



Human Rights
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Guatemala's Democracy at a Crossroads:

Challenges and Opportunities in the 2026 Judicial Selection Processes





Human Rights Institute

International Bar Association
Chancery House
53-64 Chancery Lane
London WC2A 1QS
+44 (0) 20 7842 0090

This report was authored by Francesca Restifo, Senior Human Rights Lawyer and UN Representative, and Eleonora Scala, Programme Lawyer, both of the International Bar Association's Human Rights Institute (IBAHRI).

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PRELIMINARY REMARKS

2026 marks a defining turning point in Guatemala's democratic journey. Five of the nation's core institutions face their most sweeping renewal since civilian democratic rule was restored in 1986. All seats on the Supreme Electoral Tribunal and Constitutional Court will be replaced, alongside the appointment of Attorney General, Comptroller General, and the head of the Superintendence of Banks. This rare convergence of institutional timelines has been compared to the astronomical phenomenon of a planetary alignment, an event that occurs only once in several decades and whose consequences shape the political trajectory long beyond the moment itself.

These five bodies underpin Guatemala's separation of powers, ensuring checks on executive overreach, protection of fundamental rights, electoral fairness, fiscal accountability, financial stability and defences against corruption. This analysis focuses on the three judicial selection processes for the Supreme Electoral Tribunal, Constitutional Court, and Attorney General. Those processes will unfold from January through May 2026.

Often referred to as “second-grade” elections, these judicial appointments carry consequences that may surpass even the 2027 presidential vote. It is here, at this level, that the true centre of power is contested. The officials appointed through these processes will determine whether the 2027 presidential elections will uphold democratic standards and integrity, or whether they will open the door to undue influence and abuse of power. Without independent, competent legal professionals filling these roles, Guatemala's democratic trajectory is at risk of being reversed, with the country sliding back into the shadows of authoritarianism.



“If the institutions are captured in 2026, there will be no truly free elections in 2027. Our country stands at a crossroads: either we move forward or we go backwards.” – Guatemalan Judge in exile

These selection processes are therefore inseparable from the question of whether the rule of law in Guatemala can be preserved and strengthened, or whether institutional capture has become complete.

Their outcomes will directly affect citizens' enjoyment of fundamental human rights and the functioning of democratic governance. This elevates them beyond domestic concern to a shared priority for the international community.

The monitoring mission – objectives and methodology

Building on long-standing work on the human rights situation in Guatemala - particularly concerning the criminalisation of justice operators and the progressive erosion of judicial independence - the International Bar Association's Human Rights Institute (IBAHRI) has undertaken an international monitoring mission focused on the forthcoming judicial selection processes. The IBAHRI is represented in this mission by Senior Human Rights Lawyer and Representative to the United Nations in Geneva, Ms Francesca Restifo, and Programme Lawyer, Ms Eleonora Scala. This initiative forms part of a broader, coordinated strategy developed with allied national and international organisations to promote international standards of integrity, equality, non-discrimination and transparency that are essential to judicial appointments, and to formulate recommendations aimed at preventing external interferences and arbitrariness in the process.

The monitoring mission adopted a mixed methodology combining desk-based legal and policy analysis, remote interviews, and in-country fieldwork conducted in Guatemala City and in the territories of Quetzaltenango (Xela), Totonicapán, Panajachel, and Santa Lucía Utatlán. The delegation met with a wide range of institutional and social actors, including representatives of the Constitutional Court and the Supreme Court of Justice; the President of the National Bar Association; judges and prosecutors currently in exile; members of the legal profession in Guatemala City and in predominantly indigenous territories; representatives of Congress; indigenous authorities from the 48 Cantones of Totonicapán, Santiago Atitlán, and Santa Lucía Atitlán; deans of law faculties; civil society organisations; the national business council; the Office of the United Nations High Commissioner for Human Rights (OHCHR); and members of the diplomatic community.

Throughout the mission, ethical standards were applied to ensure the confidentiality, security, and informed consent of all interlocutors, particularly in light of the prevailing context of intimidation and criminalisation. Protective measures are implemented to prevent the identification of sources where disclosure could pose risks to their safety or professional standing.

The present report therefore presents the findings of an *ex ante* assessment of the judicial selection processes, analysing key good practices observed to date as well as preliminary risks that warrant close monitoring as the processes unfold. The objective at this stage is to generate preventive recommendations aimed at safeguarding the integrity of the judicial selection processes and improving the independence of the judiciary more broadly. By mapping structural and dynamic challenges ahead of the formal appointment phases, this report lays the analytical groundwork for continued observation and *ex post* assessment of how the processes ultimately develop. In doing so, it seeks to contribute to sustained international and domestic scrutiny at a moment that will decisively shape the future of the rule of law and democratic governance in Guatemala.

TABLE OF CONTENTS

| | |
|---|----|
| I.EXECUTIVE SUMMARY | |
| II.SUMMARY OF RECOMMENDATIONS | 6 |
| 1. To the State of Guatemala | 6 |
| 2. To the International Community | 6 |
| III.INSTITUTIONAL BACKGROUND AND STRUCTURAL CHALLENGES SHAPING THE 2026 JUDICIAL SELECTION PROCESSES | 7 |
| IV.OVERVIEW OF THE THREE JUDICIAL SELECTION PROCESSES | 9 |
| 1. Supreme Electoral Tribunal | 9 |
| 2. Constitutional Court | 9 |
| 3. Attorney General | 10 |
| V.CHALLENGES AND OPPORTUNITIES | 11 |
| 1. Institutional Framework Governing Judicial Selection Processes | 12 |
| 2. Composition of Nominating Commissions | 13 |
| 3. Candidates' Evaluation Criteria | 15 |
| 3.1 Eligibility and capacity (<i>idoneidad y capacidad</i>) | 15 |
| 3.2 Probity and recognised integrity and honour (<i>honradez y reconocida honorabilidad</i>) | 16 |
| 4. Transparency and Civic Participation | 18 |
| 4.1 Publicity of the process | 18 |
| 4.2 Civic participation | 18 |
| 5. Indigenous communities' involvement | 19 |
| VI.RECOMMENDATIONS | 22 |

EXECUTIVE SUMMARY

Based on its findings, the Mission concludes that significant structural and operational challenges affect the integrity of Guatemala's 2026 judicial selection processes for the Supreme Electoral Tribunal, Constitutional Court, and Attorney General. Structural weaknesses include short judicial terms, simultaneous institutional renewals, and vulnerabilities within the Nominating Commissions system, which remains exposed to political interference and clientelism. At more technical level, candidate evaluation would benefit from stronger merit-based criteria, rigorous integrity vetting, and clearer evaluation methodologies that prioritize professional experience and judicial independence.

The Mission found that Transparency and meaningful civic participation would be essential to enhance the legitimacy and public trust in the process. This includes transparent deliberations, substantive public interviews, and effective review of objections (*tachas*). The Mission is concerned that these institutional shortcomings are compounded by a climate of intimidation and criminalization of justice operators and Indigenous authorities, which risks discouraging qualified candidates and undermining independent oversight. Persistent structural barriers also limit Indigenous peoples' participation and representation within the justice system.

The Mission insists that 2026 appointments represent a critical opportunity for Guatemala to strengthen democratic institutions and judicial independence. To safeguard the integrity of the process, and based on its findings, the Mission recommends the following priority actions.

Summary of recommendations to the State of Guatemala

- Undertake structural reforms to the judicial appointment system, including longer non-renewable terms for senior judicial positions, staggered institutional renewals, and reform of the Nominating Commissions framework to reduce political influence and strengthen merit-based career paths.
- Ensure integrity of the selection process through objective evaluation criteria, standardized competency testing, rigorous integrity vetting, and transparent, reasoned decisions by nominating bodies and appointing authorities.

- Strengthen transparency and civic participation by publicizing all stages of the process, conducting substantive public interviews, publishing evaluation results, and ensuring meaningful review of objections raised by civil society.
- Promote inclusion and representation of Indigenous peoples, including measures to support their participation in monitoring the process and to address barriers to entry into judicial careers.
- Protect candidates, commissioners, and civil society actors by implementing effective protection mechanisms, ending the misuse of criminal law against justice operators, and ensuring accountability for violations of due process.

To the International Community

- Maintain sustained diplomatic engagement with Guatemalan authorities to support transparent, merit-based and independent judicial appointments.
- Use coordinated accountability tools, including targeted sanctions where appropriate, against actors involved in corruption or interference in judicial processes.
- Support protection measures for at-risk justice operators, Indigenous leaders, journalists, and civil society monitors.
- Provide financial and technical assistance to civil society initiatives monitoring the selection processes and to long-term programs that expand access to legal education and judicial careers for Indigenous and marginalized groups.
- Link governance and justice-sector assistance to measurable benchmarks on judicial independence, transparent appointments, and protection of justice operators.

