

Prepublication praise for Model Codes for Post-Conflict Criminal Justice

The publication of volume I of *Model Codes for Post-Conflict Criminal Justice* marks an advance of great international significance for post-conflict societies—the arrival of a criminal code drafted in admirably clear and uncomplicated language, supported by detailed commentaries, and designed explicitly for such societies. This code, with its measured approach, will enable jurisdictions emerging from conflict to move quickly toward reestablishing the rule of law and a fair criminal justice system, without the need to start the reform process afresh. It is an outstanding piece of work, and the publication of volume II later this year is eagerly awaited.

—**Andrew Ashworth**, Vinerian Professor of English Law, University of Oxford

Countries in transition from conflict routinely face seemingly irreconcilable challenges: extremely limited capacity of the criminal justice system, the need to establish law and order in the midst of rising crime, and the need to comport with international human rights standards—all of which have to be tackled while respecting local culture and traditions. These challenges have vexed local governments and those in peacekeeping missions alike. *Model Codes for Post-Conflict Criminal Justice* provides, for the first time, an invaluable guide to addressing these multiple demands—and should help shorten the path to consolidated peace, functioning state institutions, stability, and the rule of law.

—**Ambassador Lakhdar Brahimi**, former Special Representative of the Secretary-General for Afghanistan, Haiti, and South Africa; and former Chairman, Panel on United Nations Peace Operations

Many post-conflict states, including Liberia, find it necessary to reform their judicial systems so that their laws deal effectively with crimes, address gender and human rights issues, and conform to international norms and standards. I am, therefore, grateful for the opportunity to have participated in this admirable project, which, after years of arduous legal research and drafting, has culminated in the publication of *Model Codes for Post-Conflict Criminal Justice*.

Model Codes for Post-Conflict Criminal Justice will be an immensely useful resource for reformers in Liberia and elsewhere as they engage in the development and reform of their criminal justice system. Its provisions, drawn from the laws of different states and drafted in plain English, may be used in drafting new criminal laws or amending existing provisions. The accompanying commentaries, as well as the references and other resources contained in this volume, provide invaluable background information and guidance.

—**Felicia V. Coleman**, Counselor-at-Law, former Associate Justice of the Supreme Court of Liberia, and a Member of the Task Force for the Establishment of the Law Reform Commission of Liberia

In post-conflict countries, the challenges involved in rebuilding the judicial system are great. A model penal code seems particularly necessary to ensure compatibility between national criminal laws and international norms and standards. More than merely reflecting cultural diversity, such an instrument would enable the harmonization of national and international norms around common values.

—**Mireille Delmas-Marty**, Professor and Chair of Comparative Legal Studies and the Internationalization of Law, Collège de France

The importance of this work for societies in transition from conflict and oppression to freedom and democracy cannot be overemphasized. It is a model of clarity, and the commentaries on each section are a valuable resource not only for practitioners concerned with societies in transition but also for students. I also commend it to journalists who work in the field of law enforcement.

—**Richard Goldstone**, former Judge, Constitutional Court of South Africa; and former Prosecutor, International Criminal Tribunals for the former Yugoslavia and for Rwanda

Model Codes for Post-Conflict Criminal Justice is a valuable resource for criminal law reform in post-conflict states. Its contents reflect recent advances in international criminal law instruments and draw on the accumulated knowledge and experience of the international criminal law community. Moreover, *Model Codes* takes into account the particular challenges presented by post-conflict countries, making it both a targeted and a practical tool.

—**Ma Kechang**, Professor of Law, Wuhan University, People's Republic of China

This first volume in the *Model Codes* series displays not only a remarkable depth of thought but also a commendable breadth of perspective. In this time of sharp cultural clashes, publics in the Middle East and elsewhere may regard *Model Codes* skeptically, as yet another Western export intended to supplant Muslim traditions. To its credit, however, the Model Codes Project has gone beyond the borders of Western legal expertise and sought substantive contributions from legal experts in the Muslim world. Such teamwork between scholars and practitioners from both Western countries and Muslim-majority countries is all too rare, and I hope that publication of *Model Codes* will help pave the way for an open, inclusive discussion on the dilemmas facing post-conflict societies, particularly those in the Middle East. And in Muslim-majority countries emerging from conflict, we now need to approach the lawyers working in the Islamic seminaries and further integrate them and the language of Islamic law into the dialogue. By doing so, we will help facilitate the process by which such states can transition from violence to an enduring peace rooted in the rule of law.

—**Mohsen Rahami**, Professor of Criminal Law and Criminal Policy, Faculty of Law and Political Science, University of Tehran

Model Codes for Post-Conflict Criminal Justice provides excellent guidance for the implementation of new criminal laws in post-conflict states. The statutory offenses as well as the general rules for criminal liability and the proposed catalogue of penalties, including alternative sanctions and measures such as asset confiscation and victim compensation, reflect the state of the art in international standards and best practices.

—**Dmitry A. Shestakov**, Professor, Doctor of Law, and President of St. Petersburg Criminology Club, Russia

It is axiomatic that conflict destroys: it destroys people, their institutions, and the law in whole or in part. But conflict also breeds new companions who evolve, thrive, and finally outlive the hostilities: welcome to the world of the war-profiteer. Organized and wealthy, these individuals, and their illicit networks, often emerge from conflict with political and social power, which they use to accumulate enormous fortunes, siphoning off the money pouring into the country and basking in the absence of regulatory and enforcement mechanisms that could check their rampant corruption and criminality.

