

Summary Report on the  
**Tenth International Judicial Conference**

**Courts of Ultimate Appeal X:**  
*Issues of Judicial Independence*

**Special 2002 Theme: The Courts and Terrorism**

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# “The Courts and Terrorism”

## Conference Report<sup>1</sup>

*“We are aware that this decision does not ease dealing with [the harsh] reality. This is the destiny of democracy, as not all means are acceptable to it, and not all practices are open to it. Although a democracy must often fight with one hand tied behind [its] back, it nonetheless has the upper hand. Preserving the rule of law and recognition of an individual’s liberty constitutes an important component in its understanding of security. At the end of the day they strengthen its spirit and strength and allow it to overcome its difficulties.”* President Barak of the Israeli Supreme Court announcing a decision in 1999 in which the court discussed the use of certain interrogation techniques with a subject suspected of withholding information about an impending attack.

### A. What is Terrorism?

The horrific attacks on the World Trade Center and Pentagon on September 11, 2001 were the most devastating terrorist acts in recent memory and galvanized countries around the world, the United States in particular, to evaluate their methods of preventing terrorism and trying terrorists. Sadly, many societies have confronted or continue to confront terrorist groups such as: separatists in Spain, India, Russia, and Turkey; the Irish Republican Army; the Revolutionary Armed Forces of Columbia; the Baader-Meinhof group in Germany; Abu Sayyaf in the Philippines; the Red Brigade in Italy; the worldwide al Qaeda network; and countless other domestic and international groups. The conference participants described terrorists as people willing to use terror in pursuit of a larger goal such as creation of a new state, denigration of a governing regime legitimacy, or a change in public policy. While the predicate acts of terrorism may constitute ordinary crimes such as murder, arson or battery, the terrorist’s intent of effecting a larger change distinguishes terrorism from these crimes. Further, while terrorists often attack innocent civilians, the terrorists’ objective transcends these victims and focuses on the terrorist group’s larger goal. Finally, despite frequently stating that they are freedom fighters and heroes, their methods invalidate their claim and demonstrate their criminal nature.

While the participants recognized that there are many types of terrorism: domestic, international, revolutionary, state terrorism and religious inspired terrorism, a few core causes contribute to the creation of terrorist movements. In particular, terrorists often believe and claim that society or the state has marginalized them and that they have no means for redressing grievances except through terrorism. The participants noted that terrorist groups often use

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<sup>1</sup> This report summarizes the deliberations of the 2002 International Judicial Conference. Except as noted, no outside research was done to augment the conference discussions; rather, the report limits its scope to the ideas expressed at the conference. For the sake of clarity and brevity, the report groups related ideas together, and often combines the comments of several speakers into one paragraph. Condensing such a large volume of material into a short report invariably creates some overly broad generalizations and inaccuracies -- the author is solely responsible for these as well as any other mistakes in reporting the conference discussions.

