

The selection process of the Attorney General in Guatemala:

Increased regulation does not mean less arbitrariness

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I. Introduction

The President of Guatemala, Otto Pérez Molina, announced on May 9, 2014, that [Thelma Esperanza Aldana Hernández](#) would be appointed as the country's new Attorney General (AG). Aldana, who was sworn in on May 17, is a former Supreme Court justice, a civil law expert—although she served in the Supreme Court's Criminal Chamber in the months leading up to her appointment as Attorney General—and was Chief Justice of in the period 2011-2012.

Aldana succeeds the outgoing Claudia Paz y Paz, who has been [recognized internationally](#) for her achievements in combating impunity and, most of all, for initiating the trial of former President Efraín Ríos Montt on charges of acts of genocide against the Ixil Maya people. The trial evidenced the **sharp polarization** of Guatemalan society, and it was against this backdrop that the new AG was appointed.

This article recounts and examines this process in detail. First, it outlines the processes for judicial selection in Guatemala, which are subject to much more detailed regulation than in other countries in the hemisphere, and the limitations of this regulation. It then addresses the events surrounding the selection of the Attorney General and the two most problematic aspects of the process: the effective limits on civic oversight imposed by the prequalification body (the Nominating Commission, NC), and how this commission has abused its discretionary power to make arbitrary decisions. It is hoped that this analysis will help improve the process for the selection of judicial authorities in Guatemala and other countries in the region.

The main lesson that other countries interested in strengthening their judicial selection process can learn from the Guatemalan experience is that **although there are detailed laws and regulations** (in the case of Guatemala, the Nominating Commissions Law [Ley de Comisiones de Postulación, LCP]) **which make the process more transparent and regulated than in many other Latin American countries, there is nevertheless significant room for discretion that can be exploited by stakeholders** such as government authorities, private businesses and the so-called *de facto* powers.

The current **influence of these interests** over nominating commissions has distorted the nature of their work. Under a veneer of legality, the actions or omissions of members of the nominating commissions have abused the degree of discretion granted in the regulation, by providing an overly broad interpretation or an inconsistent application of the regulation, and have limited the civic oversight of the process. As this article will detail, the arbitrariness in the appointment process of the new AG **suggests that the**

process has been manipulated to favor the candidate preferred by the government: Thelma Aldana.

This result is not without a measure of cynicism, and shows a lack of commitment to the spirit of the applicable laws which **raises doubts about the legitimacy of the processes for the selection** of judicial authorities in Guatemala.

II. Judicial selection processes in Guatemala

II.1 Appointment of the AG

Judicial selection processes in Guatemala, except for Constitutional Court judges,¹ are entrusted to a Nominating Commission (NC). For the [selection of the Attorney General](#), the commission was made up of 14 members: the deans of the country's law schools (currently 11), the head of the Guatemalan Bar Association, and the president of the Ethics Tribunal of this association, and was presided by the Chief Justice of the Supreme Court.

This NC shortlisted six candidates, one of whom was appointed as AG by the President of the Republic, and three others were elected by Congress to the Public Ministry Council, which serves as an advisory body to the AG, and has authority to appoint staff members and to confirm or modify the instructions of the AG, including decisions regarding disciplinary measures against staff members.

II.2 Selection of justices of the SCJ and the appeals chambers

The selection of justices of the Supreme Court of Justice (SCJ) and the appeals chambers, which will take place between July and September 2014, are entrusted to larger NCs of 34 members. In addition to the deans of the country's law schools, there will be an identical number of representatives of judges,² and an equal number of representatives from the Guatemalan Bar Association, in both cases elected by their peers.

These commissions are presided by a university dean, also selected by his or her peers. The commissions draft a list of candidates of double the number of vacancies. This list is submitted to Congress, which will then elect the justices of the SCJ and the members of the appeals courts and their substitutes.

II.3 The law has established important standards, but has failed to prevent manipulation

The [Nominating Commissions Law](#) (LCP) came into force in 2009 and regulates the selection process. It provides that nominating commissions must **set out the desired profile of candidates, a time schedule and a table with an assessment of the merits of**

¹ However, in 2011 the Supreme Court and San Carlos University, two of the five entities which designate the members of the NC, decided to follow the LCP criteria in this process.

