as per its constitutional mandate under Article 172 of the Constitution of Kenya, evaluated the candidates and found all three of them suitable and therefore forwarded the three names to the President of the Republic of Kenya. The President then exercised his constitutional mandate under Article 172 (1)(a) of the Constitution of Kenya and nominated me as Kenya's candidate for election to the International Criminal Court in accordance with the law.

Questions sur vos qualifications en tant que juge / Questions on qualifications

- 4. Avez-vous déjà été juge auparavant, et si oui, veuillez décrire votre expérience, en particulier en ce qui concerne la procédure préliminaire au procès, le procès et/ou l'appel des jugements.**

Have you ever been a judge before, and if yes, please describe your experience, in particular as to pre-trial proceedings, trial proceedings, and/or appeals.

Yes. I have served as a Judge of the Supreme Court of Kenya since 2011. The Supreme Court is the apex court of the Republic of Kenya and exercises final appellate jurisdiction in both criminal and civil matters.

In this capacity, I have participated in the determination of complex appeals including matters involving the principles of criminal law, constitutional rights, evidentiary questions, legality of sentences including mandatory sentences, fair trial rights and victim participation in criminal trials. The Court routinely reviews substantial records from lower courts and addresses questions involving procedural fairness, interpretation of law, and the proper administration of justice.

Although the Supreme Court primarily exercises appellate jurisdiction, my earlier experience as a Criminal Prosecutor provided extensive exposure to trial processes, witness testimony, evidentiary assessment, and procedural safeguards that arise at first instance proceedings.

- 5. Si vous avez été juge, pouvez-vous donner un exemple relatant un évènement ou un moment particulier qui a mis à l'épreuve votre tempérament judiciaire ?**

If you have been a judge, can you describe a time that tested your judicial temperament?

Serving on a final appellate court inevitably involves matters that generate significant public interest and strong sentiments. Election-related disputes in particular the presidential election petition following the 2013, 2017 and 2022 General Elections, often attract intense public attention and political scrutiny.

In such cases, judicial temperament requires maintaining composure, patience, impartiality, and respect for all parties while focusing exclusively on the law and evidence before the Court. My experience has reinforced the importance of remaining measured and independent regardless of external pressure and ensuring that every party is heard fairly and respectfully.

- 6. Pour les candidats de la liste « A », veuillez décrire votre expérience en matière de droit pénal international.**

Pour les candidats de la liste « B », veuillez décrire votre expérience en matière de droit pénal et de procédure pénale.

For list “A” candidates, please describe your experience in international criminal law.

For list “B” candidates, please describe your experience in criminal law and procedure.

As a List “A” candidate, my legal career spans more than thirty-five years and my experience in international criminal law comes from several complementary roles. I have prosecuted and adjudicated complex criminal, constitutional, and public law disputes and authored numerous judgments and opinions in the field of criminal justice.

From 2011 to date, I have served as a Judge of the Supreme Court of Kenya, the country's apex court. I have participated in determining criminal appeals involving complex factual and legal issues, including fair trial rights, admissibility and evaluation of evidence, constitutional protections for accused persons, legality of convictions and sentences, and victim participation in criminal proceedings. This work has also included determinations as to the mandatory nature of the death penalty; the definition of confessions and admissibility of admissions, as well as the guidelines on situations where the propriety of the acquisition of the evidence is in issue; extradition of suspects; the adoption of foreign judgments; the rights of children in conflict with the law; the application of the battered woman syndrome; search and seizure protocols; and differentiation of minimum and mandatory sentences.

From 1989 to 1993, I served as Criminal Prosecutor under the Director of Public Prosecutions, where I prosecuted criminal cases before Magistrates' Courts, the High Court, and the Court of Appeal of Kenya.

Between 2003-2007, I served as a Member of Parliament in Kenya, where I was the principal architect of a primary criminal law addressing crimes of a sexual nature – the Sexual Offences Act, 2006 – and I was the mover of the motion adopted to ratify the International Conference on Great Lakes Region Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children, 2004. I was also the mover of the key human rights amendments to the Refugee Act, 2004.