Any attempt by the international community to rebuild a shattered society will lie in peril without the presence, early on, of institutions that promote and safeguard the rule of law. And central to the maintenance of the rule of law is the existence of a criminal code. In societies emerging from conflict, the local authorities may well deem part or all of the old code unworkable, resulting in a need to refashion some provisions of the existing code or identify a stop-gap measure to adopt until a new code can be established. After all, even from the earliest days of recovery, police, prosecutors, judges, peacekeepers, and most importantly the citizenry need both the assurance that there is a law and clarity as to what that law is.

Model Codes for Post-Conflict Criminal Justice provides a crucial resource to address this need. It reflects clearly the input of hundreds of experts and practitioners drawn from across the globe. The codes and their commentaries will be invaluable to local governments and peacekeeping missions involved in law reform, providing a clear legal framework that meets with international standards and is cognizant of the challenges that come with post-conflict environments.

—**H.R.H. Prince Zeid Ra'ad Zeid al-Hussein**, Ambassador of the Hashemite Kingdom of Jordan to the United States, former Permanent Representative of the Hashemite Kingdom of Jordan to the United Nations, and former President, Assembly of States Parties, International Criminal Court

Model Codes for Post-Conflict Criminal Justice

Volume I Model Criminal Code

Edited by Vivienne O'Connor and Colette Rausch
with Hans-Joerg Albrecht and Goran Klemencic

UNITED STATES INSTITUTE OF PEACE PRESS
Washington, D.C.

The views expressed in this book are those of the editors and authors alone. They do not necessarily reflect views of the United States Institute of Peace.

United States Institute of Peace
1200 17th Street NW, Suite 200
Washington, DC 20036-3011

© 2007 by the Endowment of the United States Institute of Peace. All rights reserved.

First published 2007

Printed in the United States of America

The paper used in this publication meets the minimum requirements of American National Standards for Information Science—Permanence of Paper for Printed Library Materials, ANSI Z39.48-1984.

Library of Congress Cataloging-in-Publication Data

Model codes for post-conflict criminal justice / edited by Vivienne O'Connor and Colette Rausch, with Hans-Joerg Albrecht and Goran Klemencic.

p. cm.

Includes bibliographical references and index.

ISBN-13: 978-1-60127-011-5 (pbk. : alk. paper)

ISBN-10: 1-60127-011-9 (pbk. : alk. paper)

ISBN-13: 978-1-60127-012-2 (hardcover : alk. paper)

ISBN-10: 1-0127-012-7 (hardcover : alk. paper)

1. Criminal justice, Administration of—International cooperation. 2. Criminal law—International cooperation. 3. Reparation (Criminal justice). 4. Restorative justice. I. O'Connor, Vivienne M. 1977– II. Rausch, Colette. III. Albrecht, Hans-Joerg, 1950– IV. Klemencic, Goran V. Title.

K5001.M63 2007
345–dc22

2007008930

Contents

Foreword , by <i>Louise Arbour and Antonio Maria Costa</i>	xv
Preface , by <i>Neil J. Kritz and William Schabas</i>	xvii
Acknowledgments	xxi
Editors	xxiii
Contributors	xxv
USER'S GUIDE	
Introduction	1
1. The Model Codes Project: A Response to Post-Conflict Criminal Law Needs	3
2. Potential Uses of the Model Codes in a Criminal Law Reform Process	9
3. A Synopsis of the Model Criminal Code	17
4. Guiding Principles for the Criminal Law Reform Process	23
PART I GENERAL PART	
Section 1 Definitions	31
Article 1 Definitions	31
Section 2 Fundamental Principles	36
Article 2 Purpose and Limits of Criminal Legislation	36
Article 3 Principle of Legality	37
Section 3 Jurisdiction	42
Article 4 Territorial Jurisdiction	42
Article 5 Extraterritorial Jurisdiction	43
Article 6 Universal Jurisdiction	46
Article 7 Personal Jurisdiction	47
Section 4 <i>Ne Bis in Idem</i>	51
Article 8 <i>Ne Bis in Idem</i> (Double Jeopardy)	51

Section 5	Statutory Limitations	56
Article 9	Statutory Limitations for Criminal Prosecution	56
Article 10	Statutory Limitations Applicable to an Adult for Criminal Offenses Committed as a Juvenile	57
Article 11	Nonapplicability of Statutory Limitations to Genocide, Crimes against Humanity, and War Crimes	58
Article 12	Running and Suspension of Statutory Limitations	59
Section 6	Time and Place of Commission of a Criminal Offense	61
Article 13	Time of Commission of a Criminal Offense	61
Article 14	Place of Commission of a Criminal Offense	61
Section 7	Criminal Offense, Criminal Responsibility, and Commission of a Criminal Offense	63
Article 15	Criminal Offense	63
Article 16	Criminal Responsibility	63
Article 17	Commission of a Criminal Offense	65
Article 18	Intention, Recklessness, and Negligence	66
Section 8	Criminal Responsibility of Legal Persons	72
Article 19	Criminal Responsibility of Legal Persons	72
Section 9	Justification and Exclusion of Criminal Responsibility	76
Subsection 1	Justification	78
Article 20	Self-Defense	78
Article 21	Necessity	79
Article 22	Superior Orders	80
Subsection 2	Exclusion of Criminal Responsibility	82
Article 23	Mental Incompetence	82
Article 24	Intoxication	83
Article 25	Duress	84
Article 26	Mistake of Fact and Mistake of Law	85
Section 10	Criminal Attempt	87
Article 27	Attempt	87