² For the selection of justices of the SCJ, 11 individuals are elected by a vote of their peers at the Magistrates' Institute of the appeals chambers; and for the selection of 11 magistrates of the chambers, 11 individuals are elected from the 13 members of the SCJ by their peers.

candidates, taking into account essential parameters such as their professional, academic and ethical qualities and their ‘human projection’, that is, their commitment to the protection of human rights and democracy. The law also requires commissions to operate transparently, and to make public their agendas and meetings.

However, although this law has established **important mechanisms to limit arbitrary decisions being made**, the process for the selection of judicial authorities in Guatemala continues to suffer from **serious weaknesses**. Despite the fact that the LCP is much more advanced than similar laws in the region and lays down relatively detailed provisions, it is (of course) not comprehensive and leaves margin for discretion, such as for defining how many points are awarded to each item of the grading table, and the indicators for determining the score given to each candidate. Another example is that each nominating commission adopts its own rules of procedure, and this instills **normative instability** into the process.

This is further aggravated by evidence that **various interest groups**—operating both lawfully (such as the government and the private sector) and unlawfully—**have permeated these commissions**. Many authoritative voices have claimed that several universities were founded as a result of some sectors’ interest in being part of the NCs.³ An example of this is the rising number of universities which were created by Guatemalan businessmen in recent years:⁴ 5 of the 11 law schools in the country have existed for less than 15 years.⁵ Three of them are yet to produce graduates who have become members of the Bar.⁶ Only 0.8% of professionals who were admitted to the Bar between 2002 and 2014 had graduated from six of the 11 law schools.⁷ In other words, although the academic excellence of such institutions (and even their very existence) is questionable, the law nevertheless authorizes their deans to be part of, and thus influence, the NCs.

The combination of both factors—the discretion given to the NCs in spite of the LCP and the pervasive influence of powerful interests—has facilitated the **manipulation of the processes for the selection of judicial authorities**. Below is an overview of the process for the selection of the AG conducted in 2014.

II. Process for the selection of the Attorney General conducted in 2014

The process for the selection of a new Attorney General was initiated by an [arbitrary decision](#), which was [denounced by various domestic and international groups](#). In fact,

³ Martín Rodríguez Pellecer, Andrés Zepeda and Rodrigo Véliz, ‘Las claves para entender la disputa por la justicia,’ *Nómada.gt*, April 22, 2014, available at: <http://nomada.gt/las-claves-para-entender-la-justicia/#.U8NXnyhT8lw> (last accessed on July 14, 2014).

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

the Constitutional Court cited the transitory provisions of the Constitution as the basis for its decision to [cut short the term of the Attorney General](#) and despite the fact that its decision was still provisional rather than final, the Court ordered Congress to convene the NC to appoint a new Attorney General. Such **disregard for legality and the selective enforcement of certain applicable laws** were also distinguishing features of the process for the appointment of the AG.

[The Nominating Commission for the appointment of the Guatemalan Attorney General and Head of the Public Ministry](#) (NC for the AG) began working on February 13, 2014 and established a time schedule on February 24. Challenges against candidates would be received on March 28 and 30, and on April 1, interviews would be held on April 21-23, and the final assessment would be made on April 28-30. Therefore, the short list of candidates would be sent to the President of the Republic by May 2, 2014.

III.1 The 'disarray' in the performance of the NC had the effect of limiting civic oversight

Improvised time management caused uncertainty

Although a time schedule had been established, the **improvised time management** by the nominating commission created uncertainty as to how the process was conducted and made civic oversight of such process more difficult. Even though there were long periods of time during which the NC for the AG did not hold meetings ([seven days between its seventh and its eighth meetings, and ten days from its eleventh to its twelfth meetings](#)), on March 19, 2014 (at its seventh meeting) the commission decided that the period in which members of the public could submit challenges to candidacies on the basis of ethical objections would take place on March 24-28, instead of March 28 and 31, and April 1, as had been previously agreed.

Although this meant that interested individuals would have five instead of three days to submit observations to the NC for the AG, **bringing forward this period for civic oversight** on such short notice (and without reflecting this in the official time schedule available online) effectively cut short by a week the time to prepare the challenges.

The selection process suffered a sudden acceleration over its last weeks. Although the assessment of the 'recognized integrity' (a constitutional requirement for an appointment to any high-level public positions) and the final evaluation [were not included in the agenda for the meeting of April 29, 2014](#), the NC for the AG decided to address these key aspects of the selection process on that date as 'miscellaneous' agenda items. This **acceleration of the process for reasons not explained** (but which suggested that possibly a final decision had already been reached) also limited the oversight by civil society and media outlets.