At the same time, I served as a member of the Pan-African Parliament, where I moved and included for debate a motion on reparations for colonial harms.

From 2009-2010, I served as member of the Committee of Experts that drafted the Kenyan Constitution, which was adopted by public referendum in 2010. This Constitution includes a progressive section on substantive fair trial rights, including rights of the accused and rights of victims. This team of experts, of which I was a member, was further instrumental in ensuring that the Constitution incorporates provisions domesticating international law under Article 2(4) of the Constitution. Additionally, we ensured to incorporate Article 143, which prohibits immunity for the Head of State in the event of the commission of a crime that may be prosecuted under any treaty to which

Kenya is a party, such as the Rome Statute. Through my work with civil society, I provided expert commentary on the proposed Truth, Justice and Reconciliation Commission Bill until its enactment.

In 2000-2002, I worked as a Political Analyst at the African Union's Conflict Management Centre in the Human Rights Division, where I played a key role in the drafting of the Maputo Protocol on the rights of Women in Africa and the African Union Convention Against Corruption.

From 1995 to 1997, I served as a National Protection Officer with UNHCR conducting eligibility interviews and providing protection assessments for asylum seekers, in refugee camps and headquarters.

From 2000 to date, I have been the Chair of the Board of Trustees of the Gender Violence Recovery Center of the Nairobi Women's Hospital, which provides free medical treatment to victims of sexual and gender-based violence.

7. Avez-vous de l'expérience en salle d'audience/en matière de plaidoirie et interrogatoire de témoins, si oui, veuillez décrire.

Do you have experience as a courtroom advocate, if yes, please describe?

Yes. As a Criminal Prosecutor under the Director of Public Prosecutions between 1989 and 1993, I conducted criminal prosecutions before Magistrates' Courts, the High Court, and the Court of Appeal.

My responsibilities included preparing and presenting cases, examining and cross-examining witnesses, presenting evidence, drafting legal submissions, and arguing appeals. My caseload included serious criminal offences, including capital cases such as murder and robbery with violence.

I also engaged in public interest litigation with the Federation of Women Lawyers (FIDA), advocating for women's rights and increased representation of women in Parliament. Additionally, I participated in public interest litigation with the Public Law Institute (PLI), advancing consumer rights through litigation focused on the affordability and accessibility of electricity.

8. Avez-vous une formation ou une expérience de travail avec des victimes de violence sexuelle et sexiste ou des enfants victimes ?

Do you have any training or experience working with victims of sexual and gender-based violence or victims that are children?

Yes, extensively.

Throughout my career, I have worked on legal, institutional, and policy responses to sexual and gender-based violence.

I served as a Member of Parliament in Kenya. I was the principal architect of the primary criminal law addressing crimes of a sexual nature, the Sexual Offences Act, 2006, and I was the mover of the motion adopted to ratify the International Conference on Great Lakes Region Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children, 2004. I was also the mover of the key human rights amendments to the Refugee Act, 2004. Subsequently, I developed and participated in training programmes for judges, prosecutors, investigators, and other justice-sector actors concerning sexual violence cases.

From 2001 to date, I am the Chair of the Board of Trustees of the Gender Violence Recovery Center (GVRC) of the Nairobi Women's Hospital, which provides free medical treatment to victims of sexual and gender based violence. During the post-election violence (PEV) of 2007-8 in Kenya, this Center rolled out satellite clinics in the hotspots, where we provided medical, psychosocial treatment and counselling to victims and survivors. Many of the victims provided evidence before the Waki Commission. In February, 2008, I testified on behalf of victims before a special hearing in regard to the PEV before the United States House of Representatives Committee on Foreign Relations, Sub-Committee on Africa.

Currently, at the GVRC, we are undertaking preventative work in communities and survivor-focused programs integrated with the National Police Service and Policare hubs.

9. Avez-vous une formation ou une expérience en matière d'interrogatoire de suspects ou de victimes présumées ?

Do you have any training or experience interviewing suspects or alleged victims?

Yes.

At UNHCR as a Protection Officer, I conducted eligibility interviews for refugee status determination following strict guidelines under international humanitarian law and international criminal law including the Geneva Convention. The eligibility process included interviews with asylum seekers and determining who met the criteria for a genuine claim. If there were serious reasons to believe that a person has committed a war crime, a crime against humanity or genocide, then that person was excluded from protection as a refugee. As a Protection Officer in Kenya at a time when Kenya hosted the largest number of displaced populations and asylum seekers in the thousands from Ethiopia, Somalia, Sudan, Rwanda and the Democratic Republic of Congo (DRC), I had to conduct interviews to determine whether a person was an ordinary refugee, a perpetrator of a serious crime or a war criminal. When I identified such persons, I would flag them for political prosecution, and they would be placed in a separate camp from genuine refugees

Other than my work at the UNHCR, as a Criminal Prosecutor, I routinely reviewed witness statements, evaluated evidence, and assessed investigative files. My work required close engagement with complainants, victims, witnesses, investigators, and accused persons within the framework of criminal proceedings.

10. Avez-vous de l'expérience dans la rédaction de longs jugements ou de décisions judiciaires ?

Do you have any experience in drafting lengthy judgments or judicial/legal decisions?

Yes.

For more than fifteen years, I have participated in the drafting and delivery of judgments and opinions as a Judge of the Supreme Court of Kenya. These

decisions frequently involve extensive factual records, complex legal issues, constitutional interpretation, and detailed legal reasoning.

I have authored both majority and separate opinions on matters involving criminal law, constitutional law, elections, human rights, and governance. The length of a decision depends on the subject matter.

11. Avez-vous déjà travaillé avec d'autres juges dans une formation collégiale ?

Do you have any experience working with fellow judges in a panel?

Yes.

I work at the Supreme Court of Kenya, where the work is inherently collegial as it is a seven (7) member bench with a minimum quorum of five (5). Throughout my tenure, I have worked closely with fellow judges in hearing cases, deliberating on evidence and legal issues, drafting judgments, and reaching collective decisions while respecting differing judicial views.

This experience has strengthened my ability to work collaboratively within a multinational judicial institution such as the ICC.

12. Avez-vous de l'expérience dans l'application du Statut de Rome ou de ses codifications nationales ?

Do you have any experience applying the Rome Statute or domestic codifications of it?

Yes.

As a member of Kenya's Committee of Experts on Constitutional Review, I contributed to drafting reforms that reinforced the domestic application of international legal obligations, including those arising from the Rome Statute. In particular, we were instrumental in ensuring that the Constitution incorporates provisions domesticating international law under Article 2(4). It is pursuant to these efforts that Kenya enacted the International Crimes Act, 2008. Additionally, we also ensured to incorporate Article 143 of the Constitution, which prohibits immunity for the Head of State in the event of the commission of a crime that may be prosecuted under any treaty to which Kenya is a party, such as the Rome Statute. This position was confirmed by a

full bench of the Supreme Court of Kenya in the case of ***Attorney General & 2 others v Ndii & 79 others; Dixon & 7 others*** (Amicus Curiae) (Petition 12, 11 & 13 of 2021 (Consolidated)) [2022] KESC 8 (KLR).

Through my work with civil society, I provided expert commentary on the proposed Truth, Justice and Reconciliation Commission Bill until its enactment.

As a Supreme Court Judge, I have operated within a constitutional framework that recognizes ratified treaties as part of Kenyan law and have applied it in several decisions. For instance in the Supreme Court of Kenya's decision in ***Joseph Lendrix Waswa v Republic*** [2020] KESC 23 (KLR) in its comparative analysis relied on sections of the Rome Statute and affirmed that victim participation is a constitutionally and statutorily protected component of criminal proceedings, but emphasised that it must be carefully regulated so as not to "convert the victim into a second prosecutor" or compromise the accused's right to a fair trial. The Court underscored that while victims have a legitimate interest in the outcome of proceedings, their participation must remain within defined procedural limits that preserve the adversarial structure of the trial and the primacy of the prosecution and defence.