Section 11 Participation in a Criminal Offense	89
Article 28 Participation in a Common Purpose	90
Article 29 Ordering, Soliciting, or Inducing	93
Article 30 Incitement	94
Article 31 Facilitation	94
Article 32 Responsibility of Commanders and Other Superiors for the Criminal Offenses of Genocide, Crimes against Humanity, and War Crimes	95
Article 33 Punishment as a Perpetrator	97
Section 12 Penalties	98
Subsection 1 Purpose of Penalties, Fundamental Principle, and Other Principles Relating to Penalties	101
Article 34 Purposes of Penalties	101
Article 35 Fundamental Principle	104
Article 36 Other Principles Relevant to the Determination of Penalties	105
Subsection 2 Penalty Structure	108
Article 37 General Penalty Structure	108
Article 38 Principal Penalties	110
Article 39 Alternative Penalties	113
Article 40 Additional Penalties	114
Subsection 3 Procedure for Determination of Penalties	116
Article 41 General Procedure for Determination of an Appropriate Penalty	117
Article 42 Appraisal of the Applicable Minimum and Maximum Penalty	121
Article 43 Augmentation of the Maximum Period of Imprisonment Based on Individual Aggravating Factors Set Out in the Special Part of the MCC	122
Article 44 Augmentation of the Maximum Period of Imprisonment When a Criminal Offense Is Committed as Part of Organized Criminal Activity	123
Article 45 Augmentation of the Maximum Period of Imprisonment When a Criminal Offense Is Motivated by Hatred	124
Article 46 Augmentation of the Maximum Period of Imprisonment for a Criminal Offense Committed by a Public Official	125
Article 47 Reduction of the Minimum Period of Imprisonment Due to Particularly Mitigating Circumstances	126

Article 48	Reduction of the Minimum Period of Imprisonment for Attempted Offenses	127
Article 49	Determination of the Appropriateness of Life Imprisonment as a Principal Penalty	127
Article 50	Determination of the Appropriateness of a Fine as a Principal Penalty	129
Article 51	Determination of the Appropriate Term of Imprisonment in Light of General Mitigating and Aggravating Circumstances	130
Article 52	Determination of a Joint Penalty for Convictions on Two or More Criminal Offenses	136
Article 53	Subsequent Imposition of a Penalty on a Convicted Person	138
Article 54	Replacement of a Principal Penalty with an Alternative Penalty	138
Article 55	Suspended Sentence as an Alternative Penalty	140
Article 56	Community Service as an Alternative Penalty	142
Article 57	Semiliberty as an Alternative Penalty	144
Article 58	Supplementation of a Principal Penalty with Additional Penalties	145
Article 59	Supplementation of an Alternative Penalty with Additional Penalties	146
Article 60	A Fine as an Additional Penalty	146
Article 61	Confiscation of Property, Equipment, or Other Instrumentalities Used in or Destined for Use in a Criminal Offense as an Additional Penalty	147
Article 62	Payment of Compensation to a Victim as an Additional Penalty	149
Article 63	Deprivation of the Right to Be Elected as an Additional Penalty	151
Article 64	Deprivation of the Right to Possess or Carry Firearms as an Additional Penalty	152
Article 65	Prohibition on Holding a Post as a Public Official as an Additional Penalty	154
Article 66	Prohibition on the Exercise of Managerial or Supervisory Positions in Private Legal Entities as an Additional Penalty	155
Article 67	Expulsion of a Non-national as an Additional Penalty	156
Subsection 4	Penalties for Legal Persons	158
Article 68	Types of Penalties for Legal Persons	158
Article 69	Determination of Penalties for a Legal Person	159

Section 13	Confiscation of the Proceeds of Crime and Property	162
Article 70	Definitions	165
Article 71	Prohibition on Retention of Proceeds of Crime	166
Article 72	Confiscation of Proceeds of Crime or Property of Corresponding Value from the Convicted Person	166
Article 73	Confiscation of Proceeds of Crime or Property of Corresponding Value from a Third Party	168
Section 14	Dispositions Applicable to Juveniles and Adults on Trial for Criminal Offenses Committed as Juveniles	170
Subsection 1	Scope of Application of Section 14 and General Principles	172
Article 74	Scope of Application of Section 14	172
Subsection 2	Purposes of Juvenile Dispositions and Principles Applicable to Juvenile Dispositions	173
Article 75	Purposes of Juvenile Dispositions	173
Article 76	Fundamental Principle	174
Article 77	Principles Applicable to Juvenile Dispositions	175
Subsection 3	Structure of Juvenile Dispositions	178
Article 78	Principal Juvenile Dispositions	178
Article 79	Additional Juvenile Dispositions	181
Subsection 4	Procedure for Determining Juvenile Dispositions	183
Article 80	Procedure for Determining Juvenile Dispositions	183
Subsection 5	Principal Juvenile Dispositions	185
Article 81	Judicial Admonition	185
Article 82	Intensive Supervision of a Juvenile	186
Article 83	Disciplinary Measures	188
Article 84	Institutional Measures	189
Article 85	Juvenile Imprisonment	190

PART II SPECIAL PART

Section 1 Genocide, Crimes against Humanity, and War Crimes	195
Article 86 Genocide	196
Article 87 Crimes against Humanity	201
Article 88 War Crimes	211
Section 2 Offenses against Life and Limb	219
Article 89 Unlawful Killing	219
Article 90 Assault	222
Article 91 Assault Causing Harm	223
Article 92 Assault Causing Serious Harm	223
Article 93 Threats to Kill or Cause Serious Harm	224
Section 3 Sexual Offenses	226
Article 94 Rape	227
Article 95 Sexual Intercourse and Acts of a Sexual Nature with a Child below the Age of Consent to Sexual Relations	229
Article 96 Violation of the Sexual Autonomy of a Defenseless Person	231
Article 97 Violation of Sexual Autonomy by Abuse of Authority	231
Article 98 Sexual Slavery	232
Article 99 Enforced Prostitution	233
Article 100 Sexual Violence	234
Section 4 Offenses against the Rights of Persons	236
Article 101 Torture	236
Article 102 Trafficking in Persons	238
Article 103 Establishing Slavery, Slavery-like Conditions, and Forced Labor	243
Article 104 Enforced Disappearance	244
Article 105 Domestic Violence	246
Article 106 Kidnapping	251
Article 107 Unlawful Deprivation of Liberty	252
Article 108 Criminal Coercion	253
Article 109 Unauthorized Search of a Person and His or Her Belongings	253
Article 110 Unauthorized Search of a Dwelling or Premises	254