Together, these measures can help ensure that the 2026 judicial selections reinforce judicial independence, democratic governance, and public confidence in Guatemala's justice institutions.

INSTITUTIONAL BACKGROUND AND STRUCTURAL CHALLENGES SHAPING THE 2026 JUDICIAL SELECTION PROCESSES

Guatemala's contemporary constitutional and institutional framework is shaped by the legacy of nearly three decades of military rule, followed by approximately three decades of formally restored democratic governance after the signing of the Peace Accords in 1996.

Between 1954 and 1986, the country was governed by successive military regimes characterised by extreme centralisation of power, systematic repression of political opposition, and the absence of effective democratic institutions. In the mid-1980s, amid sustained domestic mobilisation and international pressure, the authorities initiated a controlled political transition. This process led to democratic elections and culminated in the adoption of the 1985 Constitution and the inauguration of a civilian president in 1986, marking the formal restoration of democratic governance in Guatemala. The subsequent Peace Accords of 1996 consolidated this transition by establishing a framework for democratic governance, accountability for past atrocity, and the protection of human rights.

The post-dictatorship period was in fact marked by significant, though uneven, efforts to advance transitional justice and strengthen the rule of law. With sustained international engagement, Guatemala achieved considerable progress in addressing corruption and impunity for serious human rights violations, particularly through the establishment and work of the International Commission against Impunity in Guatemala (CICIG). However, these advances proved structurally fragile. Judicial selection processes were repeatedly affected by allegations of political interference and clientelism, drawing sustained criticism for undue partisan influence over the composition of the higher courts.[1]

Institutional vulnerabilities were further exacerbated by the termination of CICIG's mandate in 2019, followed by systematic patterns of criminalisation, intimidation, and harassment targeting judges, prosecutors, and lawyers involved in anti-corruption and accountability efforts. As a result, a significant number of justice operators have left the

country, resulting in reduced institutional capacity and further undermining public confidence in the independence and effectiveness of the justice system.

At the structural level, entrenched informal power arrangements commonly referred to as the *pacto de corruptos* ("corrupts' pact") continued to challenge and obstruct the consolidation of a democratic governance in Guatemala. These arrangements involve overlapping networks of corrupted segments of the economic elite, political actors, organised criminal groups, military figures, and justice operators. Rather than acting in isolation, these actors operate as an entrenched and mutually reinforcing network that exerts decisive influence over economic policy, political decision-making, and judicial outcomes. Their continued powerful presence has systematically undermined reform initiatives, weakened accountability mechanisms, and impeded sustainable development by discouraging investment, misallocating public resources, and eroding citizens' trust in state institutions.

The country's demographic composition also deserves consideration due to its influence over the institutional environment. Guatemala is a multiethnic, pluricultural, and multilingual society. The country has an estimated population of approximately 18 million, of which around 43.4% self-identify as indigenous.[2] Despite their demographic weight, indigenous peoples continue to face structural discrimination, socio-economic exclusion, violence, and barriers to political

[1] Inter-American Commission on Human Rights (IACHR), *Report on the Situation of Human Rights in Guatemala* (IACHR 2003) para 32; International Commission Against Impunity in Guatemala (CICIG), *Parallel Commission: power and arbitrariness in the Nominating Commission Law* (CICIG 2024); Myrna Mack Foundation, *Parallel Commission: mechanisms for co-opting justice* (Myrna Mack Foundation, 2020); WOLA, *Guatemala justice system: evaluating capacity building and judicial independence* (WOLA, 2019).

[2] IACHR, *Situation of Human Rights in Guatemala* (OEA/Ser.L/V/II Doc 227/25, 2 November 2025) para 37.

participation, access to justice, and legal remedies. This is coupled with limited access to basic services and employment opportunities. Patterns of collusion between the Public Ministry and the judiciary have facilitated forced evictions and disputes over ancestral lands with private companies and large landowners, in a context marked by legal uncertainty over land tenure and systematic disrespect for the right to prior, free, and informed consultation. Indigenous communities also remain severely underrepresented in formal political institutions, with only one indigenous member in the national Congress, reflecting broad patterns of exclusion from decision-making processes. Additionally, in recent times, ancestral indigenous authorities have been directly targeted, criminalized and some forced into exile, in relation to their role in defending the democratic transition through peaceful protest during 2023.

Against this complex institutional and socio-economic backdrop, the 2026 judicial appointment processes are regarded as a critical juncture for the democratic governance and rule of law in Guatemala. A complex web of competing economic and political interests are expected to mark the processes.

Entrenched networks of the *pacto de corruptos* will most likely influence the judicial appointments to secure institutional control and avoid accountability.

For the people of Guatemala, the implications of 2026 judicial selections extend beyond the justice sector. Independent and credible institutions are essential for legal certainty, fair competition, and sustainable economic development. Conversely, weak institutional safeguards contribute to regulatory unpredictability, discourage investment, and constrain inclusive economic growth. In line with the United Nations 2030 Agenda for Sustainable Development - particularly Sustainable Development Goal 16 - strengthening effective, accountable, and inclusive institutions is essential not only for the protection of civil and political rights but also for the full enjoyment of economic, social and cultural rights, access to services, and secure sustainable development. The trajectory of the 2026 judicial processes will therefore have significant implications for Guatemala's democratic resilience, governance framework, and socioeconomic development in the years ahead.

OVERVIEW OF THE THREE JUDICIAL SELECTION PROCESSES

1. Supreme Electoral Tribunal

- Call for elections: 19 January 2026
- Assumption of office: 20 March 2026

The Supreme Electoral Tribunal (*Tribunal Supremo Electoral*, TSE) is Guatemala's highest authority in electoral matters, exercising exclusive and independent jurisdiction over elections. As the constitutional body responsible for organising, overseeing, and ensuring the transparency of electoral processes, the TSE manages elections for the offices of President and Vice President, members of Congress, and local authorities, while also administering electoral justice and supervising the activities of political parties. Among others, it adjudicates cases of unregistered electoral financing, through which political parties may face sanctions or even cancellation, enforces rules against party-switching and imposes strict penalties for non-compliance.

The TSE is comprised of 5 titular magistrates and 5 alternates, appointed for a six-year term. Magistrates are elected by the Congress of the Republic with a qualified majority of 107 out of 160 votes, equivalent to two thirds of all members of Congress. The election is conducted from a shortlist of 20 candidates proposed by a Nominating Commission, composed of five members[3]:

1. The Rector of the University of San Carlos of Guatemala (USAC) [Presiding]
2. A Representative of the Deans of the twelve faculties of law from private universities
3. The Dean of the faculty of law of USAC
4. A Representative of the Rectors of private universities
5. A Representative of the General Assembly of the Guatemalan Bar and Notaries Association (CANG).

2. Constitutional Court

- Call for elections: before 14 February 2026
- Assumption of office: 14 April 2026

The Constitutional Court of Guatemala (*Corte de Constitucionalidad*) is the highest authority on constitutional matters and the ultimate guardian of the Constitution. It is responsible for reviewing the constitutionality of laws, executive acts, and judicial decisions, resolving conflicts between state powers, and protecting fundamental rights through constitutional remedies, such as the *amparo*[4]. As the final arbiter on constitutional interpretation, the Court plays a decisive role in upholding the separation of powers, limiting executive and congressional overreach, and safeguarding democratic order.

The Court is comprised of 5 titular magistrates and 5 alternates, appointed for a five-year term. Five institutions each appoint one titular magistrate and one alternate, following a public call for applications[5]. These are:

1. The President, in Council of Ministers;
2. The Supreme Court of Justice, in full bench, with favourable vote of 7 out of 13 judges;
3. The Congress, with an absolute majority of 81 out of 160 votes;
4. The Higher University Council (CSU) of the USAC, with a quorum of 28 out of 41 members and at least 15 favourable votes;
5. The CANG, through a vote in the General Assembly.

[3] *Electoral and Political Parties Law* (Decree No.1-85 of the National Constituent Assembly, 14 January 1985) Articles 123, 136, and 141.

[4] *Constitution of the Republic of Guatemala* [Amended by Legislative Accord No. 18-93 of 17 November 1993], Articles 265, 268 and 272; *Law on Amparo, Habeas Corpus and Constitutionality* (Decree No.1-86 of the National Constituent Assembly, 8 January 1986).

[5] *Constitution of the Republic of Guatemala* [Amended by Legislative Accord No. 18-93 of 17 November 1993], Article 269; *Law on Amparo, Habeas Corpus and Constitutionality* (Decree No.1-86 of the National Constituent Assembly, 8 January 1986) Articles 153-157.

3. Attorney General

- Call for elections: 17 January 2026
- Assumption of office: 17 May 2026

The Attorney General of Guatemala (*Fiscal General y Jefa del Ministerio Público*) heads the Public Prosecutor's Office and is responsible for directing criminal investigations, prosecuting crimes, and safeguarding the legality of public action. The office plays a central role in combating corruption, organised crime, and human rights violations, as well as in ensuring access to justice and the effective enforcement of the law.

The Attorney general is elected by the President for a four-year term, from a shortlist of six candidates proposed by a Nominating Commission[6], composed of 16 members:

- President of the Supreme Court of Justice [presiding];
- President of the CANG;
- President of the Disciplinary Tribunal of the CANG;
- 12 Deans of the faculties of law of the country's universities.

[6] *Constitution of the Republic of Guatemala* [Amended by Legislative Accord No. 18-93 of 17 November 1993], Article 251; *Organic Law of the Public Prosecutor's Office* (Decree No.40-94 of 3 May 1994) Article 12.

CHALLENGES AND OPPORTUNITIES

Given the significant role of the Supreme Electoral Tribunal, the Constitutional Court and the Attorney General in shaping Guatemala's legal, political and economic governance, the selection of their authorities has been subject to considerable pressure from political actors and entrenched power structures seeking to influence the outcome of these appointments. Although each of the three selection processes is governed by a distinct framework, they share a common constitutional rationale: to ensure a system of checks and balances through the distribution of appointment powers across multiple institutions. In practice, however, shortcomings in the institutional design have been systematically exploited by public officials, political actors, private sector actors, and other *de facto* powers to undermine the constitutional model of cross-institutional oversight.

These dynamics have contributed to the development of a clientelist judicial appointment process, adversely affecting the independence of the justice sector.[7]

While the judicial selection processes are affected by structural and operational deficiencies that require comprehensive reform, the present analysis also identifies measures that can be implemented in the short term within the existing legal framework, including improvement of procedures, policies, and administrative practices.

Applicable legal framework

As regards the applicable legal framework, judicial independence constitutes a cornerstone of the rule of law and a precondition for the effective protection and fulfilment of human rights. It is recognised under the Universal Declaration of Human Rights (Article 10),[8] the International Covenant on Civil and Political Rights (Article 14)[9] and the American Convention on Human Rights (Article 8)[10] as an essential component of the right to a fair trial and is likewise integral to the principle of separation of powers, as reaffirmed in Article 3 of the Inter-American Democratic Charter.[11] As consistently affirmed by the Inter-American Court of Human Rights and other international human rights bodies, the three fundamental pillars for an independent judiciary are: (i) an adequate appointment process; (ii) security of tenure; and (iii) effective protection against external pressures.[12]

In this regard, Guatemala is also bound by its obligations under the United Nations Convention against Corruption and the Inter-American Convention against Corruption.[13] These instruments require States Parties to adopt measures to ensure the proper, honourable, and effective discharge of public functions, including the establishment of appointment systems for public officials, and for judges specifically, based on principles of efficiency, transparency, and objective criteria such as merit, equity, and aptitude.[14]

The modalities for securing judicial independence, particularly in the context of appointments, are further elaborated in a substantial body of international and regional standards. These include the UN Basic Principles on the Independence of the Judiciary; the Bangalore Principles of Judicial Conduct; the International Bar Association's Minimum Standards of Judicial Independence; the Universal Charter of the Judge; the Ibero-American Statute of the Judge and the Inter-American Commission on Human Rights' report, "Guarantees for the Independence of Justice Operators".[15] Together, these instruments provide authoritative guidance on merit-based selection, security of tenure, transparency, and safeguards against undue interference.

The analysis and recommendations set out in this report are guided by this normative framework. They focus in particular on: (i) the design of the selection processes; (ii) the composition of the nominating commissions; (iii) the candidates' evaluation criteria; (iv) transparency and civic participation; and (v) the indigenous communities' involvement.

Except where otherwise indicated, the term "judge" is hereinafter used in a broad sense to encompass magistrates and the Attorney General for the purposes of selection and appointment.

[7] CICIG, *Parallel Commission: power and arbitrariness in the Nominating Commission Law* (CICIG, July 2019) 21.

[8] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III).

[9] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

[10] American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123.

[11] Inter-American Democratic Charter (adopted 11 September 2001) OAS Doc OEA/Ser.P/AG/RES.1 (XXVIII-E/01).

[12] Inter-American Court of Human Rights (IACtHR), *Aguinaga Aillón v Ecuador* (Merits, Reparations and Costs) Judgment of 30 January 2023, Series C No 483, para 71.

[13] United Nations Convention against Corruption (adopted 31 October 2003, entered into force 14 December 2005) 2349 UNTS 41; Inter-American Convention against Corruption (adopted 29 March 1996, entered into force 6 March 1997) (1997) 35 ILM 724.

[14] United Nations Convention against Corruption, Articles 7 and 11; Inter-American Convention against Corruption, article III).

[15] UN Basic Principles on the Independence of the Judiciary (adopted by the Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders, 1985; endorsed by UNGA Res 40/32 and 40/146); Bangalore Principles of Judicial Conduct (adopted by the Judicial Group on Strengthening Judicial Integrity, 2002); International Bar Association (IBA), *Minimum Standards of Judicial Independence* (IBA 1982, revised 2008); Universal Charter of the Judge (approved by the Central Council of the International Association of Judges, Taipei, 17 November 1999; updated Santiago, 14 November 2017); Ibero-American Statute of the Judge (adopted by the Ibero-American Summit of Presidents of Supreme Courts and Tribunals of Justice, 2010); IACtHR, *Guarantees for the independence of justice operators: Towards strengthening the access to justice and the rule of law in the Americas* (OAS 2013).



1. Institutional Framework Governing Judicial Selection Processes

A first structural concern relates to the relatively short terms of office currently applicable to magistrates – four, five and six years depending on the institution – which may undermine security of tenure and therefore independence. As a general principle, short mandates increase exposure to political cycles and may limit the ability of judicial authorities to exercise their functions free from external interference. This concern is particularly pronounced in the case of collegiate bodies such as the Supreme Electoral Tribunal and the Constitutional Court. International standards emphasise that security of tenure is a fundamental safeguard of judicial independence and generally favour long-term or life appointments.[16] Longer, non-renewable terms - for example, ten years - would strengthen institutional continuity and decisional autonomy, while respecting the principle of alternation in public office which is particularly relevant for higher courts. Such an approach would provide a balanced means of insulating judges and magistrates from short-term political pressures without establishing life tenure.[17]

The statutory renewal of entire benches at the same time raises further concern. The simultaneous replacement of all members concentrates significant influence in the appointing authorities and increases the risk of undue interference or capture of the process. By contrast, a staggered renewal system - whereby only a portion of magistrates are replaced at regular intervals - supports an orderly institutional transition, preserves institutional memory, mitigates operational pressure arising from delays, as courts may continue to function. It also enhances opportunities for public scrutiny, and reduces the political stakes associated with any single round of appointments.[18] Asynchronous terms of office are recognised among the safeguards that effectively contribute to judicial independence.[19]

With regard to the involvement and relative weight accorded to other branches of the State in the appointment system, in the case of higher courts, various models seek to preserve institutional balance. There is no single appointment system that -in itself - guarantees the separation of powers and full independence of the judiciary. The broader legal and political context - including the maturity of legal system and the democratic trajectory of a State - is relevant to assess the adequacy of a particular model. For newer or transitional democracies, stronger safeguards against political interference in appointment processes may be required.

In the Guatemalan case, the significant role assigned to the Congress in the selection of judges of the Supreme Electoral Tribunal and Constitutional Court gives rise to concerns regarding potential entrenched politicisation. While parliamentary election of judges is sometimes justified on grounds of democratic legitimacy, it frequently results in political considerations prevailing over objective criteria such as merit, qualifications, integrity, and independence.[20] The Special Rapporteur on the independence of judges and lawyers has warned that legislative involvement in judicial appointments can undermine public confidence, particularly in contexts of transition from authoritarian rule to democratic governance. The Special Rapporteur has further emphasised that, even with regard to higher courts - where sensitivity to the public interest is often invoked - political appointments are rarely an appropriate means of ensuring an independent and impartial judiciary free from partisan influence.[21]

[16] IBA, Minimum Standards, Article 22; Universal Charter of the Judge, Article 8; Ibero-American Statute of the Judge, Article 15; IACHR, *Guarantees for the independence*, para 84.