Lack of transparency resulting from documents not being 'uploaded' in a timely fashion

Pursuant to article 2 of the LCP, the NC must work transparently. To that end, [a webpage](#) was designed within the Judiciary's website to publish all documents relevant

to the civic oversight of the process. This page contained some of the rules governing the process (such as the Constitution and the Nominating Commissions Law), as well as NC's instruments, like the grading table and other relevant documentation.

However, although several internal documents were available during the process, the NC's secretariat often failed to upload documents in a timely manner for civil society to oversee the process effectively. On March 21, 2014, [20 civil society organizations sent a letter to the NC urging it to update their webpage](#) by uploading relevant documents. In spite of this wake-up call, the NC did not furnish all the information required. For instance, the time schedule was not updated after the dates for filing challenges to candidacies were changed.

The 'disorderly' work of the NC for the AG in practice hampered the civic oversight of the process, and as a result, the Commission may have been able to make arbitrary decisions that possibly went unnoticed by the public.

III.2 The absence of clear criteria gave the NC greater discretion and contributed to the arbitrariness of its decisions

Article 12 of the LCP provides that the NC must establish the desired profile of candidates and the requirements that should be met to be included in the list of eligible nominees. In order to establish if candidates fit that profile, article 12 provides that the NC must develop a 'grading table' of 1 to 100 points, so that candidates can be given a score based on their: a) moral standing; b) academic merit; c) professional merit; and d) human projection. At its meeting held on February 26, 2014, the NC for the AG established the [grading table](#), which was approved during the March 5 meeting. The score to be given to each of the four categories was also established at that last meeting.

First, the **inconsistency between some indicators and the profile aspects to be demonstrated** became evident. For instance, in order to assess the 'efficacy and leadership' qualities of candidates, the relevant indicators in the grading table were: 'main projects performed or decisions made in accordance with the goals of public or private enterprises' and 'executive positions held and results obtained.' Nominees were required to prove this skill by providing 'relevant documents.'

However, **it is hard to demonstrate those qualities by way of the presentation of documents**; a meaningful verification would require an investigation of a candidate's professional background and the inclusion of certain questions in the public interview. Similarly, the grading table specified that the verification of the profile aspect associated with 'creativity' would be accomplished by providing credentials of 'innovative training' received and 'projects conducted with the aim of implementing changes or solutions.' However, innovation is just one of many aspects of creativity and, again, providing documents may not be the best way to verify that candidates have that skill.

In addition to these significant deficiencies, the grading table gave excessive weight to the number of years of professional experience and the level of studies of candidates,

instead of recognizing professional excellence. An individual with more than 15 years of experience as judge, magistrate, prosecutor or public defender was given 13 points. Candidates with more than 25 years of professional practice (as trial lawyers or as professionals in related areas) were also given 13 points. Professionals with 20-24 years of experience were given 10 points; those with 15-20 years of experience, 8 points, and professionals with 10-15 years of experience, 5 points. The scores associated with a candidate's experience as justice official and professional practice were cumulative. These scores are debatable, as seniority in a position is only really testament to a person's approximate age; **the years of professional practice an individual may have do not say much about his/her quality as a professional.** This can only be established through a professional examination and the analysis of the writings produced by the candidate in question. Neither of these was done in this case.

Second, there were two **significant differences between the grading table which was used in the previous process for the appointment of the AG in 2010, and the one used in 2014.** One of the changes concerned the scores assigned to each of the four categories: as the Constitutional Court decided in [case 942-2010](#) that ethical requirements may not be quantified, the 2014 grading table did not include a score for this category, but merely a verification. The 40 points allocated in 2010 to moral standing were split between academic merit and professional merit.

Another change in the grading table was the **score assigned to the work experience** of candidates. While in the 2010 selection process 2 points were given to nominees with 2 to 5 years of experience as prosecutors, magistrates, judges or public defenders, in 2014 points were only given to candidates with at least 5 years of experience in those positions (5 points).

As a result of that change, no score was given to the then Attorney General of the Republic, Claudia Paz y Paz, for her professional experience, as she had served as Attorney General for less than five years. Possibly more absurd still is that **'professional experience' was assessed without considering the degree of responsibility:** having held the highest position in the Attorney General's Office was not regarded as relevant professional experience by the NC for the AG.

In order to better understand these decisions by the NC for the AG, it should be noted that, if a 2-point score had been recognized for 2 to 5 years of professional experience at the Attorney General's Office or the Judiciary, Claudia Paz y Paz (who obtained 69 points in total without those 2 points) would have received the same final score as Thelma Aldana (who obtained 71 points).

Challenges were not investigated or taken into account

The competence of candidates is an essential prerequisite for election to public office. Even though, based on the documents submitted, an individual may appear as an ideal candidate, there may be events in his/her personal or professional background which would prevent the candidate from successfully performing his/her duties. Therefore, a selection commission should verify candidates' qualities by additional means. International organizations such as the United Nations and the Inter-American

Commission on Human Rights have recognized the importance of the complementary role of civil society in this regard.

The Guatemalan selection process established that civil society can participate by submitting challenges to candidacies, which would have to name the individual(s) making those challenges and provide an explanation of why the candidate is being questioned and the relevant evidence (which could not consist of press articles or the mere filing of complaints). However, the **Nominating Commission never determined how such information would be handled or verified.**

This lack of clear guidelines on such an important matter gave the NC a considerable discretion which resulted in certain arbitrary decisions. Some allegations were dismissed *prima facie* by the members of the commission (for instance, those made against Thelma Aldana and Julio Rivera Clavería), while others were accepted, but **there was no further discussion on these issues, and the criteria on which the NC relied to make its decisions was never clear in light of the challenges that had been filed.**

Furthermore, it was never established how sustained challenges (against which candidates could submit rebuttal evidence) would be considered. Besides, no procedure was established by the NC to verify the rebuttal evidence or for final consideration of those impediments. Challenges were not addressed in depth during the interviews: NC members only asked some of the candidates to address the challenges filed against them but did not ask substantial questions regarding the merits of the allegations made.

In other words, **the information contained in the challenges**, which in some cases amounted to very serious allegations concerning the integrity, competence and probity of an individual, **was not taken into account by the NC for the AG.**

Interviews were superficial and did not address candidates' excellence or impediments.

Public interviews are an important tool, typically used in the last stage of a selection process when it is already clear that the candidates to be interviewed meet the minimum requirements, in order to assess which of them are best suited for the position. Therefore, the interview effectively complements a selection based on a desk review of candidates. **A well-conducted interview can reveal significant information about the professional competence and the ethical qualities of candidates, as well as their commitment to the justice system as a public institution and its role in a democratic society.**

[Article 19 of the LCP](#) provides that if public interviews are conducted, the NC must adopt guidelines for those interviews. Although the NGO [Pro-Justice Movement \(Movimiento Pro Justicia\)](#) [had submitted a more comprehensive proposal](#), the NC approved a very brief [interview guide](#) (in contrast to the more detailed and thorough guidelines applied to the 2010 process), which consisted in:

1. Experience and reasons to be appointed to the position.
2. Current diagnostic assessment of the Attorney General's Office.
3. Work plan in the event of being appointed to the position.
4. How would the candidate ensure the independence of the Attorney General's Office?
5. Independence of judgment.
6. Opinion about the formal allegations of society.
7. Additional questions by the members of the Commission.

Article 19 of the LCP also establishes that, based on that guide, the NC must give a score to the interviews. However, at its April 1, 2014 meeting, the NC decided that it would not score the interviews. And, notwithstanding the importance of the interview as a selection process tool, on April 10, 2014, the NC decided to **reduce the time allocated for interviews to 20 minutes (instead of the 45 minutes given in 2010)**.

Despite the adoption of the guide for interviews, it became evident from the interviews themselves that **there was not a clear script for conducting the interviews**. On the contrary, this [significant part of the selection process](#) was not properly exploited to make relevant questions regarding the most salient or controversial aspects of the personal and professional background of candidates (to identify those best suited for the position), or to ask candidates to address challenges or objections made by the public institutions which had been consulted, with a view to promoting the constitutional requirement of integrity.

The **level of improvisation** at this stage of the selection process became particularly clear during the first interview (to Acisclo Valladares Molina), which lasted more than twice the time originally allotted for each interview. The NC displayed its interview guide on screen and asked the candidate to answer all questions without indicating the time available, or guiding him back to the topic when he digressed. When the members of the NC noticed the delays in the first interviews, they changed the way interviews were conducted: the NC's secretary announced that each candidate would have 15 minutes to answer the general questions, including the presentation of the work plan and the replies to any challenges. At the end of the 15 minutes, the secretary (sometimes at the request of a member of the NC) would interrupt the interviewee and the members of the commission would ask questions.