Article 111	Unauthorized Visual Recording	255
Article 112	Violation of the Privacy and Confidentiality of Communications	257
Article 113	Abuse of Personal Data	258
Article 114	Abuse of Personal Secrets	259
Section 5	Offenses against Children	261
Article 115	Sale of Children	262
Article 116	Child Prostitution	263
Article 117	Child Pornography	264
Article 118	Possession of Child Pornography	266
Section 6	Property Offenses	268
Article 119	Theft	268
Article 120	Robbery and Aggravated Robbery	270
Article 121	Extortion	272
Article 122	Burglary	273
Article 123	Aggravated Burglary	274
Article 124	Receiving and Concealing Stolen Goods	274
Article 125	Bringing into the State Property Obtained through Crime	275
Article 126	Fraud	276
Article 127	Embezzlement of Property	277
Article 128	Forgery	279
Article 129	Using False Instruments	280
Article 130	Possessing False Instruments	281
Article 131	Arson	282
Article 132	Reckless Burning or Exploding	283
Article 133	Criminal Damage	284
Section 7	Economic Offenses	286
Article 134	Counterfeiting Money	286
Article 135	Money Laundering	288
Section 8	Organized Crime Offenses	293
Article 136	Participation in an Organized Criminal Group	293
Article 137	Offenses Related to the Smuggling of Migrants	297

Section 9	Corruption Offenses	304
Article 138	Corruption Involving a Public Official	307
Article 139	Corruption Involving a Foreign Public Official or an Official of a Public International Organization	309
Article 140	Corruption in the Private Sector	311
Section 10	Corruption-Related Offenses and Other Offenses Involving a Public Official	314
Article 141	Trading in Influence	314
Article 142	Embezzlement, Misappropriation, or Other Diversion of Property by a Public Official	316
Article 143	Abuse of Functions	317
Article 144	Illicit Enrichment	318
Article 145	Concealment	319
Article 146	Threat and Improper Influence	320
Section 11	Offenses against the State, Public Safety, and Security	321
Article 147	Financing Terrorism	323
Article 148	Terrorist Bombing	325
Article 149	Unlawful Seizure of Aircraft	330
Article 150	Unlawful Acts against the Safety of Civil Aviation	331
Article 151	Unlawful Acts of Violence at an Airport Serving International Civil Aviation	333
Article 152	Offenses against Internationally Protected Persons	334
Article 153	Taking of Hostages	336
Article 154	Offenses Related to Nuclear Material	338
Article 155	Unlawful Acts against the Safety of Maritime Navigation	340
Article 156	Unlawful Acts against the Safety of Fixed Platforms	342
Article 157	Piracy	344
Article 158	Bombing	345
Article 159	Disruption of Supply of Public Installations	346
Article 160	Destruction or Unauthorized Removal of Cultural Property	347
Article 161	Incitement to Crime on Account of Hatred	350
Article 162	Unauthorized Border and Boundary Crossing	352

Section 12	Offenses against United Nations and Associated Personnel	353
Article 163	Endangering United Nations and Associated Personnel	353
Section 13	Offenses Involving Firearms, Ammunition, Explosives, and Weapons	357
Article 164	Illicit Manufacturing or Trafficking in Firearms or Ammunition	359
Article 165	Illicit Obliteration, Removal, or Altering of Markings on Firearms	361
Article 166	Illicit Manufacturing or Trafficking in Explosives	363
Article 167	Unlawful Purchase of Firearms, Ammunition, Explosives, or Weapons	364
Article 168	Unlawful Possession, Control, or Ownership of Firearms, Ammunition, Explosives, or Weapons	366
Article 169	Unlawful Use of Firearms	368
Section 14	Drug Offenses	370
Article 170	Trafficking in Narcotic Drugs and Psychotropic Substances	373
Article 171	Possession or Purchase of Narcotic Drugs or Psychotropic Substances for the Purpose of Trafficking	376
Article 172	Organizing, Managing, or Financing Trafficking in Narcotic Drugs or Psychotropic Substances	377
Article 173	Cultivation of Opium Poppy, Coca Bush, or Cannabis Plant	378
Article 174	Manufacture, Transport, or Distribution of Precursors	381
Article 175	Manufacture, Transport, or Distribution of Equipment or Materials for Use in the Illicit Cultivation, Production, or Manufacture of Narcotic Drugs or Psychotropic Substances	382
Article 176	Possession or Purchase of Narcotic Drugs or Psychotropic Substances for Personal Use	383
Section 15	Election Offenses	386
Article 177	Preventing the Exercise of the Right to Vote	386
Article 178	Violating the Free Decision of Voters	387
Article 179	Abuse of the Right to Vote	388
Article 180	Violating Confidentiality in Voting	389
Article 181	Buying and Selling Votes	389
Article 182	Election Fraud	390
Article 183	Threat to an Election Candidate	391