[17] Guatemalan Association of Judges for Integrity (AGJI), *Proposed Amendments to the Political Constitution of the Republic of Guatemala regarding the Election of Magistrates of the Judicial Branch* ("Reformas a la Constitución Política de la República de Guatemala en materia de elección de Magistrados del Organismo Judicial") (*Judicial Integrity Magazine*, No 1) p. 49.

[18] UN Human Rights Council, Report of the Special Rapporteur on the Independence of judges and lawyers, "Visit to Guatemala, 12 to 23 May 2025 - Preliminary Observations" (23 May 2025) p.2.

[19] European Law Institute, *ELI-Mount Scopus European Standards of Judicial Independence, Standard 17(h)* (16 April 2025).

[20] UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, UN Doc A/HRC/38/38 (2 May 2018) para 51; WOLA, "Behind the Fight to Hijack Guatemala's Justice System" (10 July 2020) <<https://www.wola.org/analysis/behind-the-fight-to-hijack-guatemalas-justice-system/>> accessed 6 March 2026; Latin American Federation of Judges (FLAM) and International Association of Judges (IAJ), *Attacks on judicial independence in Guatemala: Report of the Latin American Federation of Judges (FLAM) and the International Association of Judges (IAJ) on their visit to Guatemala* (October 2022).

[21] UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, UN Doc A/HRC/11/41 (24 March 2009), para 25.

2. Composition of Nominating Commissions

The most significant vulnerabilities in the selection processes concern the composition and functioning of the Nominating Commissions, and, in the case of the Constitutional Court, the respective appointing authorities. While international standards do not prescribe a single institutional model, they consistently emphasise that the body responsible for judicial selection must be independent in both its structure and its operation.[22] Its composition is therefore central to the effective protection of judicial independence.

A pluralistic configuration is, in principle, recommended. The inclusion of representatives from different sectors - such as the judiciary, the legislature, the legal profession, academia, and other relevant stakeholders - can enhance institutional legitimacy and strengthen public confidence in the appointment of high-level judicial authorities. Such pluralism may contribute to ensuring that those appointed command sufficient recognition across branches of government to effectively discharge their constitutional functions. At the same time, international standards caution that pluralism must be carefully calibrated. In context where democratic institutions and traditions, including judicial independence, are not long-established, it is particularly critical that the judicial selection be entrusted to an independent body where judges constitute a majority.[23]

In the Guatemala's relatively young democracy, where institutional consolidation is still ongoing, overly broad pluralism in the composition of Nominating Commissions and appointing authorities, has in practice, rendered these bodies vulnerable to capture by political and private interests. Previous processes have been characterised by undue external interference, influence peddling, discretionary decision-making, and threats of criminalisation directed at both commissioners and candidates. Judicial investigations and criminal proceedings have revealed patterns of manipulation, including through vote-buying, operations of "parallel commissions" outside of formal institutional frameworks, and appointments driven by private bargaining rather than merit or the public interest.[24]

These dynamics have weakened confidence in the integrity of the selection process and have normalised entrenched practices that undermine institutional independence.

Particular concerns arise in relation to weight accorded to the academic representatives within the Nominating Commissions. The constitutional design appears to have assumed that academic authorities, particularly law school deans, would contribute independence, technical expertise, and a commitment to merit-based selection. In practice, however, the limited oversight over the establishment, accreditation, and quality of law faculties has significantly affected this role. The proliferation of private law schools with limited academic teaching, including institutions that graduate few or no students, issue so-called "paper diplomas," or operating in premises located in commercial centres, has diluted the integrity of academic participation. In certain instances, these institutions lack transparent governance structures, full-time academic leadership, or publicly disclosed sources of financing. The relative ease with which new law faculties can be established, including the creation of an additional University as recently as in November 2025, illustrates the vulnerability of the current framework to manipulation.[25] This dynamic has enabled powerful economic actors to exert influence within the Nominating Commission for the Supreme Electoral Tribunal, and to directly secure a seat in the Commission for the Attorney General. These developments raise serious concerns regarding the continued suitability of the mechanism in its present form and its consistency with the original constitutional objective of safeguarding the independence of the judiciary.

Concerns have also been raised with regard to the participation of the CANG in the Nominating Commissions. Control over its governing bodies has become highly contested, given that representation in the Nominating Commissions confers significant political influence over judicial appointments. As a result, the CANG has reportedly become a focal point for well-resources actors seeking to shape internal electoral outcomes through lobbying and coordinated voting strategies. Experience indicates that internal elections within the CANG have, at times, reflected broader clientelist dynamics present in the political system.

[22] UN Human Rights Council, Report of the Special Rapporteur on the Independence of Judges and Lawyers, "Visit to Guatemala, 12 to 23 May 2025 - Preliminary Observations" (23 May 2025) p.1-2; Due Process of Law Foundation (DPLF) and others, "Flaws in the Selection and Appointment Process of Hight Courts in Guatemala" (Submission to the UN Human Right Council, Universal Periodic Review, Fourth Cycle, July 2022) <https://dplf.org/en/wp-content/uploads/2024/09/upr_guatemala_2022_cycle_4_flaws_in_the_selection_and_appointment_process_of_high_courts.pdf> accessed 5 March 2026; Organisation of American States, "Updates on the Work of the Special Mission for the Strengthening of Democratic Institutions in Guatemala" (OAS Permanent Council, OEA/Ser.G CP/INF. 10833/26/ add.1, 30 January 2026) <https://scm.oas.org/pdfs/2025/CP_INF10833_Add1E.pdf> accessed 5 March 2026.

[23] IBA *Minimum Standards*, Article 3; Universal Charter of the Judge, Article 9; IACHR, *Guarantees for the independence*, para 244; UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, UN Doc A/HRC/11/41 (24 March 2009), para 27; UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, UN Doc A/HRC/20/19 (4 May 2012), para 27.

[24] CICIG, *Parallel Commission: power and arbitrariness in the Nominating Commission Law* (CICIG, 2024) <<https://www.cicig.org/ComisionesParalelasInforme>> accessed 5 March 2026.

[25] La Hora, "La nueva universidad que podrá participar en las elecciones de TSE y CGC en 2026" (21 November 2025) <<https://lahora.gt/nacionales/sosegueda/2025/11/21/la-nueva-universidad-que-podra-participar-en-las-elecciones-de-tse-y-cgc-en-2026/>> accessed 5 March 2026.

The current design of the Nominating Commissions does not incorporate robust mechanisms to prevent the participation of commissioners with potential conflicts of interest. In fact, in previous processes individuals facing ongoing judicial proceedings, including allegations related to corruption or influence peddling, have served as commissioners. Legal safeguards are necessary to promote higher levels of integrity in the composition of the Commissions. In the absence of such standards, the only integrity element of the process depends largely on the personal probity of the commissioners themselves.

Although the election of the Constitutional Court doesn't involve a Nominating Commission preparing a shortlist of candidates, as each of the 5 constitutionally designated bodies appoints one principal and one alternate judge, similar concerns arise.

The risk of undue interference is heightened by the absence of legally mandated procedures regulating the selection process within each appointing body. While each institution may adopt its own methodology to conduct the appointments, the lack of standardised, objective and transparent procedure creates space for discretion and arbitrariness, including internal voting processes with limited transparency or public participation. It is therefore essential that each appointing authority establishes, in advance, clear, objective, and publicly accessible procedures to guide the selection. The extreme judicialization of the process is also a risk factor. In previous election cycles, multiple legal challenges - including amparos proceedings, appeals, and requests for clarification - have been brought against appointments made by USAC and CANG. Ensuring transparent and predictable procedures from the outset is critical to safeguarding the legitimacy and credibility of the Constitutional Court.

CRIMINALISATION OF CANDIDATES AND COMMISSIONERS

Since the expulsion of the International Commission against Impunity in Guatemala (CICIG) in 2019, concerns have been widely expressed regarding the independence of Public Ministry and its alleged collusion with pro-impunity network seeking to shield corrupted political and economic actors. The current Attorney General has faced repeated criticism, including from international actors, in relation to failure to effectively address corruption and to protect the independence of justice operators. This context has given rise to allegations concerning the misuse of criminal law as a tool of persecution, intimidation and retaliation, with significant implications for the justice system and the rule of law.

It has been reported that justice operators have been subjected to sustained patterns of intimidation, harassment, and criminalisation. Over 60 prosecutors, judges, and lawyers have been forced to leave the country, citing credible fear of unfunded criminal proceedings and reprisals linked to their professional activity, including anti-corruption work.[26] Reports indicate that over 200 justice operators have been victims of multiple range of attacks ranging from defamation and threats to criminalisation.[27]

This environment has a chilling effect on the upcoming judicial elections. Potential candidates perceived as independent may be deterred from presenting themselves for the 2026 judicial seats, including the Supreme Court and Courts of Appeal, due to fears of retaliatory, unfunded criminal complaints, arbitrary arrests, coordinated smear campaigns and other forms of threats. Members of Nominating Commissions may likewise feel compelled to adopt overly cautious positions, concerned about reprisals for supporting candidates perceived as independent or reform oriented.