I have therefore engaged with international law and principles relevant to the implementation of international criminal justice obligations.

13.Comment décririez-vous votre niveau d'anglais et de français ?

How would you describe your level of English and French?

English: Advanced written and spoken proficiency.

French: Basic written and spoken proficiency, having undertaken French language study as part of my early education as a compulsory subject in school, with continuing efforts to improve my working knowledge of the language.

14.Comment décririez-vous votre niveau de compétence informatique et technologique ?

How would you describe your level of information-technology competence?

I am fully comfortable using modern judicial technologies, including electronic filing systems, digital case management platforms, virtual hearings, legal research databases, document management systems, and electronic evidence review tools. The Supreme Court of Kenya has developed into a digital and technology-enabled court, with e-filing systems, digital case management, and the Court routinely conducts virtual hearings and case management conferences, enhancing efficiency and reducing delay, particularly in interlocutory and directions matters. It has also adopted digital tools such as electronic repositories and digital “flipbooks” to improve access to judgments and legal materials. In support of proceedings, the Judiciary is working on utilizing AI in transcription and interpretation services to ensure accurate and timely production of minutes and typed proceedings. In addition, the Judiciary has developed ICT and emerging AI governance policies to guide the responsible use of technology.

My leadership responsibilities within the Judiciary have also required adaptation to technology-driven reforms aimed at improving judicial efficiency and access to justice. For instance, I sit as the Chairperson of the Employee Protection and Inclusion Unit (EPIC), which employs a digital system of confidential and safe reporting for staff reporting on sexual harassment.

15. Quels risques l'arrivée de l'intelligence artificielle causent-ils aux procédures judiciaires ? Comment feriez-vous en sorte de protéger l'intégrité de la procédure à cet égard ?

What risks are posed to judicial proceedings by the onset of Artificial Intelligence? How would you safeguard the integrity of proceedings in this respect?

Artificial Intelligence presents significant opportunities but also substantial risks. These include the creation of fabricated evidence, deepfakes, misinformation, manipulation of witness testimony, cybersecurity threats, and the potential use of unreliable AI-generated legal analysis. In the court, when making a decision, one must be cautious of AI-manufactured case law

and authorities, brought to Judges either through submissions of parties and chamber research.

Judicial institutions must develop clear protocols governing the authentication of digital evidence, expert verification of AI-generated content, disclosure requirements, and judicial education regarding emerging technologies. For example, the Judiciary of Kenya has developed ICT and emerging AI governance policies to guide the responsible use of technology. The fundamental safeguards remain rigorous evidentiary standards, transparency, procedural fairness, and careful judicial scrutiny of all evidence presented before the Court.

16. Avez-vous déjà démissionné en raison d'un manquement ou fait l'objet de mesures disciplinaires ?

Have you ever resigned due to a shortcoming or faced disciplinary measures?

No.

17. Vous êtes-vous déjà récusé d'une affaire ?

Have you ever recused yourself from a case?

Yes.

18. Qu'est-ce qui montre votre « haute moralité » ?

What shows your “high moral character”?

I believe high moral character is demonstrated through a sustained record of integrity, independence, impartiality, and public service.

Throughout more than three decades of professional service, I have held positions of public trust in national and international institutions. My work has consistently focused on strengthening the rule of law, protecting vulnerable people, promoting human rights, and advancing accountability. Recognition by national and international institutions reflects that commitment, but ultimately my record of service speaks for itself.

In addition, at the Supreme Court of Kenya, I hold the portfolio in charge of overseeing the implementation of the Code of Conduct, Employee Protection, Inclusivity, and Ethics in the Court.