Section 16 Cybercrime Offenses	392
Article 184 Illegal Access to a Computer System	393
Article 185 Illegal Interception of Computer Data	394
Article 186 Interference with Computer Data	395
Article 187 Interference with a Computer System	396
Article 188 Misuse of Devices	397
Section 17 Offenses against the Administration of Justice	399
Article 189 Alteration or Destruction of Evidence	399
Article 190 Fabrication of Evidence	400
Article 191 Presentation of False or Forged Evidence	401
Article 192 False Testimony	401
Article 193 Obstruction of Justice of a Witness	402
Article 194 Obstruction of Justice of a Justice or Policing Official	404
Article 195 Retaliation against a Witness	405
Article 196 Retaliation against a Justice or Policing Official	405
Article 197 Failure to Respect an Order of the Court	406
Article 198 Providing Assistance to Perpetrator after the Commission of a Criminal Offense	407
Article 199 False Statements of a Cooperative Witness	408
Article 200 Revealing the Sealed Order for Protective Measures or Anonymity	409
Annex 1	411
Annex 2	415
Annex 3	417
Further Reading and Resources	
Legal Instruments	421
Further Reading Relevant to the General Part of the Model Criminal Code	426
Further Reading Relevant to the Special Part of the Model Criminal Code	430
Criminal Law Reform Resources	441
Useful Web Sites	447
Index	453

Foreword

Louise Arbour, United Nations High Commissioner for Human Rights

**Antonio Maria Costa, Executive Director of
the United Nations Office on Drugs and Crime**

Conflicts do not end suddenly. Even when violence stops, peace often remains fragile and will not become durable unless there is justice and a readiness to address not only the aftermath of a conflict but also its root causes. Many conflicts erupt because of perceptions of discrimination and injustice. Restoring the rule of law is, therefore, an important dimension of peacebuilding, one that requires sustained and patient engagement until the rule of law is strong. Where the rule of law is weak, public security is threatened and criminals feel empowered. Such a situation undermines efforts to restore respect for human rights and build democracy and civil society, it fuels crime and corruption, and it risks triggering a return to conflict. Criminal justice that is based on human rights is thus indispensable for making and sustaining peace.

The classic peacekeeping model brings to mind blue-helmeted soldiers working under the United Nations flag to restore order and maintain security. That kind of peacekeeping, while essential, will not by itself build durable peace. Long-term security depends first and foremost on the creation or restoration of the rule of law. The rule of law requires not just rule by law, but rule by laws that reflect fundamental principles of criminal responsibility and due process, including guarantees of transparency and clarity of the criminal justice process, nonretroactivity, fair and independent adjudication, and proportional punishment.

The United Nations Office on Drugs and Crime and the Office of the High Commissioner for Human Rights have therefore welcomed the initiative launched by the United States Institute of Peace and the Irish Centre for Human Rights to strengthen criminal justice in post-conflict societies, and have supported the project in several ways, including facilitating a number of experts' meetings to review the draft Model Codes.

Publication of *Model Codes for Post-Conflict Criminal Justice*, the product of five years of work involving hundreds of experts from across the world, is a significant contribution to the United Nations' efforts to strengthen peacebuilding. Based on United Nations standards, the Model Codes provide practical guidance on how to translate international human rights and criminal law standards into everyday practice.

There is no single recipe for effective criminal justice. The Model Codes are not a one-size-fits-all solution. On the contrary, they have been devised to be adaptable to a variety of post-conflict societies and situations in ways that are flexible yet consistent with international norms and standards. The Model Codes are a resource that should be used by all those engaged in building peaceful societies based on the rule of law. ■

Preface

Neil Kritz, Director, Rule of Law Program, United States Institute of Peace

William Schabas, Director, Irish Centre for Human Rights

According to the *Oxford English Dictionary*, a code is a systematic collection or digest of laws, a body of laws so arranged as to avoid inconsistency and overlapping. The first extant code, the Code of Hammurabi, was composed nearly four millennia ago. Justinian created a code with which to rule the Roman Empire. Many countries still operate with the legacy of these early efforts at legal codification. Historically, codes were an instrument of law reform, often intended to make the law more accessible and coherent. Over time, it has become universally recognized that an effective framework of criminal law and procedure is essential to the development of a stable society.

Although the codes presented in *Model Codes for Post-Conflict Criminal Justice* share many of the same objectives as other codifications, they also have some unique and original purposes. Essentially, they are designed as a tool for what is today often referred to as “post-conflict justice.” It is only recently that this has become a priority of the international community. Interest in the subject seems to have begun during the late 1970s and early 1980s, when human rights bodies began to focus on the duties of the state in terms of criminal justice. Soon, reports were circulating within the United Nations about the rights of victims, the need for accountability, and the fight against impunity. International standards and treaties were adopted to elaborate the human rights protections that had to be reflected in the administration of criminal justice.

In parallel, peacekeeping operations began to be increasingly robust, assuming responsibilities in a range of areas beyond the peacekeepers’ traditional role of policing cease-fire lines. Human rights divisions began to figure in peace support operations, as did a growing agenda for various measures to promote peace, stability, and political and economic recovery. One important item on this agenda was ensuring some degree of accountability for the crimes of the past while promoting a sense of security and law and order in the present. Stabilization efforts had to maintain social order as conflict was winding down, deal with the general breakdown of authority, and confront the criminal vultures who routinely descend upon the disorganization of the post-conflict environment, while still promoting values of tolerance, fairness, and transparency and adherence to international human rights standards so as to help nurture the beginnings of democracy.

The idea of creating model codes for post-conflict justice was much discussed at the end of the 1990s by rule of law practitioners working with United Nations peace operations in places such as Cambodia, East Timor, and Kosovo. In each of these environments, professional jurists found the criminal justice system in disarray and a need not only for infrastructural renewal but also for substantive law reform. The confusion as to what constituted the applicable law in these and other post-conflict settings and

how that law would be applied resulted in the loss of many crucial months in the stabilization effort. Public confidence in a peace process will be weak as long as that public faces rampant crime and an unfair justice system. Clearly, new tools were needed.

The model code concept received official recognition in the *Report of the Panel on United Nations Peace Operations*, often called the “Brahimi Report” after its distinguished chair, veteran diplomat Lakhdar Brahimi. The report saw model codes as an off-the-shelf legal system that could, if necessary, be applied as part of a peace support mission. Ambassador Brahimi’s proposal did not sit well with everyone, however, apparently because of concern that model codes would be a creeping form of judicial imperialism. At the very least, the proponents of the model codes concept needed to refine its focus, emphasizing the flexibility of what was intended as a palette of options rather than a prescriptive, one-size-fits-all package.

Inspired by the Brahimi Report recommendation, in 2001 the United States Institute of Peace and the Irish Centre for Human Rights, in cooperation with the United Nations Office of the High Commissioner for Human Rights and the United Nations Office on Drugs and Crime, launched what soon became widely known as the “Model Codes Project.”

Initially, a small group of experts was convened to create a draft of the Model Codes. In recognition of the critical importance of widespread consultation and participation, the expert group soon mushroomed into a network of three hundred experts from all regions of the world, encompassing both academic and practitioner communities. The experts included comparative and international law experts, judges, prosecutors, defense counsel, police, human rights advocates, and military officers. The meetings were a stimulating venue for debates and exchanges about comparative criminal law, involving the differing perspectives of the prosecution, the police, the defense, and the judiciary.

What began as a single code soon morphed into four separate but complementary instruments. Published in three volumes collectively known as *Model Codes for Post-Conflict Criminal Justice*, these instruments include a Model Criminal Code, a Model Code of Criminal Procedure, a Model Detention Act, and a Model Police Powers Act. The first volume to be published features the Model Criminal Code.

The Model Codes reflect elements drawn from all of the major criminal justice systems in the world. They are strongly influenced by the comparative law discourse of the international criminal tribunals, as well as the practice of post-conflict justice in countries around the world. The vision of no single criminal justice system is allowed to predominate. Indeed, it was deemed essential that jurists from a variety of traditions would, so to speak, recognize themselves in the finished product, finding familiar concepts and terminology—which means, of course, that there is also much that is unfamiliar for practically everyone.

The Model Codes are a tool of assistance and not imposition. They expand the range of options available to drafters of post-conflict criminal laws. Of singular importance, the Model Codes are especially useful because they are tailored to the exigencies of the challenging post-conflict environment.

With apologies to Winston Churchill, this is not the end of the Model Codes Project, but rather the end of the beginning. Tools to be used in building post-conflict justice, the Model Codes are very much a work in progress, to be refined and amended,

more or less like all other codes. They will grow with our experience in this important endeavor of promoting justice, democracy, and peace.

We would like to express our appreciation to the editors, our partner organizations, and all those who have contributed to Model Codes Project. ■

Acknowledgments

The Model Codes for Post-Conflict Criminal Justice Project was launched in 2001 by the United States Institute of Peace and the Irish Centre for Human Rights, in cooperation with the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Office on Drugs and Crime (UNODC). For their unwavering commitment to such an ambitious project, from its initial conception to the publication of this volume, we are deeply grateful to the president of the United States Institute of Peace, Ambassador Richard Solomon; to the Institute's associate vice president and director of its Rule of Law Program, Neil J. Kritz; and to the director of the Irish Centre for Human Rights, Professor William Schabas. Neil Kritz and William Schabas are due particular thanks for the wise advice and constant encouragement they provided throughout the project's development.

We would like to thank our project partners, OHCHR and UNODC, for sharing the vision of creating a set of model codes to assist in the reform of the criminal justice systems in post-conflict societies. We are particularly grateful to David Marshall and Tiyanjana Maluwa of OHCHR and to Jo Dedeyne, Mark Shaw, Slawomir Redo, Eduardo Vetere, Dimitri Vlassis, and Catherine Volz of UNODC, all of whom worked directly with us and shared their time and expertise.

The work of translating the project's ambitious goals into reality brought together a large community of experts in a truly collaborative effort. Each of these experts lent his or her skills and expertise freely, seeking no other reward than assisting national and international actors in rebuilding the rule of law in post-conflict societies. We often talk fondly of the "Model Codes family" that grew from a small group to encompass some three hundred people. The consultations and regional meetings that helped to clarify and amplify the text of the codes provided a unique opportunity for us to meet and become friends with a remarkable group of people dedicated to building peace. Every comment made, every question raised, and every suggestion put forward contributed to the breadth and depth of the final product. For this, we are grateful to everyone involved.

Our heartfelt thanks go also to those who acted as partners in regional consultation meetings, provided forums in which drafts of the codes were reviewed, gave presentations on the project, chaired consultation meetings, provided research assistance, reviewed the text of provisions, drafted commentaries, or facilitated our field research and consultations. This list of these generous and gifted people includes Ebba Abdon, Stuart Alford, Diane Amann, Kelly Askin, Louis Aucoin, Mohamed Abdel Aziz, Clive Baldwin, Elaine Banar, Cherif Bassiouni, Karen Belgiovine, Krisna Bovornratanaraks, Roger Clark, Tonya Cook-Pedersen, John Cubbon, Lynn Cuddington (who sadly passed away last year), Sylvia De Bertodano, Knut Doermann, William Durch, Rania

El Gamal, Ken Gallant, David Guinn, Fiana Gantheret, Jonas Grimheden, Michael Hartmann, Christiana Hoffman, Reyko Huang, Agnes Hurwitz, Pernille Ironside, Mark Kroeker, Istvan Lipniczki, Manuel Mazuelos, Daniel Nsereko, Jennifer Oades, Clementine Olivier, April O'Neill, Bruce Oswald, Giovanni Pasqua, Phillip Rapoza, David Reddin, Annamariam Roccatello, Ali Saleem, Stephanie Smith, Adelina Sokoli, Charles Steenson, Janez Stusek, Christie Warren, Abla Williams, Gerard Winter, Renate Winter, and Lawrence Woocher.

We are thankful to the United Nations departments, agencies, and missions that allowed their representatives to work with us, to attend meetings, and to contribute in various other ways to the development of the Model Codes. In particular, we would like to thank Rob Pulver and Isabel Hight of the United Nations Department of Peacekeeping Operations for their wisdom and guidance.

We are grateful to our coeditors, Hans-Joerg Albrecht and Goran Klemencic. It has been a great pleasure to work with them and share ideas during the many long hours spent in meetings and conference calls over the past five years. They have become colleagues, friends, and wonderful comparative law teachers. Nigel Quinney, our developmental editor—extraordinaire, deserves particular mention for his patience, guidance, and support throughout the publication process.

Finally, we are forever thankful to our friends and family who have endured our seemingly never-ending immersion in the Model Codes Project. In particular, we want to thank Patrick and Calvin, and Declan and Bernadette—you are the best.

Vivienne O'Connor, Irish Centre for Human Rights

Colette Rausch, United States Institute of Peace

Editors

VIVIENNE O'CONNOR is the rule of law project officer at the Irish Centre for Human Rights, National University of Ireland, Galway, and codirector of the Model Codes for Post-Conflict Criminal Justice Project. She is also a senior fellow of the University of Melbourne, where she lectures on criminal law and development. Her areas of expertise include international human rights law, international and comparative criminal law and procedure, police law, security-sector reform, and post-conflict rule of law. She has taught international human rights law as a guest lecturer at the National University of Ireland, Galway, and has lectured on the rule of law and criminal law reform at a variety of professional training courses. She has also been involved in criminal law reform efforts in a number of post-conflict states and has published several works on the subject.

COLETTE RAUSCH is deputy director of the United States Institute of Peace's Rule of Law program. Her work focuses on criminal justice and police reform initiatives, especially in Africa and Southeast Asia. Before joining the Institute, she worked at the Organization for Security and Co-operation in Europe's Mission in Kosovo, serving first as head of the Rule of Law Division and then as director of the Department of Human Rights and Rule of Law. Rausch also served as the U.S. Department of Justice's resident legal adviser, first in Hungary, where she worked on the development of a crime task force, and later in Bosnia in 1998–99. In 1999–2000, she was the Department of Justice's program manager for Central and East Europe, establishing criminal justice development and training projects in Albania, Bosnia, Croatia, Kosovo, and Macedonia. She has worked as a federal prosecutor with the U.S. Attorney's Office in Las Vegas, Nevada. She has published a number of articles and book chapters that examine reform of the criminal justice sector in post-conflict societies; she is also editor of *Combating Serious Crimes in Postconflict Societies: A Handbook for Policy-makers and Practitioners*.

HANS-JOERG ALBRECHT is director of the Max Planck Institute for Foreign and International Criminal Law in Freiburg, Germany. He is professor of criminal law, criminal justice, and criminology at the University of Freiburg. Currently a guest professor at the Law Faculty of Beijing Normal University, he has also served as a guest professor at the Center for Criminal Law and Criminal Justice of the China University of Political Science and Law and the Law Faculty of Wuhan University in China. He has been awarded life membership at Clare Hall College, Cambridge University, and holds a permanent faculty membership at the Faculty of Law at

Qom High Education Center, Tehran. His numerous publications address comparative criminal law, sentencing theory, juvenile crime, drug policies, environmental crime, organized crime, terrorism, and trafficking in persons.

GORAN KLEMENCIC is a senior lecturer at the Faculty of Criminal Justice and Security Studies of the University of Maribor, Solvenia. His teaching, writing, and research focus on international comparative criminal law and procedure, law enforcement powers and human rights, and specialized criminal justice mechanisms to tackle corruption and organized crime. He is involved in various criminal justice reform efforts, particularly those involving legislative reform of criminal law and procedure, as well as reform of police and security services in transitional and post-conflict environments in Eastern and Southeastern Europe, Central Asia, China, and Latin America. He has previously worked for the Slovenian Ministry of Interior/Police, the Slovenian Independent Commission for the Prevention of Corruption, the Organisation for Economic Co-operation and Development, and the Council of Europe.

Editors

VIVIENNE O'CONNOR is the rule of law project officer at the Irish Centre for Human Rights, National University of Ireland, Galway, and codirector of the Model Codes for Post-Conflict Criminal Justice Project. She is also a senior fellow of the University of Melbourne, where she lectures on criminal law and development. Her areas of expertise include international human rights law, international and comparative criminal law and procedure, police law, security-sector reform, and post-conflict rule of law. She has taught international human rights law as a guest lecturer at the National University of Ireland, Galway, and has lectured on the rule of law and criminal law reform at a variety of professional training courses. She has also been involved in criminal law reform efforts in a number of post-conflict states and has published several works on the subject.

COLETTE RAUSCH is deputy director of the United States Institute of Peace's Rule of Law program. Her work focuses on criminal justice and police reform initiatives, especially in Africa and Southeast Asia. Before joining the Institute, she worked at the Organization for Security and Co-operation in Europe's Mission in Kosovo, serving first as head of the Rule of Law Division and then as director of the Department of Human Rights and Rule of Law. Rausch also served as the U.S. Department of Justice's resident legal adviser, first in Hungary, where she worked on the development of a crime task force, and later in Bosnia in 1998–99. In 1999–2000, she was the Department of Justice's program manager for Central and East Europe, establishing criminal justice development and training projects in Albania, Bosnia, Croatia, Kosovo, and Macedonia. She has worked as a federal prosecutor with the U.S. Attorney's Office in Las Vegas, Nevada. She has published a number of articles and book chapters that examine reform of the criminal justice sector in post-conflict societies; she is also editor of *Combating Serious Crimes in Postconflict Societies: A Handbook for Policy-makers and Practitioners*.

HANS-JOERG ALBRECHT is director of the Max Planck Institute for Foreign and International Criminal Law in Freiburg, Germany. He is professor of criminal law, criminal justice, and criminology at the University of Freiburg. Currently a guest professor at the Law Faculty of Beijing Normal University, he has also served as a guest professor at the Center for Criminal Law and Criminal Justice of the China University of Political Science and Law and the Law Faculty of Wuhan University in China. He has been awarded life membership at Clare Hall College, Cambridge University, and holds a permanent faculty membership at the Faculty of Law at

Qom High Education Center, Tehran. His numerous publications address comparative criminal law, sentencing theory, juvenile crime, drug policies, environmental crime, organized crime, terrorism, and trafficking in persons.

GORAN KLEMENCIC is a senior lecturer at the Faculty of Criminal Justice and Security Studies of the University of Maribor, Solvenia. His teaching, writing, and research focus on international comparative criminal law and procedure, law enforcement powers and human rights, and specialized criminal justice mechanisms to tackle corruption and organized crime. He is involved in various criminal justice reform efforts, particularly those involving legislative reform of criminal law and procedure, as well as reform of police and security services in transitional and post-conflict environments in Eastern and Southeastern Europe, Central Asia, China, and Latin America. He has previously worked for the Slovenian Ministry of Interior/Police, the Slovenian Independent Commission for the Prevention of Corruption, the Organisation for Economic Co-operation and Development, and the Council of Europe.

Contributors

As the following lists of organizations and individuals who contributed to the Model Codes Project make clear, great efforts were made to obtain the input of a diverse community of experts with knowledge and experience relevant to the post-conflict criminal law reform process. In all, some three hundred people from more than one hundred organizations and over fifty countries contributed to the Model Codes Project. Some helped to create the broad framework for the project, others drafted specific provisions and commentaries, still others critiqued and refined those drafts; all of them gave generously of their time and considerable expertise.

International and Regional Organizations

- African Commission on Human and Peoples' Rights
- Council of Europe
- European Commission and European Council
- Organization for Security and Co-operation in Europe (OSCE)
- United Nations
 - Children's Fund (UNICEF)
 - Department of Peacekeeping Operations (DPKO)
 - Department of Political Affairs (DPA)
 - Development Fund for Women (UNIFEM)
 - Development Programme (UNDP)
 - International Criminal Tribunal for Rwanda (ICTR)
 - International Criminal Tribunal for the former Yugoslavia (ICTY)
 - Office of Legal Affairs (OLA)
 - Office of the High Commissioner for Human Rights (OHCHR)
 - Office on Drugs and Crime (UNODC)

Civil Society and Non-Governmental Organizations

- AIRE Centre
- Amnesty International
- Asian Human Rights Commission
- Cambodian Defenders Project

- Criminal Defence Resource Centre, Kosovo
- Foundation for Law, Human Rights and Justice, East Timor
- Informal Sector Service Centre, Nepal
- International Center for Transitional Justice
- International Committee of the Red Cross
- International Development Law Organization
- Minority Rights Group
- National Forum for Human Rights, Sierra Leone
- Open Society Justice Initiative
- Penal Reform International

Professional Associations, Training Institutions, and National Commissions

- African Bar Association
- American Corrections Association
- Association of Female Lawyers, Liberia
- Commission for Reception, Truth and Reconciliation, East Timor
- International Association of Prosecutors
- International Corrections and Prisons Association
- International Criminal Defence Attorneys Association
- Joint Advisory Committee on Legislative Matters, Kosovo
- Justice Council, Institute of Training and Law Reform, Sudan
- Law Reform Commission Task Force, Liberia
- Liberian National Law Enforcement Association
- Kosovo Chamber of Advocates
- Magistrates School, Cambodia
- Nepal Bar Association
- National Human Rights Commission, Nepal
- Southeast Asia Regional Centre for Counter-Terrorism, Malaysia
- West African Bar Association

Research and Academic Institutions

- Academy of Military Science, China
- Asia-Pacific Centre for Military Law, Australia
- Charles University, Czech Republic
- College of William and Mary, United States

- Defense Institute of International Legal Studies, United States
- Eins Shams University, Egypt
- Georgetown University, United States
- International Human Rights Law Institute, United States
- International Institute of Higher Studies in Criminal Sciences (ISISC), Italy
- International Peace Academy, United States
- Irish Centre for Human Rights
- John Jay College of Criminal Justice, United States
- Kathmandu School of Law, Nepal
- Max Planck Institute for Foreign and International Criminal Law, Germany
- National University of Rwanda
- National War College, Nigeria
- Örebro University, Sweden
- Rabat University, Morocco
- Raoul Wallenberg Institute, Sweden
- Rutgers University, United States
- The Henry L. Stimson Center, United States
- Umea University, Sweden
- United Nations Association of the United States
- United States of Institute of Peace
- University of Arkansas at Little Rock, United States
- University of Botswana
- University of Cairo, Egypt
- University of California at Davis, United States
- University of Catania, Italy
- University of Damascus, Syria
- University of Garyounis, