

HONDURAS FAILS TO GUARANTEE THAT ITS NEW SUPREME COURT JUSTICES ARE INDEPENDENT, IMPARTIAL, AND QUALIFIED

On February 11, 2016, the Congress of Honduras selected the 15 Justices who will make up that country's Supreme Court for the next seven years. This marks the conclusion of a complex and often controversial process, which lasted almost six months.

The undersigned organizations have closely monitored this process from its inception. We have also participated in civil society fora, met with government officials, and shared information regarding international standards and best practices for judicial selection with both the Nominating Committee (*Junta Nominadora*) and members of the National Congress.

We have welcomed certain positive aspects of this selection process, such as the webcast of public interviews, and the publication of a methodology for evaluating the candidates, which took into account criteria such as aptitude and gender parity. However, it is important to note that these elements alone are not sufficient to conclude that the process as a whole complied with international standards and best practices, nor that it guaranteed the independence, impartiality, and professional capacity of the Justices who were ultimately elected.

We note with great concern that the Nominating Committee did not publish the evaluations and scores of each successful candidate during the pre-selection phase. Moreover, the body did not make known how it evaluated complaints received against certain candidates, nor how it determined the list of finalists which was submitted for consideration by Congress. We also observe that many of the questions posed to candidates during the public interviews lacked depth. Another concern is the lack of transparency regarding information which was declared confidential without an explanation of the reasoning or basis of the Committee's decision. In general, we note that the Nominating Committee did not adequately address the calls for transparency made by the Institute for Public Information Access (a state body).

Far from remedying the deficiencies of the process overseen by the Nominating Committee, the second phase – the election of judges to the National Congress – demonstrated an even more serious and obvious politicization. The Honduran nation and the international community had legitimate expectations for a public, serious, and objective debate about professional and academic credentials of the proposed candidates. The secrecy and lack of transparency imposed on this phase of the process is thus deeply regrettable.

There is a general sense among the public that most legislators did not take into consideration the merits of individual candidates, nor diversity or gender parity for the new court as a whole, but rather that discussions centered on the political affiliation of the candidates as the deciding factor for their election. For example, it is concerning that almost all of the new judges and magistrates have reportedly obtained a low score on the Nominating Committee's evaluation matrix, and it is regrettable that of the 15 people elected only five are women.

Additionally, we express extreme concern regarding news reports about supposed vote-buying to assure an election in conformity with the interests of the main political parties. We also condemn alleged threats and harassment against legislators who demanded an election based on objective criteria and a public and transparent debate.

The events in Honduras in recent weeks demonstrate the serious structural problems which affect public authorities and state institutions; specifically, the election results demonstrate that there is little political will to strengthen the rule of law.

It should be recalled that the United Nations High Commissioner for Human Rights, the Inter-American Commission on Human Rights, and the Inter-American Court of Human Rights have concluded that the outgoing Supreme Court was directly involved in the June 2009 coup in Honduras and that it failed to comply with its duty to guarantee human rights. As such, this selection process represented a crucial opportunity to rebuild the legitimacy of this institution. Unfortunately, the results of the election have failed to defend Honduran society against further abuses of power.

In summary, the undersigned organizations conclude that the Supreme Court selection process did not comply with international standards regarding judicial independence, and as such there is no guarantee that the new Supreme Court will act in conformity with the principles and precepts established in the Honduran Constitution and the international human rights treaties adopted by the state.

We call on the various political and social actors in Honduras to initiate a national debate with the aim of carrying out the policy and institutional reforms necessary to prevent the reoccurrence of the practices described herein. We also encourage civil society to become permanent observers of the new Supreme Court. Finally, we urge the Honduran Attorney General's office and the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH) to document the irregularities that have been reported in the Supreme Court selection process, in order to assist in investigations and to promote prosecutions, such that those who allegedly have engaged in corrupt practices are judged and sanctioned accordingly.

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