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Praise for Africa-Who will be the Next Prosecutor of the International Criminal Court?

And they said it couldn't be done!

Despite suggestions in some quarters that an African candidate would not have merit to be the next Prosecutor of the International Criminal Court (ICC), Africa has scored meritorious and geographical victories in the election process. A majority of states parties to the ICC support two African candidates. It is of historical importance to note that the two finalists for the position of ICC Prosecutor are Gambian born Fatou Bensouda, current Deputy Prosecutor of the ICC, and Mohamed Othman, Chief Justice of Tanzania.

In December 2011, the Assembly of States Parties (ASP) to the ICC will choose either by consensus or election, one of the two finalists as Prosecutor of the ICC. Consensus is always preferred in these situations, and given that the two front-runners are both from the same geographical region of Africa, consensus must be strived for. Some might even argue that since only one of the two distinguished Africans can become the next Prosecutor, one of them should step aside, so that there is no competition amongst Africans in this final round. Others might argue that since this is a merit based process, which will see an African as the next Prosecutor anyway, the candidates must continue to compete. There is yet a third view: now that Africa has achieved geographical victory based on merit, the victory will be sweeter if meritorious gender victory is also achieved. The current Deputy Prosecutor, Fatou Bensouda, is a candidate of merit, a woman, and she is

the African Union (AU) endorsed candidate. But she will be the first to tell you that she does not want to play the African or gender card.



Fatou Bensouda (far right) with Mirjam Blaak and Tom Nyanduga at AFLA's Conference "The ICC in a Politically Divided World", 2011

The next Prosecutor will replace Luis Moreno-Ocampo, who will be leaving his post in July 2012 at the end of his nine year tenure. There are un-explained suggestions that the next Prosecutor might be elected for less than nine years, leading to speculations that some may not wish to see an African hold such a powerful position for a long period.



AFLA's Executive Director, Evelyn A. Ankumah, with Mr. Ocampo, at AFLA's round table conference "African Perspectives to International Criminal

Justice", 2007

The search for the new Prosecutor comes at an important point of the ICC's development and success. As the first permanent, treaty based, international criminal tribunal, the ICC has made progress by bringing perpetrators of genocide, war crimes, and crimes against humanity to justice. However, it faces many challenges. The success of the Court will largely depend on the support and cooperation of States Parties. In addition, the ICC is often criticized by the African Union (AU), which accuses it of selective justice due to the fact that all cases currently before the Court originate from Africa. Therefore, the election of an African to this position is a positive step towards increasing the Court's legitimacy in Africa. Africa must be seen as a participant, not just a target of international justice.



Meeting of Assembly of States Parties

State Parties will meet again on 1 December to determine if consensus has been reached. If consensus on a single candidate is not reached, both candidates will be formally nominated for election on 12 December, 2011.

Africa Legal Aid will continue to follow these developments and bring you up-to-date information on these processes, including the forthcoming elections from 12th December during the meeting of the Assembly of States Parties to the ICC.

Participate in AFLA's Quiz

- 1. Fatou Bensouda will have the formal nomination of the ASP on 1 December**
- 2. Mohamed Othman will have the formal nomination of the ASP on 1 December**
- 3. The ASP will not achieve a consensus and both candidates will be formally nominated for election**



Fatou Bensouda (Gambia)



[Mohamed Chande Othman \(Tanzania\)](#)

Send us your response before 1 December. The first 10 submissions to get it right will win a full year subscription to our “flagship” journal, the AFLA Quarterly. Click on the name of each candidate to view their Curriculum Vitae and [click here to send your response](#) (or send e-mail to communications@africalegalaid.com)

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