Several reported practices contributing to this climate of fear, include the discretionary application of overbroadly defined criminal offences; the prolonged and - in some instances unjustified - imposition of confidentiality (*reserva*) over criminal investigations and proceedings, restricting access to case files, undermining due process guarantees such as the right to defence, and the principle of publicity of hearings; and the active use or abuse of co-plaintiffs (*querellantes adhesivos*), perceived as aligned with particular political interest (actors such as the *Fundación contra el Terrorismo* (FCT), that reportedly accompanies and amplifies prosecutorial actions aligned with political interests).

In this context, it is essential to develop and implement effective measures to protect judges, candidates, as well as members of Nominating Commissions, to enable them to choose safely and independently without fear of retaliation for the discharge of their duties.]

[26] UN High Commissioner for Human Rights, Human Rights Situation in Guatemala (OHCHR Guatemala 21 January 2025) <https://oacnudh.org.gt/wp-content/uploads/2025/03/Informe_2024.pdf> accessed 5 February 2026.

[27] OHCHR, *Guatemala: Challenges in the defense of human rights* (OHCHR Guatemala 5 December 2025)

<<https://oacnudh.org.gt/publicacion/guatemala-desafios-en-la-defensa-de-los-derechos-humanos-2020-2025/>> accessed 5 February 2026.



The Statute of the Ibero-American Judge, in its Article 5, explicitly foresees the need to establish specific mechanisms that judges can refer to when they are “anxious or perturbed in their independence”. This includes the establishment of protection mechanisms that are independent from the Public Ministry, aimed at preventing and responding to retaliatory attacks. Previous election cycles demonstrate that without such safeguards, the risk of criminalisation and coercion can significantly distort decision-making and undermine the independence of the process.

3. Candidates' evaluation criteria

Once constituted, Nominating Commissions, generally adopt their programme of work, establish the criteria for evaluating candidates and issue an official call for applications. This discretion creates an opportunity to improve transparency, strengthen merit-based selection, and enhance public confidence.

The criteria applied for the evaluation of candidates are therefore of central importance and should extend beyond the verification of purely formal or procedural requirements attached to each post. Nominating, proposing, or appointing authorities have a responsibility to give concrete and substantive effect to the standards embedded in Guatemala's constitutional framework, in particular the requirements of eligibility (*idoneidad*), capacity (*capacidad*), probity (*honradez*), and recognised integrity and honour (*reconocida honorabilidad*).^[28] In light of the far-reaching implications of senior judicial appointments on the country's economic, social, judicial, and political sphere, heightened and rigorous scrutiny is indispensable to ensure the effective application of these constitutional principles and to safeguard the legitimacy and independence of the justice system.

International standards reinforce this obligation. Principle 10 of the UN Basic Principles on the Independence of the Judiciary provides that judges shall be selected on the basis of integrity and ability and that “any method of judicial selection shall safeguard against judicial appointments for improper motives”. The importance of objective criteria in judicial appointments has likewise been emphasised by the UN Special Rapporteur on the independence of judges and lawyers, as well as the Human Rights Committee.^[29]

These mechanisms have underscored that selection process must be grounded exclusively in merit and based on pre-established clear and objective criteria relating to qualifications, competence, integrity, and efficiency.

3.1 Eligibility and capacity (*idoneidad y capacidad*)

Eligibility and capacity constitute fundamental prerequisites for the effective, independent and principled exercise of judicial functions. Candidates should demonstrate a professional trajectory that reflects rigorous training and relevant experience. Evaluation should not be limited to the verification of academic degrees or formal qualifications. Rather, it should encompass institutions in which candidates were trained, the positions they have held, the nature and quality of the decisions they have made, and professional values reflected throughout their careers. A framework grounded in experience and merit is indispensable to strengthen the credibility and the integrity of the justice system.

It falls within the remit of each Nominating Commission to establish, at the outset of its mandate, a clear methodology for assessing these criteria. A persistent obstacle has been the absence of objective and standardised tools to evaluate candidates' experience and competencies. This, at times, has enabled scoring methodologies to be adjusted or applied in a manner that favours pre-identified profiles or specific individuals.

Particular concern arises where eligibility criteria may disproportionately favour legal professionals from outside the judicial or prosecutorial career, creating opportunities for overtly political influence in the composition of higher courts. For example, in the recent process for the selection of the Attorney General, the eligibility requirement of ten years

Ibero-American Statute of the Judge, Article 5.

[28] *Constitution of the Republic of Guatemala* [Amended by Legislative Accord No. 18-93 of 17 November 1993], Articles 113 and 207.

[29] UN Human Rights Committee, *General Comment No. 32: Article 14 (Right to Equality before Courts and Tribunals and to a Fair Trial)* (23 August 2007) UN Doc CCPR/C/GC/32 (footnote 1), para. 19; UN Human Rights Committee, *Concluding Observations of the Human Rights Committee: Paraguay* (24 April 2006) UN Doc CCPR/C/PRY/CO/2, para. 17; Ibero-American Statute of the Judge, Article 12; UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, UN Doc A/HRC/11/41/Add.1, Serbia.

as a practicing lawyer or prior service as appellate judge *de facto* limited the ability of career prosecutors to compete, despite their extensive institutional knowledge and professional experience for the role.

A system that prioritises career advancement within judicial and prosecutorial career paths is essential to ensure judicial independence. Elevating career judges and prosecutors as a principal pathway to senior judicial positions would be consistent with comparative models in which judicial careers form the backbone of the system. For example, it would align Guatemala with the Franco-Italian judicial career model, which inspired Guatemala's constitutional design. However, the current practice leads to the opposite outcome, where candidates with comparatively limited judicial experience are eligible to higher courts while career judges are *de facto* excluded. This disparity requires dedicated attention and careful review.

Minimum qualification requirements may represent a safeguard against political interference, provided that they are proportionate to the responsibility of the office and aligned to the functions to be exercised. In jurisdictions where a portion of positions in higher courts is reserved for non-career judges (such as lawyers, prosecutors, professors of law), additional requirements are often demanded.[30]

Nominating Commissions often rely on scoring tables (*tablas de graduación*) for evaluation, in which each relevant criterion contributes to a candidate's overall score and a minimum threshold must be reached. In previous selection processes, however, these thresholds have reportedly been adjusted during the process, including the adjustment of the pre-established minimum score, allegedly to allow additional candidates to enter the shortlistable pool. Modifications and alteration of the evaluation criteria when the selection process has already started undermine legal certainty and weaken confidence in the integrity of the selection process.[31] Additionally, these scoring tables have been widely criticised for assigning disproportionate weight to formal credentials that may not reliably reflect a candidate's adequacy to perform judicial functions. For example, excessive emphasis has in many instances been placed on academic titles, sometimes without adequate verification of substantive quality

or rigor, such as doctorates reportedly obtained without meaningful research, the so-called *doctorados de cartón*.

Administrative experience has likewise at times been given disproportionate weight compared to judicial performance.

Finally, evaluations have predominantly relied on submission of certificates and formal documentation rather than substantive assessment. Public interviews are rarely conducted, and written explanations for final appointments are typically absent, contributing to a perception that the process was stained by opacity and lack of transparency coupled with limited public scrutiny of the decision-making process.

Nominating Commissions and designating bodies are therefore encouraged to carefully review their methodologies for assessing candidates' capacity. Greater weight should be accorded to demonstrated professional practice and to evaluating systems that actively support, rather than hinder, judicial and prosecutorial career development. Complementary assessment tools may also be considered, where appropriate, particularly in relation to specialised functions, such as in the TSE or for the purpose to evaluate a candidate's demonstrated knowledge of constitutional principles, the rule of law, and fundamental rights. As emphasised on various occasions by the Special Rapporteur on Independence of Judges and Lawyers "competitive examinations conducted, at least partly, in a written and anonymous manner can serve as an important tool in the selection process".[32]

3.2 Probity and recognised integrity and honour (*honradez y reconocida honorabilidad*)

Probity (*honradez*), understood as intellectual integrity and rectitude in professional and personal conduct, constitute an essential prerequisite for the exercise of judicial functions. Any determination that a candidate lacks probity must be grounded on a final judicial conviction rendered by a competent authority in proceedings that fully respect due process and fair trial guarantees and the candidate's presumption of innocence. The exclusion of a candidate on this basis should therefore result exclusively from a formal legal proceeding culminating in a final, unappealable judgment, in full respect of due process.

