

Summary Report on the
2000 International Judicial Conference

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

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Conference Report¹

A. Session One: Judicial Independence: Ethics and the Problem of Corruption

1. Types of Corruption

Judicial corruption can take many forms, and the conference participants identified two major types. Ordinary corruption occurs when someone conspires with a judge to influence the outcome of a specific legal proceeding. Most often a party gives the judge a financial reward in exchange for the desired legal outcome, but judges may also be threatened with harm. In systemic or political corruption, the legislative or executive branch holds a diffuse influence over the judiciary so that judges are generally inclined to favor the government's view. A more pernicious inclination toward the government's view, commonly known as "telephone justice," existed under many authoritarian regimes in which the ministry of justice informed a judge of the government's desired outcome in a specific case, and the judge, over whom the ministry held great influence, complied. Attempts to maintain this level of influence continue, and in new democracies it is not universally accepted among members of the government that it is inappropriate for the executive or legislature to attempt to influence judicial decisions.

2. Means of Corruption

Ordinary corruption results from the active intervention of an outsider in a specific proceeding. The conference participants discussed but did not reach any conclusions as to whether allowing judges to obtain outside employment in arbitration proceedings makes them more susceptible to ordinary corruption. Can a party indirectly purchase a judge's favor by hiring her mediation services in an unrelated matter? Can requiring a judge to disclose her outside compensation and mandating recusal for judges receiving income from parties before the court effectively mitigate the risks of outside employment?

In contrast to ordinary corruption, institutional arrangements most often are the impetus behind systemic corruption. If a government has the ability to reward cooperative judges by granting increased compensation, faster promotions, or other benefits, or the ability to punish uncooperative judges through lower pay, slower promotions, or fewer benefits, then obviously it can encourage judges to adopt its view on any particular dispute or on matters in general. Of course, not every benefit is a source of corruption. Raises, promotions, or benefits legally adopted by the legislature or granted by the executive pursuant to law are not considered a malevolent influence. These types of benefits are considered graft only when linked to a specific proceeding.

¹ This report summarizes the deliberations of the 2000 International Judicial Conference. 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.