The way the interviews were conducted suggested that the members of the commission had not prepared in advance the questions that would be asked. Some of the interviews lasted longer than the originally allotted time (such as those to Marco Antonio Villeda and Eunice Mendizábal), while others were shorter and included fewer questions. Also, **the questions for some candidates were more difficult and thorough** (such as the case of Luis Archila and Marco Antonio Villeda) than those posed to others (such as Acisclo Valladares and Thelma Aldana).

In brief, given the short time available and the lack of preparation for the interviews, this tool was not adequately used to address in depth any possible ethical impediment or to determine the excellence of candidates.

The integrity of candidates was not adequately considered

Although the 'recognized integrity' of a candidate is possibly the most important criterion for appointing a public official, the NC **did not adopt clear guidelines on how to assess such integrity**. The Guatemalan Constitution provides this requirement for the appointment of high-level public officials (Art. 207 for judges and magistrates; Art. 251 for the AG), and the Constitutional Court (CC) of Guatemala held in [case 942-2010](#) that integrity is an element that the NC needs to verify during the assessment process and, for that purpose, should 'consider, among other elements, the moral standing of individuals, including all aspects related to their proven morals, integrity, honesty, independence and impartiality.' In that same case, the CC established that integrity is not a quality that can be given a partial score, because a person either has integrity or does not.

This criterion was confirmed by a recent decision of the CC, [case 2143-2014](#), in which the Court made clear the importance that the NCs evaluate the integrity of an individual, and it further required NCs to check the background of candidates, hold interviews and explain why they selected or disqualified a candidate. ([See DPLF's blog for additional information on this decision](#)).

Thus, the NC is bound, as required by the Constitution, to review the integrity of candidates. However, the NC for the AG never established how it would go about this task. And although in its first sessions it had adopted a list of [13 elements to be reviewed regarding the ethical merits](#) of an individual (which were incorporated in the grading table), **it never verified if the nominees met those requirements**. This issue was only addressed in an impromptu manner during the last assessment meeting that the NC held on April 29, **as it was not even included in the agenda**, but was discussed under the category of 'miscellaneous' items.

In the end, the members of the NC voted individually on the 'recognized integrity' of each candidate. The NC decided to vote on the integrity of only those candidates who had performed above the average (but very low) final score: 36 out of 100 points. Only 14 of the 26 candidates had obtained that score. The following formula was applied to issue a vote on integrity: the members of the NC claimed whether they considered that a candidate had integrity based on that individual's background. However, **the grounds for such conclusions were never discussed**.

This meant that **within an hour it was resolved that all candidates met the integrity requirement, without discussing any arguments to the contrary or providing any justification for the decision**. In this way, William René Méndez, publicly accused of advising individuals associated with organized crime and human rights violations on a regular basis (a negative indicator established by the NC), and María Consuelo Porras, who had received a 'moral condemnation' of the Office of the Human Rights

Ombudsman (*Procuraduría para los Derechos Humanos*), were found to be of ‘recognized integrity’ without any discussion whatsoever.

Arbitrariness in the final assessment of shortlisted candidates. Lack of relation between the candidates' score and the vote of the NC.

Although the NC had established a desired profile and a grading table in its first working meetings, the criteria for assessing whether candidates met the requirements were never defined. Although the grading table provided the ‘means for verification’ of those requirements, in most cases the verification consisted of little more than ‘submitting documents.’

Due to the **vagueness of some indicators** and the fact that the information submitted by candidates was not properly checked—in violation of articles 13 and 18 of the LCP—the grading process was tainted by excessive discretion. As a result, **criteria were applied unequally to candidates and some arbitrary decisions were made.**

The weaknesses of the NC's technical team resulted in even greater discretion for the NC. Such weaknesses became evident in the grading of the personal records. The documents sent by each candidate as proof of academic, professional and ethical merits, and their human projection, were relatively extensive. Despite the significance and sensitivity of this stage, the **members of the NC had no access to candidates' full records**; only the secretary and the deputy secretary of the NC were in possession of these, and the strategy for sharing these documents with the other members was to project the electronic files—which often had more than 70 pages—on a screen in the room where the NC was in session.