[30] Sujit Choudhry and Katherine Bass, *Constitutional Courts after the Arab Spring: Appointment Mechanisms and Judicial Independence* (International IDEA and Center for Constitutional Transitions at NYU Law 2014) 89.

[31] Guilherme France, *Judicial appointments: corruption risks and integrity standards* (Transparency International Anti-Corruption Helpdesk, 20 September 2023) 7, <https://knowledgehub.transparencycdn.org/helpdesk/Integrity-in-judicial-appointments_2023-final.pdf> accessed 5 March 2026.


[32] UN Human Rights Council, Report of the Special Rapporteur on the Independence of judges and lawyers, UN Doc A/HRC/38/38, para 54; UN Human Rights Council, Report of the Special Rapporteur on the Independence of judges and lawyers, UN Doc 1/HRC/11/41, para 30.

Recognised integrity and honour (*reconocida honorabilidad*), by contrast, constitute a distinct and broader requirement that does not depend upon the existence of a criminal or administrative ruling. Rather, they reflect whether a candidate possesses the ethical standing, independence and public credibility necessary to discharge judicial functions in a manner consistent with international standards on the administration of justice. The assessment of recognised honourability necessarily encompasses both actual integrity and its public perception. Upholding judicial integrity entails ensuring that a judge's conduct "is above reproach in the view of a reasonable observer. [33] This dual dimension is essential to maintaining public confidence in the judiciary and goes beyond the absence of final convictions. Although honourability cannot be easily quantified - often being evaluated based on moral or ethical values- it cannot be applied in an arbitrary or discretionary manner. Jurisprudence of the Constitutional Court has clarified that *reconocida honorabilidad* is not susceptible to numerical or comparative ranking included in scoring tables: a candidate either meets the standard or does not.

Nonetheless, objective and measurable criteria remain necessary to assess the integrity and honour of candidates. The absence of measurable indicators, however, does not exempt nominating bodies from the obligation to apply objective and reasoned criteria grounded in transparency, equality, and non-discrimination. A rigorous vetting process should include for example systematic review of asset declarations, financial disclosure and review of potential conflicts of financial interest. Where such review reveals indicators raising reasonable concerns regarding integrity - including unexplained and disproportionate enrichment - candidates should be afforded a meaningful opportunity to provide clarifications supported by verifiable information. In such circumstances, the evidentiary burden shifts to the candidate to dispel reasonable doubts. Failure to provide satisfactory explanation, should result in a determination that the requirement of recognised integrity and honour has not been adequately fulfilled.

The evaluation process should also include the careful examination of credible information, relating to allegations of corruption, dishonesty, academic misconduct, concealment of relevant information, or involvement in serious human rights violations. While final judicial convictions may constitute an automatic disqualification under the requirement of probity, credible and evidence-based allegations supported by reliable sources - though not triggering automatic exclusion - must be assessed within a holistic evaluation of the candidate's profile, professional trajectory and ethical standing.[34] The failure to examine such information risks undermining both the effectiveness and the legitimacy of the selection process. Public confidence in the judiciary depends upon both dimensions, as the authority of judicial institutions derives not only from formal legality but also from the perception of moral credibility and impartiality.

Lastly, nominating commissions and appointing authorities must have timely access to financial disclosures, disciplinary records, and other integrity-related documentation necessary to conduct meaningful scrutiny. Equally important are procedures that enable informed participation by civil society and the broader public. Transparent mechanisms allowing public submissions, reasoned examination of potential red flags, and adequately justified decisions contribute to safeguarding fairness, preventing arbitrariness, and strengthening public trust in judicial appointments.



International standards reinforce this approach. As reflected in the Bangalore Principles of Judicial Conduct and the Universal Charter of the Judge, judicial integrity requires independence from improper relationships, interests, or influences, as well as the appearance of such independence. [35]

[33] Bangalore Principles, Value 3.1.

[34] Tilman Hoppe, International Integrity Vetting of Public Officials (UNCAC Coalition, 17 March 2023).

[35] Bangalore Principles, Value 1.3; Universal Charter of the Judge, Article 5.

4. Transparency and civic participation

Transparency is a fundamental principle in judicial selection and appointment processes. It is essential not only for enhancing the integrity and legitimacy of institutional outcomes but also for strengthening public confidence in judicial institutions. Transparency is closely linked to the degree of public scrutiny and civic participation permitted throughout the selection process. International standards underscore the importance of transparent procedures and meaningful public access to relevant records as key components of accountability and effective democratic oversight.[36] These considerations are particularly relevant when the appointments concern justice operators from the higher Courts, whose decisions may directly affect constitutional governance, human rights protection, and the balance of powers. In such contexts, the involvement of executive and legislative authorities heightens the need for enhanced transparency safeguards capable of mitigating risks of undue influence or politicisation.[37]

4.1 Publicity of the process

The first step toward transparency is ensuring that the work of Nominating Commissions is publicly visible. Publicity allows citizens and civil society to monitor and contribute meaningfully to the selection of candidates. As highlighted by the Organisation of American States with reference to the upcoming TSE elections, consistent with the principle of maximum publicity in matters of public interest, sessions should be held in venues prescribed by relevant legislation and broadcast live, with broad dissemination through multiple channels. [38]

It is equally important for Commissions to establish clear work schedules that allow adequate time for each procedural step and are adhered to rigorously. This prevents rushed and opaque decisions, which have occurred in previous elections where procedural delays, sometimes compounded by obstructionist judicialization, forced sessions to last more than twelve hours. When proceedings are hurried, there is little opportunity for controversial issues to be raised, increasing the risk that critical aspects of a candidate's professional or ethical history remain undisclosed.

A comprehensive space should be created for publishing all information related to the selection process. This includes the criteria for evaluating applicants, the full list of candidates, and their dossiers once received. This should not be limited to the candidate's declarations but also all the supporting documentation and certificates. Additionally, records of all agendas, session minutes, and official instruments approved by the Commissioners should be made publicly available, alongside citizens' objections or complaints against candidates deemed unfit and the corresponding responses or evidence provided by the candidates. Considerations of privacy right of candidates are in fact overridden by the high-level nature of the public office that candidates are applying for.

4.2 Civic participation

Civic participation extends beyond passive public scrutiny and oversight and encompasses the active contribution of the population and civil society organisations in identifying elements of concern relevant to the assessment of candidates. This participation functions as an essential complementary and auxiliary mechanism to the work of Nominating Commissions, particularly with respect to the evaluation of the requirement of recognised integrity and honour, where information provided by civil society can significantly strengthen integrity vetting.

A key avenue for civic participation in the judicial selection processes examined is the submission of *causas de impedimento* ("grounds for disqualification"), commonly referred to as *tachas* ("stain"). These submissions provide information concerning potential impediments affecting candidates who have submitted their applications. Tachas function as a form of social oversight, play a critical particularly in identifying undisclosed conflicts of interest, inappropriate relationships with political or economic actors, or ethical concerns relevant to suitability for office.

Given that *tachas* may relate to multiple evaluation criteria, their admissibility should not be unduly restricted by Nominating Commissions through excessive formalism. For example, requirements that effectively limit consideration only to allegations supported by final judicial convictions undermine civic participation.

[36] Universal Charter of the Judge, Article 9.

[37] UN Human Rights Council, Report of the Special Rapporteur on the Independence of judges and lawyers, "Visit to Guatemala, 12 to 23 May 2025 - Preliminary Observations" (23 May 2025) p.2. Para 80.

[38] Organisation of American States, "Statement from the OAS Special Mission for the Strengthening of Democratic Institutions in Guatemala" (Press Release C-082/25, 3 December 2025).

In practice, *tachas* frequently concern matters falling outside strictly judicial determinations, and include ethical conduct, professional reputation, or patterns of behaviour affecting public confidence.

The effectiveness of this mechanism, however, depends largely on how nominating Commissions address submitted information. Where decisions to accept or reject submissions are adopted without reasoned justification or substantive deliberation, their oversight function may be significantly weakened. Reasoned consideration of submissions within transparent deliberative processes is therefore essential to ensuring credibility and fairness.

Experience suggests that coordinated civic engagement can amplify the impact of *tachas*: the greater the number of substantiated *tachas* are presented, the more difficult it becomes to dismiss them summarily and proceed without scrutiny. In addition to formal submissions, broader civic engagement—including professional forums, community dialogue, independent media coverage, and public advocacy—may contribute to strengthening transparency and public awareness throughout the process.

Another important channel for civic participation is the conduct of public interviews. These interviews provide commissioners with an opportunity to assess candidates' independence, professional competence, and understanding of constitutional and human rights obligations. Previous selection processes have demonstrated that excessively brief interviews, limited largely to presentations of work plans followed by minimal questioning, restrict meaningful evaluation.

Adequate time should therefore be allocated to public interviews, to ensure substantive questioning, including on issues raised through *tachas* or other relevant concerns. Written submission of work plans may be provided in advance allowing interviews to focus on assessing candidates' qualifications, ethical standards, and capacity to perform judicial functions effectively.

Lastly, geographical accessibility remains an important element for consideration. The concentration of the activities in Guatemala City risks limiting participation primarily to metropolitan residents and members of professional legal circles. To promote inclusive participation reflecting the country's social and territorial diversity, it is necessary to involve local communities through territorial organisations, women's groups, student associations, and departmental chapters of the CANG, as well as through accessible online platforms that allow broader public engagement.

5. Indigenous communities' involvement.

As noted in the background section (contextual framework) of the present report, Indigenous peoples constitute a substantial and demographically significant segment of Guatemala's population. While, on paper, they enjoy constitutional and legal protections, persistent gaps remain between normative commitments and their effective implementation in practice. Guatemala's legal framework regarding the rights of Indigenous peoples is grounded in a combination of constitutional provisions, peace agreements, and international norms. The Constitution establishes principles of equality and non-discrimination (Art. 4) and expressly recognises Indigenous cultures, languages, community structures, and land (Arts. 66–70), requiring State institutions to respect and promote Indigenous identity.

The 1995 Agreement on the Identity and Rights of Indigenous Peoples recognises the Maya, Xinca, and Garífuna peoples as distinct collectivities, acknowledges historic discrimination, and commits the State to adopt measures aimed at eradicating ethnic discrimination through legal reform, criminal accountability, enhanced measures on participation, protection of land rights, and recognition of customary law.



This internal framework is complemented by Guatemala's ratification of ILO Convention 169 and its endorsement of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which, together with constitutional jurisprudence, establish standards on consultation, participation, and territorial rights that guide legislative, administrative, and judicial action. Guatemala participates actively in the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) framework but has yet to ratify the 2013 Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance (adopted in 2013 in Antigua, Guatemala). Such ratification would enable petitions and cases before to be brought before the Inter-American mechanisms, significantly bolstering accountability avenues for indigenous communities.

Despite this extensive normative framework, in practice, Indigenous peoples continue to face structural discrimination affecting political participation, access to justice, and representation within State institutions. Reports by national and international actors have documented patterns of criminalisation of Indigenous authorities and community leaders in connection with land disputes, environmental defence, or collective mobilisation. As a result, some Indigenous authorities have been forced into exile. Allegations of the misuse of criminal law provisions—including charges related to public order or association offences—have raised concerns regarding potential restrictions on the exercise of Indigenous self-governance and collective rights. Such practices undermine ancestral governance structures and weakening trust between Indigenous communities and State institutions, contrary to the commitments embodied in the Peace Accords.

At the same time, Indigenous communities remain central actors within Guatemala's social and civic life, including in the protection of natural resources and the promotion of community-based governance models. Indigenous leaders adopt distinctly separate communitarian approaches that prioritise social cohesion, principles and rights of the people, rather than the interests of individuals or parties, as well as local and regional articulation and rights-based peaceful advocacy.

Their capacity for peaceful mobilisation has demonstrated significant relevance in moments of institutional crisis. For example, during the 2023 electoral tensions, indigenous authorities and community organisations played a widely recognised pivotal role in defending democratic processes through sustained, non-violent mobilisation and advocacy, thus contributing to the preservation of the constitutional order.[39]

Some Indigenous leaders have subsequently been subjected to prosecution and detention in connection with the 2023 mobilisations, which the Inter-American Commission on Human Rights condemned as constituting a politically motivated misuse of criminal law.[40]

Current efforts by the executive branches to engage with indigenous authorities through technical dialogue tables (*mesas técnicas de diálogo*), as well as dialogue of ancestral indigenous authorities directly with the president, is a positive development; however, more institutionalised and systemic mechanisms are required to ensure meaningful indigenous participation and that indigenous perspectives are systematically incorporated into public decision-making processes.

Furthermore, the upcoming judicial selection processes intersect with longstanding tensions between ordinary justice system and Indigenous or customary justice systems. The 1995 Peace Agreement recognised the importance of indigenous jurisdiction and envisaged to strengthen it within the national legal framework. To date, no legal framework has formally clarified the relationship and repartition of jurisdiction between indigenous or customary justice and the ordinary justice system. While certain communities developed a number of *de facto* Indigenous justice practices, repeated legislative initiatives aimed at formalising recognition of indigenous justice have systematically failed to be adopted. Efforts to date have focused on coordination and dialogue between the two systems. Renewed dialogue on legislative measures recognising and regulating Indigenous jurisdiction would contribute to fulfilling the Peace Agreement's commitments and advancing legal certainty within Guatemala's plural legal system.

[39] Impunity Watch, "Democracy triumphs in Guatemala" (22 January 2024) <<https://www.impunitywatch.org/news-democracy-triumphs-guatemala-elections/>> accessed 5 March 2026.

[40] Inter-American Commission on Human Rights, "IACHR condemns criminalization of Indigenous leaders who defended democracy in Guatemala" (Press Release No. 080/25, 26 April 2025).

Access to justice remains a further area of concern. Indigenous peoples face significant barriers to effective legal representation within the ordinary justice system, particularly at early stages of criminal proceedings. In fact, public defence services generally intervene only once formal charges have been filed, thus creating a structural gap in preventive legal assistance during arrest or initial investigation phases. This disproportionately affects indigenous persons who may face linguistic, geographic, and socioeconomic barriers to securing private legal counsel.

The scarcity of indigenous legal professionals, or of lawyers specialising in the defence of indigenous communities, further compounds these challenges. Existing practitioners often carry substantial caseloads, thus limiting their capacity to participate as candidates in judicial selection processes without weakening the already limited legal support available to their communities. Persistent discrimination and structural barriers within professional and institutional environments also contribute to the underrepresentation of Indigenous lawyers within judicial careers. Addressing these challenges may require expanding the mandate of the public criminal defence services (*defensa pública penal*) to cover early stages of criminal proceedings or establishing specialised institutional mechanisms capable of supporting cases involving Indigenous communities, for example a dedicated unit within the CANG. Such measures could contribute to mitigating existing structural barriers in accessing justice, while fostering more equitable participation in judicial professions.

Against this backdrop, the meaningful participation and oversight of indigenous communities in the upcoming judicial selection processes are essential. The appointment of judges and an Attorney General who fully respect constitutional guarantees and Guatemala's international obligations towards indigenous peoples is critical to strengthening trust among diverse social groups and advancing a more inclusive and pluralistic representation.

Effective participation requires adequate economic, technical, and legal support for Indigenous representatives engaged in monitoring and contributing to these processes.

This includes resources facilitating travel to and sustained presence during proceedings held in Guatemala City, as well as access to legal assistance enabling the preparation of well-substantiated civic submissions, including *tachas*. In parallel, targeted public information campaigns are equally important. Outreach initiatives developed in Mayan languages and disseminated through community radio, social media, and other accessible channels, would help ensure that indigenous communities across the territory are informed about the scope, implications, and progression of the judicial selections processes, thereby promoting inclusive participation consistent with Guatemala's constitutional and international obligations.

CONCLUSIONS AND RECOMMENDATIONS

Guatemala stands at a pivotal juncture. Judicial appointment processes represent a key moment for the consolidation of the rule of law, democratic governance, and the protection of human rights in the country. The 2026 selection processes for key justice sector institutions — including the Constitutional Court, the Supreme Electoral Tribunal, and the Attorney General — take place in a context marked by persistent concerns regarding the independence of the judiciary, allegations of political interference, and the instrumentalization of criminal law against justice operators and civil society actors.

Based on these concerns, the Mission emphasizes the importance of monitoring every stage of the appointment processes — from the call for candidates to the final designation of authorities — in order to strengthen transparency, integrity, and public accountability.

The Mission concludes the following:

First, against the backdrop of a judicial selection system requiring structural reforms, the credibility of the judicial appointment processes fundamentally depends on the consistent application of objective and transparent evaluation criteria that prioritize professional competence, ethical conduct, and independence. The design and implementation of evaluation methodologies must ensure that candidates' trajectories, integrity, and commitment to the rule of law are substantially assessed, and that conflicts of interest and/or credible allegations of misconduct are thoroughly examined.

Second, the process must ensure meaningful transparency and public scrutiny. This includes guaranteeing access to information about candidates, ensuring open deliberations within Nominating Commissions and decision-making institutions, and enabling effective participation by civil society, including representatives of Indigenous communities. Such transparency not only strengthens the legitimacy of the selection processes but also helps to safeguard them against undue political influence and informal negotiations that may compromise their integrity.

Third, the protection of justice operators, candidates, and members of Nominating Commissions is essential. In a context where criminalisation and intimidation have affected individuals involved in anti-corruption efforts or the defence of human rights, it is critical that authorities guarantee that participants in judicial selection processes can engage without fear of retaliation, harassment, or undue pressure. Failure to ensure such protection risks deterring qualified candidates, ultimately weakening the independence of the institutions that these processes aim to strengthen.

Lastly, selection processes should be understood not merely as routine institutional procedures but as pivotal opportunities to rebuild public trust in the justice system and reinforce democratic resilience. Judicial institutions capable of acting independently and impartially are indispensable for addressing corruption, protecting human rights, and ensuring accountability. The appointment of individuals of proven integrity and competence to key judicial and prosecutorial positions is therefore not only a legal obligation but also a fundamental step toward restoring confidence in Guatemala's democratic framework.

In addition, the mission emphasises that the legitimacy of Guatemala's justice institutions depends not only on the formal compliance of procedures with domestic law but also on their adherence to international obligations and standards on judicial independence, impartiality, and integrity.

Based on the above findings and conclusions of the monitoring mission, the following recommendations are presented:

TO THE STATE OF GUATEMALA

Constitutional and legislative amendments

- ▶ The State of Guatemala should consider a comprehensive reform process to address the structural deficiencies of the current system of Nominating Commissions for the highest courts and the Attorney General, moving towards a career-based judicial appointment system that effectively recognises and upholds experience, merit, probity and recognised integrity and honour as its foundational criteria, in line with regional and international standards on judicial independence.
- ▶ Longer and non-renewable terms of office should be established for judges and the Attorney General, and staggered renewal of collegiate bodies should be introduced to reduce exposure to political cycles and prevent institutional capture.
- ▶ The Law on Nominating Commissions and the Law on Private Universities should be amended to ensure that universities with robust and accredited law programmes, proven graduate output, and transparent governance participate in nominating bodies.

Design and operation of the judicial selection processes

- ▶ All institutions involved in judicial selection processes should ensure that the 2026 and subsequent judicial selection processes are carried out with integrity, meaning, among others, that they are impartial, merit-based, transparent, participatory and free from undue pressure and interferences, in line with Guatemala's constitutional obligations and international obligations and standards.
- ▶ Nominating commissions should establish and apply objective, preannounced evaluation criteria and scoring methodologies, giving greater weight to demonstrated professional performance, independence, and judicial or prosecutorial career trajectory, and limiting the disproportionate influence of purely formal credentials and academic titles.
- ▶ Nominating Commissions and appointing authorities should incorporate standardised competency testing, as well as sufficiently long, substantive public interviews, to assess candidates' legal knowledge, experience, integrity and independence and resilience to external pressure, rather than merely their proposed work plans.
- ▶ Nominating Commissions must conduct rigorous and exhaustive integrity vetting of all candidates that goes beyond the mere absence of final convictions and includes, as much as feasible, systematic review of asset declarations, financial information, and potential conflicts of interest, as well as thorough review of any credible and evidence-based allegation of corruption, academic fraud, human rights violations, or links to de facto power groups.
- ▶ All votes and decisions by Nominating Commissions and appointing authorities, including the assessment of well-founded tachas and other objections, should be public, reasoned, and individually attributed.
- ▶ The President, Congress, the Supreme Court, Higher University Council of the USAC and the CANG, each having individual appointment authority over 1 titular and 1 alternate magistrate of the Constitutional Court, should adopt and disclose clear profiles and criteria for the positions to be filled, and justify their appointments through public, reasoned decisions grounded in those criteria.

Transparency, publicity, and civic participation

- ▶ Nominating Commissions and appointing authorities should guarantee maximum publicity of all stages of the selection processes, including live streaming of sessions; publication of agendas, minutes, candidate files, scoring tables, and integrity vetting results; and open access to venues large enough to allow meaningful observation by civil society, media, and diplomatic missions.
- ▶ Nominating Commissions should enable broad civic participation by accepting and substantively examining *tachas* and other submissions from civil society, professional associations, and the public, and by providing reasoned responses to such inputs.
- ▶ Public interviews should be designed to allow sufficient time for questioning and follow up by commissioners, including on issues raised by *tachas* and integrity vetting, and should be broadcast and archived online.
- ▶ State institutions, civil society and media outlets should communicate about the judicial selection processes in accessible language, including in Mayan, Xinka and Garífuna languages, using social media, radio, podcasts and other digital platforms to explain the economic, social and political implications of the 2026 judicial appointments.
- ▶ At the outset of the process for the selection of the Attorney General, the President should publicly set out the criteria and requirements that will guide the evaluation of candidates, and then conduct public interviews with the six shortlisted candidates for the role, basing the final appointment decision on the results of those interviews and the pre-announced criteria, thereby promoting transparency and public scrutiny at every stage of the process in accordance with international standards.
- ▶ The President should conduct public interviews with the six shortlisted candidates for the role of Attorney General and base the final appointment decision on the results of those interviews, thereby promoting transparency and public scrutiny at every stage of the process in accordance with international standards.

Indigenous peoples' participation and rights

- ▶ The State should adopt specific measures to facilitate the effective participation of indigenous authorities and organisations in monitoring and engaging with the judicial selection processes, including, as a key aim, progressive decentralisation to enable direct involvement of populations in other regions. As an interim solution the State should provide Indigenous representatives with financial support for travel and accommodation in Guatemala City, legal and technical assistance for preparing *tachas* and other submissions, and interpretation into indigenous languages during public sessions.
- ▶ Judicial selection processes should take into account Guatemala's multicultural character and obligations under ILO Convention 169 and UN Declaration on the Rights of Indigenous Peoples (UNDRIP) actively promoting the inclusion of qualified indigenous lawyers and justice operators and addressing structural barriers that impede their access to judicial careers.

Protection of candidates, Nominating Committees' members, and civic space

- The State should immediately and effectively comply with the Inter-American Court of Human Rights judgment ordering the adoption and full implementation of a public policy for the protection of human rights defenders, ensuring adequate funding, institutional coordination, and operational capacity, and ensuring that the Policy also addresses risks faced by justice operators, candidates, Nominating Commissions' members, journalists, indigenous leaders and civil society monitors engaged in the 2026 judicial selection processes, among others.
- The Public Ministry and other authorities should cease the misuse of criminal law for purposes of intimidation or retaliation against justice operators and should review, with international oversight where appropriate, ongoing cases that show signs of lawfare or lack of due process, ensuring accountability for public officials who violate due process or contravene international human rights standards, through disciplinary proceedings and/or criminal investigations where warranted.
- In response to the weaponisation of the criminal justice system as a tool of political persecution, the State should reform prosecutorial and judicial practices that violate fundamental rights, including by guaranteeing the principle of publicity in proceedings; imposing strict oversight on the application of confidentiality orders (*reserva*); reviewing and, where appropriate, reforming vague criminal provisions.

TO THE INTERNATIONAL COMMUNITY

- States and multilateral organisations should deploy proactive, sustained diplomacy towards Guatemala's executive, Congress, judicial authorities, and members of nominating commissions, conveying clear expectations regarding the integrity, transparency, and independence of the 2026 appointment processes and the inadmissibility of political interference or reprisals, including through resolutions, public statements, and coordinated actions when risks of interference with the judicial selection processes arise.
- States and institutions should expand and coordinate targeted sanctions, backed by robust evidence, against actors implicated in corruption, institutional capture, and anti-democratic interference, and it should be ensured that those already subject to international sanctions are excluded from candidate lists under the recognised integrity and honour criterion.
- States should implement robust protection for at-risk justice operators, candidates, Nominating Committees' members, indigenous authorities, human rights defenders and journalists through, among others, diplomatic support, trial monitoring, emergency visas, relocation, asylum.
- Donors should provide financial and technical support to local civil society organisations, particularly those led by women, indigenous peoples, and marginalised groups, that are monitoring the judicial selection processes, litigating strategic cases, or implementing public information campaigns.
- International financial institutions and development partners should link governance and justice sector support to concrete benchmarks on judicial independence, transparent appointments, and protection of justice operators.
- Donors should provide financial and technical support to long term initiatives aimed at increasing the presence of indigenous and marginalised groups in legal education and judicial careers, including scholarships, mentoring schemes, and dedicated training programmes on constitutional and international human rights law.



Human Rights Institute

International Bar Association
Chancery House
53-64 Chancery Lane
London WC2A 1QS
+44 (0) 20 7842 0090