19. La CPI s'attire régulièrement des critiques pour ses déficiences relatives à la culture du lieu de travail. Comment comptez-vous, en tant que juge, contribuer à l'amélioration des conditions de travail à la Cour ?

The ICC is frequently criticized for the deficiencies of its workplace culture. As an ICC judge, how do you propose to contribute to the improvement of working conditions at the Court?

A healthy workplace culture is essential to judicial excellence and institutional legitimacy. Within the Kenyan Judiciary, I chair the Employee Protection and Inclusivity Committee, which oversees policies addressing sexual harassment, dignity at work, equality, and inclusion. This experience has reinforced the importance of clear accountability mechanisms, respectful leadership, transparency, and institutional responsiveness.

As an ICC judge, I would support initiatives that promote professionalism, mutual respect, diversity, inclusion, staff welfare, and effective mechanisms for addressing workplace concerns.

20. Les pressions politiques extérieures peuvent être importantes selon les affaires dont a à connaître la Cour. Quels sont selon vous les moyens de garantir votre indépendance dans ce contexte ?

External political pressure can be significant depending on the cases before the Court. In your view, what measures can be taken to ensure your independence in this context?

Any person seeking judicial office at the ICC must appreciate that the Court operates in a complex international environment and that its work has political implications and affects powerful political, military, and governmental actors. As a result, judges may unfortunately face criticism, pressure, or even sanctions arising from the discharge of their judicial responsibilities. Such possibilities, however, cannot be permitted to influence judicial decision-making.

My experience in Kenya has reinforced the importance of judicial courage and institutional resilience. The Kenyan Judiciary, including the Supreme Court, has on several occasions been called upon to determine highly sensitive and politically consequential matters. For instance, decisions arising from presidential election petitions handled exclusively by the Supreme Court, for example, have attracted intense public scrutiny and criticism from political actors and other stakeholders. At various times, judicial decisions have also prompted criticism from both the Executive and Parliament, particularly where the courts have exercised their constitutional mandate to review governmental action or uphold constitutional limitations on the exercise of public power. Despite such pressures, the Judiciary has continued to perform its constitutional role independently and in accordance with the law.

At the international level, the stakes are even higher. The ICC must continue to support and protect its judges against improper external pressure, while judges themselves must remain steadfast in their commitment to independence and impartiality. Acceptance of judicial office necessarily entails acceptance of these challenges. The proper response is not retreat, but unwavering fidelity to the law, the evidence, and the judicial oath.

Questions sur les droits de la défense et l'égalité des armes / Questions on the rights of the defence and equality of arms

21. Veuillez décrire toute expérience que vous avez en matière de garantie des droits de la défense ?

Please describe any experience you have relevant to ensuring the rights of the defence?

As a member of the Committee of Experts that drafted the Kenyan Constitution, which was adopted by public referendum in 2010. We were instrumental in making sure the Constitution included a progressive section on substantive fair trial rights, including rights of the accused and rights of victims.

Throughout my service as a Criminal Prosecutor and later as a Supreme Court Judge, I have consistently engaged with issues relating to due process and fair trial rights. For instance, as a Judge of the Supreme Court, I have participated in the development of jurisprudence on these issues. For instance, I was part of the bench that decided the matter of ***Muruatetu & another v Republic; Katiba Institute & 5 others*** (Amicus Curiae) (Petition 15 & 16 of 2015 (Consolidated)) [2017] KESC 2 (KLR) where in finding the mandatory nature of the death penalty to be unconstitutional, underscored the critical role mitigation plays during sentencing. Additionally, I was also part of the bench that decided the case of ***Republic v Mohammed & another*** (Petition 39 of 2018) [2019] KESC 48 (KLR) where the Court differentiated between confessions and admissions as well as clarified the place of circumstantial evidence, holding that for a conviction to be sustained on the basis of circumstantial evidence, the chain of events has to be so complete that it established the culpability of the accused, and no one else, without any reasonable doubt.

