The appointment of high-level officials of the justice system in times of AMLO

URSULA INDACOCHEA
DIRECTOR OF THE judicial Independence program
DUE PROCESS OF LAW Foundation (DPLF)
After the elections: the context

- MORENA has a majority on the Senate: 55 of 120 senators.

- Selection and appointment procedures, established in the Constitution, recognize a key role to the Executive Branch: the President has the power to nominate (short lists or single candidates) and the Senate has the power to appoint. In case the Senate does not reach an agreement, the President appoints.

- The now President elected had “his candidates” to almost all the high level offices of the judiciary, the Prosecutor General Office, Specialized Prosecutors (even though he does not appoints them)
Ésta es la propuesta de AMLO para fiscal general, anticorrupción y Fepade

El precandidato por la coalición 'Juntos haremos historia', Andrés Manuel López Obrador, dio a conocer este lunes las ternas que presentaría al Congreso para ocupar la titularidad de la Fiscalía Anticorrupción, Electoral y General, en caso de ganar las elecciones.

-- Para fiscal general de la República la terna estará conformada por Eva Verónica de Gyves Zarate, Juan Luis González Alcántara Carrancá y Bernardo Báñez Vázquez.

January, 2018

The presidential candidate, Andres Manuel Lopez Obrador, made public a list of names to proposes to fill the positions of Prosecutor General, Especialized Anticorruption Prosecutor, and Specialized Prosecutor on Electoral Matters
Selection and appointment of Supreme Court justices

**THE procedure:** The President proposes a list of three names to the Senate. This body evaluates the qualifications of the candidates and elects one.

*There is no regulation on the presidential power to propose the short list. No transparency. No obligation to justify his decision.*

On the Senate, the Justice Commission must evaluate each candidate, organize public hearings, and establish if they comply with the constitutional requirements.

*This requirements for the position (age, citizenship, law degree, number of years of experience) are formal. There is no criteria to evaluate the honorability requirement.*

To date, AMLO has nominated candidates to fill a position in the Supreme Court, two times.
First nomination:

- Short list: Gonzáles Alcántara, Celia Maya and Loretta Ortiz.
- Civil society organizations demanded the short list to be rejected by the Senate, due to the lack of Independence and qualifications of all its members.
- “Express Appointment: the candidates were interviewed, and a few hours later, the Plenary of the Senate adopted a decision.
- Gonzáles Alcántara was elected Supreme Court Justice. He had been previously announced by the President as one of his favorite candidates to Prosecutor General.
- No civil society participation mechanisms.
A Panel of three experts evaluated a) the regulation of the SCJN selection procedure, b) a general evaluation of the candidates, and c) the existence and application of transparency measures and citizen participation mechanisms.
Conclusions of the Panel final report

Sin embargo, este Informe documenta que el proceso de selección bajo la presidencia del Licenciado Andrés Manuel López Obrador efectuado en el mes de diciembre de 2018 no acogió los mencionados avances. El proceso de selección del año 2018 fue apurado, sin deliberación sustantiva en las comparecencias de las candidatas y el candidato, y cerrado a la participación de la sociedad civil. Lamentablemente, un proceso con estas características se aleja de los estándares internacionales que se consideran necesarios para asegurar la independencia del Poder Judicial y una integración con personas objetivamente idóneas. La falta de procesos abiertos que no dan tiempo para el análisis profundo de las capacidades de las candidatas y candidatos, tomando en cuenta las opiniones e información adicional que puedan entregar las y los ciudadanos individualmente o a través de la sociedad civil debilitan el proceso y, de la misma manera, debilitan la posición de autoridad de la persona elegida pues...
Second nomination:

- Female Short list: Yazmin Esquivel, Celia Maya and Loretta Ortiz.
- Civil society organizations expressed serious concerns regarding the independence of the new candidate: #MinistraConstratista campaigns
- Another “Express Apointment”
- Civil society participation mechanisms: in the interview.
Other important nominations and appointments:

- Prosecutor General

- Specialized prosecutors: Anticorruption and on Electoral Issues.