



Call for Transparency and Accountability in the Selection of Supreme Court Justices in Honduras

The International Observatory on judicial selection in Honduras calls upon the Nominating Board [*Junta Nominadora*] and the Congress of the Republic to guarantee transparency and accountability in the final phase of the selection process for the country's Supreme Court Justices.

It is important to recall that the quality of the selection process is a decisive factor in ensuring that all persons are able to access an independent and impartial Supreme Court that acts in accordance with the highest international standards.

In this regard, we have observed with concern the following irregularities:

1. At the initial evaluation stage in the preselection of 97 candidates, the Nominating Board did not publicly disclose the score assigned to each selected individual, nor the way in which complaints were assessed, which makes it impossible to know for certain why some candidates advanced and others did not. The decision issued by the Nominating Board explains only the methodology used but not the preselection made. It therefore fails to comply with the principle that the grounds for a decision must be stated, which is central to all decisions of this nature. In addition, we understand that the preselection process weighed the number of Nominating Board member votes rather than the score obtained. If this were true, it would undermine the entire process because it would not be based on objective criteria.
2. It is worth noting that certain information about candidates has been declared confidential based on the Law on the Classification of Public Documents related to National Security and Defense [*Ley de Clasificación de Documentos Públicos Relacionados con la Seguridad y Defensa Nacionales*]. This means that such information will not be public for 10 years. The reference made by the Nominating Board does not explain whether that declaration was made by the National Security Council—as provided in the above-cited law—nor is it known why publishing this information could give rise to domestic security concerns (Article 4(b) of the cited law). It bears recalling that the individuals who apply for these

- types of positions must submit to rigorous and transparent public scrutiny. In this regard, the Inter-American Commission on Human Rights (IACHR) has identified the need for “the selection procedures be open to public scrutiny, which will significantly reduce the degree of discretion exercised by the authorities in charge of the selection and appointment process and the possibility of interference from other quarters.”
3. We are astonished to observe that the list of preselected individuals still includes the names of three current Supreme Court justices. These individuals **acted questionably by participating in the arbitrary dismissal** of three judges and a justice immediately following the June 28, 2009 coup d'état, in which the Supreme Court seriously violated the principles of independence and impartiality by which it should be characterized. They and other branches and institutions of the State acted in a manner was called into serious question by the Honduran people, as well as by the international community and international organizations. This conduct ultimately incurred the international responsibility of the State of Honduras, giving rise to the recent judgment against it by the Inter-American Court of Human Rights in the case of *López Lone et al. v. Honduras*. This circumstance must be taken into account in the respective evaluations.
 4. The Observatory views positively the fact that the interview phase has been conducted through public hearings, and that those hearings have been broadcast by different media outlets. Nevertheless, we observe that **the time allotted to each person was very limited**—20 minutes—considering that the interviews were of potential Justices of the most important court in Honduras. It is also of concern that some questions posed by the Nominating Board addressed the religious or moral beliefs of the candidates rather than measuring their technical abilities or professional merits. In addition, we urge the NC to publicly disclose the scores obtained by the pre-candidates in this examination.

In view of the above, and considering the international principles, rules, and standards applicable to this process, the member organizations of the International Observatory respectfully recommend:

To the Nominating Committee:

- **Publish** the résumés of all of the **candidates** on your website, a brief summary of complaints filed against them and their individual assessments, as well as the score obtained by each participant and the grounds on which the pre-selection of the 97 individuals was based. Similarly, the candidates' responses to the questionnaire administered as a prerequisite to the interview stage should also be made public.
- Ensure that the recordings of the public interviews with the candidates are archived and made available to the public on a permanent website.

- **Explain** the origin of the declaration of **confidentiality of the information** about the candidates, specifying the body that issued the declaration, the reasons for this decision, and the respective scope of the decision.
- In upcoming decisions, **publicly disclose the tabulation of the ratings** of the pre-candidates, including the different items evaluated and the **scores obtained** in each case, as well as the grounds for the decisions made by the Committee.
- Submit the respective list to the Congress of the Republic as soon as possible, allowing it **sufficient time to analyze the candidates** and make the decision that is in the best interest of the country.

To the Congress of the Republic of Honduras:

The actions of this body must also be guided by respect for the principles of openness and transparency. In addition, it must examine the candidates based on objective criteria, selecting those with the highest professional merits. Accordingly, we urge the Congress to:

- **Establish an evaluation procedure** based on objective criteria, taking particular account of **suitability, representativeness, and gender parity**.
- Allow for greater **interaction and participation by civil society** in the process undertaken by the Congress.
- **Determine the methodology** it will use to compile the list of names of 3 candidates for every judicial seat to be filled.
- **Each member of Congress must state the reasons for his or her vote** and make such votes public.

We urge the Honduran authorities to take account of the international standards on judicial independence, as well as the principles of transparency, openness, participation, and representativeness when selecting the new members of the Supreme Court.

We recall the August 27, 2015 press release of the IACHR regarding this process, which stated that “the goal of any process to select and appoint [judges] must be to select candidates based on personal merit and professional qualifications, taking into account the singular and specific nature of the duties to be performed.”

We reiterate that this is a historical opportunity to compose a Supreme Court that is committed to justice, without discrimination of any kind, and for the rule of law and democracy to be strengthened in Honduras.

The member organizations of the International Observatory reaffirm our support for the Honduran justice system and will continue to take monitoring, disclosure, and advocacy actions during the process for the selection of the Supreme Court justices.