22. Que pensez-vous de l'impact des questions de l'égalité des armes et d'accès à des ressources suffisantes et adéquates pour les équipes de défense sur le droit de l'accusé à un procès équitable ?

What is your view on how issues of equality of arms and access to sufficient resources for defence teams impact the right of the accused person to a fair trial?

Equality of arms is a fundamental component of a fair trial. Where significant disparities exist between prosecution and defence resources, the ability of an accused person to challenge evidence, investigate facts, and present a meaningful defence may be compromised.

Adequate resources for defence teams are therefore essential to ensuring fairness, legitimacy, and confidence in judicial outcomes.

23. Veuillez donner votre opinion sur le caractère adéquat de la politique d'aide judiciaire du Greffe. Selon vous, y a-t-il des aspects de cette politique qui sont susceptibles d'avoir un impact sur l'équité des procédures de la CPI ?

Please give your views on the adequacy of the Registry's Legal Aid Policy. In your view, are there any areas of the policy that may impact the fairness of proceedings?

As an external candidate, I would approach this issue with appropriate caution and respect for the institutional expertise of the Court and its stakeholders.

In principle, any legal aid system should be assessed against its ability to ensure effective representation, equality of arms, procedural efficiency, and fair trial rights. Where legal aid resources are insufficient to enable meaningful participation by defence teams or victims' representatives, concerns regarding fairness may arise.

The Court should therefore continue to review its legal aid framework regularly in consultation with the relevant stakeholders to ensure that it remains responsive to the complexity and demands of ICC proceedings while preserving the rights of all participants.

Questions sur la participation des victimes / Questions on victims' participation

24. Veuillez décrire toute expérience ou formation que vous pourriez avoir en rapport avec le droit de participation des victimes devant la CPI.

Please describe any experience or training that you may have relevant to the right of victim participation before the ICC.

Throughout my professional career, I have consistently worked on issues relating to victim-centred justice, victim protection, and access to justice for vulnerable populations.

As a Judge of the Supreme Court of Kenya, I have participated in the development of jurisprudence concerning victims' rights within criminal proceedings, including the role of victims in the criminal justice process and the balancing of their interests with fair trial guarantees. I was part of the bench that made a determination in *Joseph Lendrix Waswa v Republic* [2020] KESC 23 (KLR), where the Court affirmed that victim participation is a constitutionally and statutorily protected component of criminal proceedings, but emphasised that it must be carefully regulated so as not to “convert the victim into a second prosecutor” or compromise the accused’s right to a fair trial. The Court underscored that while victims have a legitimate interest in the outcome of proceedings, their participation must remain within defined procedural limits that preserve the adversarial structure of the trial and the primacy of the prosecution and defence.

My experience also extends beyond the judiciary. As the sponsor of Kenya's Sexual Offences Act, 2006, I contributed to strengthening legal protections for survivors of sexual violence and enhancing mechanisms that facilitate their access to justice. Through my work with UN agencies, humanitarian organizations, and civil society institutions, I have engaged extensively with survivors of sexual and gender-based violence, refugees, displaced persons, and other vulnerable groups.

In addition, I have conducted training and capacity-building programmes for judges, prosecutors, investigators, and justice-sector actors on victim-sensitive approaches to criminal proceedings, survivor protection, and accountability mechanisms. These experiences have given me a strong appreciation of the importance of ensuring that victims are able to participate meaningfully in judicial processes while safeguarding the fairness and integrity of proceedings.

25. Quelle est votre opinion quant à l’étendue de la participation des victimes et à leur représentation légale devant la CPI, selon les différents stades de la procédure (y compris l’examen préliminaire, les enquêtes, la confirmation des charges, le procès, l’appel et les réparations) ? Plus précisément, considérez-vous que la représentation légale des victimes devrait être permise au stade initial de la procédure ?

What is your view on the scope of victim participation and legal representation before the ICC across the different stages of proceedings (including preliminary examinations, investigations, confirmation of charges, trial, appeal, and reparations)? In particular, do you consider that legal representation of victims should be permitted during the early stages of proceedings?

Meaningful victim participation can contribute to the legitimacy, inclusiveness, and credibility of proceedings. However, participation must always be implemented in a manner that is consistent with the rights of the accused, judicial efficiency, and the overall fairness of the proceedings.

The appropriate scope of participation may vary depending on the procedural stage. During investigations and pre-trial proceedings, victim participation may assist the Court in understanding the broader context and impact of alleged crimes and in identifying issues relevant to victim interests. During trial and appeal proceedings, participation should remain meaningful but carefully structured so as not to transform victims into a second prosecutorial party or undermine the rights of the defence.

With respect to legal representation during the early stages of proceedings, I recognize that victims may have legitimate interests that arise before charges are confirmed. In principle, legal representation may therefore be appropriate where it enables victims' views and concerns to be effectively presented within the framework established by the Rome Statute and the Court's jurisprudence. Any such participation, however, should remain proportionate and should not prejudice the presumption of innocence, prosecutorial independence, or the rights of the defence.

The ultimate objective should be to ensure that victims have a meaningful voice while preserving the fairness and integrity of proceedings.

26. De quelle manière considérez-vous que la participation des victimes a un impact sur les droits de la défense ?

How do you view victim participation as impacting the rights of the defence?

Victim participation and the rights of the defence should not be viewed as competing interests. Both are important components of a fair and legitimate system of international criminal justice.

The Rome Statute establishes a framework that seeks to accommodate meaningful victim participation while maintaining full respect for the rights of the accused. The challenge for judges is to ensure that participation remains consistent with due process and equality of arms.

Victim participation may enrich proceedings by providing perspectives regarding the impact of crimes and by enhancing confidence in the justice process. At the same time, safeguards are necessary to ensure that participation does not create procedural disadvantages for the defence or result in duplication of prosecutorial functions.

Judges must therefore carefully balance these interests by ensuring clarity regarding the role of victims' representatives, maintaining procedural fairness, protecting the presumption of innocence, and guaranteeing that accused persons retain full opportunity to challenge the evidence presented against them.

27. Avez-vous des remarques ou des questions dont vous souhaiteriez faire part à l'ABCPI ?

Do you have any other points of which you would like to apprise the ICCBA?

I would like to emphasize my strong commitment to judicial independence, fairness, and respect for the rights of all participants in proceedings before the Court.

Throughout my career, I have worked within diverse legal, judicial, legislative, and international institutions, always guided by the principles of impartiality, integrity, accountability, and respect for human dignity. My experience has taught me that the legitimacy of any court depends not only on the outcomes it reaches but also on the fairness, transparency, and professionalism with which proceedings are conducted.

It has also been my experience that sustaining this legitimacy requires continuous and structured engagement with key stakeholders, particularly members of the Bar, to ensure that judicial processes remain responsive, efficient, and credible. This view is informed by my experience working in the Judiciary of Kenya which engages advocates, litigants, the public, and other justice sector actors in a structured manner through the Court Users Committees (CUCs), which provide a platform for collaboration, feedback, and the resolution of challenges affecting the administration of justice. Additionally, recognizing the unique and interdependent relationship between the Bench and the Bar, the Judiciary also established the Bar-Bench Committee to facilitate regular dialogue on matters relating to court administration, legal practice, and the efficient delivery of justice. At the Supreme Court of Kenya, these engagements have been particularly valuable in fostering constructive stakeholder relations, enhancing transparency and accountability, improving court processes, and strengthening public confidence in the administration of justice.

I also recognize the vital role played by defence counsel, victims' representatives, and the legal profession more broadly in ensuring the effective functioning of the Rome Statute system. Should I be elected, I would approach my responsibilities with an open mind, collegiality, respect for all participants, and unwavering commitment to the rule of law.

At a time when international justice faces increasing challenges, it is essential that the Court continues to demonstrate independence, professionalism, efficiency, and fidelity to the principles upon which the Rome Statute was founded. I would be honoured to contribute to that mission.