

Specialty Session: Integrity and Corruption in the Judiciary

Moderator: Mr. Russ Wheeler

Deputy Director, Federal Judicial Center

Purpose: To address the independence of the American Judiciary as a model for promoting integrity, independence and impartiality.

Findings: Justice Sandra Day O'Connor of the United State Supreme Court stressed every nation's need for a fair and equitable judiciary. Decisions should be based on law, not on personal gain, politics or fear. Endemic corruption threatens this equitable application and enforcement of law. She suggested the solution to the problem is structural independence of the judiciary. She indicated a number of features of the U.S. model which are successful in this regard: lifetime tenure of judges, salaries which are set constitutionally, not by another branch of the government, impeachment as the sole means for removing judges. She said judges must not be afraid to enforce the law and they must make decisions based entirely on the law, not influenced by public opinion or threats. Judges must have the power and courage to make decisions which provoke public outcry.

Justice Stephen Breyer of the U.S. Supreme Court agreed that structural independence is the foundation for a judicial system free of corruption. He suggested that governments must take strides to ensure that judges will not be fired, threatened or removed for their decisions. He also stressed that the judges themselves have obligations to maintain the effectiveness, accessibility and honesty of the system. The public must have faith in the honesty of the system, leading the system to reinforce itself. He noted that U.S. judges must publicly disclose gifts and income.

Former Congressman Robert Kastenmeier reiterated the importance of lifetime appointments of federal judges. He also indicated that the screening process is extremely important and that the system created by which judges review their colleagues for corruption has been successful.

Federal District Court Judge Michael Mihm of Illinois suggested five reasons for the success of the U.S. federal judiciary in avoiding and counteracting corruption: the exhaustive screening process, the transparency of the legal process and openness of proceedings, adequacy of compensation, personal judicial commitment to honesty, and the ability to obtain advisory opinions from other judges regarding possibly corrupt behavior.

Paul Sheridan, Chief Judge of the Arlington Circuit Court in Virginia, discussed the Virginia commission which oversees the judiciary. He stressed that it was a secret process geared toward protection of the identity of those accusing judges of wrongdoing. He noted that the system had been quite successful in dealing with possible issues of corruption among state judges.