In addition to this obstacle to transparency in the assessment stage, the **technical team had not systemized the sources of verification for the information provided by the candidates.** As a result of this lack of preparation, **the NC relied excessively on the documents presented by candidates.** For instance, candidates Baudilio Portillo Merlos and Julio Rivera Clavería were not scored for professional experience because they failed to provide the relevant documents, although it is well known that these candidates had held certain important positions. Likewise, **the then Attorney General Claudia Paz y Paz was not graded for ‘efficacy and leadership’ (4 points) because she had not sent the required supporting documents, despite the fact that she had been nominated for the Nobel Peace Prize** in 2013, and has been recognized by *Forbes* and *Newsweek* magazines, which are publicly accessible. Other candidates, such as Thelma Aldana, Anabella de León, and Ronny López, did receive scores in this category.

However, Ronny López was not given (3) points for ‘planning ability and initiative,’ for which the indicators involved having carried out projects ‘based on a technical plan’ and ‘successful projects on his own initiative,’ even though he had been recognized by the Attorney General's Office in 2011 for prosecuting members of the organized crime group known as the Zetas. And three of Luis Archila's degrees issued by the University of Costa Rica were not taken into consideration, including a post-graduate degree (8 points), because this academic institution is not legally recognized in Guatemala.

Lastly, the names of shortlisted candidates which were sent to the President of the Republic reflected a **lack of connection between the scores obtained and the votes of the NC members**: the candidate with the second highest score, Claudia Paz y Paz (69 points), was not shortlisted, although this score placed her far ahead of her competitors, who had scores between 62 and 46. Although the LCP does not require the short list to include the best candidates, this mismatch is at the very least questionable, considering the centrality of the quest for excellence in such appointment procedures.

IV. Conclusion: Notwithstanding the detailed regulation, the NC exercised broad discretion to make arbitrary decisions

The development of this AG selection process leads to the conclusion that, although the LCP has established mechanisms to limit the possibility of arbitrary decisions being made in selection processes, such as requiring the definition of a pre-established profile before the selection process and a grading table for assessing candidates, NCs use their margins of discretion to make arbitrary decisions which are inconsistent with the information gathered about candidates throughout the process, and to favor or disfavor certain candidates.

The **way these commissions are integrated** plays a key role in this regard. Although it was assumed that academics, together with members of professional associations, would be best suited to undertake this important task, as they would have the necessary independence and professional capacity, **the importance of selection processes has distorted this assumption**. There has been a proliferation—largely driven by businesspeople—of universities with law schools, some of which have not yet produced graduates who are qualified to practice law. This suggests that ***de facto* powers have been able to permeate the NCs and influence their decisions**.

The regulation introduced by the LCP may be used to create the appearance that rules are being fully complied with: a profile and a grading table are established, interviews are held, and all proceedings are public. However, as explained here, **the discretion that every selection authority inevitably has, facilitates, in this context, the manipulation of the process**.

Moreover, because of the **length and technical characteristics** of the selection process, **citizens in general do not pay particular attention to** how the process is conducted. In this way, arbitrary decisions may go unnoticed without major consequences for the commission members.

There were **structural shortcomings** in the process for the appointment of the Attorney General: the **excessive weight given in the grading table to years of professional experience**, instead of professional excellence, the **lack of detailed guidelines for assessment**, and the **reliance on the presentation of documents** to verify that a candidate met the requirements, instead of having the NC review those credentials as the basis for its decisions.

Similarly, **civic oversight was restricted, and public interviews** were not used to verify the professional competence (and vision) and the ethical qualities of candidates, or their

commitment to institutionalism. The **challenges** and grounds for disqualification of candidates provided by public institutions **were not reviewed, nor was their moral standing or 'recognized integrity.'**

Irrespective of these allegations, which already raise serious doubts about the selection process, it is important to not turn a blind eye to that, as explained above, it was possible to discern **some degree of bias in the decisions of the NC for the AG** which favored the ruling party's candidate, Thelma Aldana.

These factors undermine the legitimacy of the process for the selection of the Attorney General in particular, and the mechanism of the nominating commissions in general. Ultimately, if it is possible to manipulate such a highly regulated process, does the current nominating commissions model still serve its purpose? It is important to reflect on the results of this process and on how the judicial selection model in Guatemala can be improved. ([The guidelines published by the DPLF and which were cited by Guatemala's Constitutional Court in case 2143-2014 may prove useful.](#))

Does the above mean that Thelma Aldana will be a poor Attorney General? Not necessarily; her actions will speak for themselves. However, in light of how she was elected, doubts will remain about her independence of judgment. And this is *per se* damaging for a justice system and the faith that the public has in it.

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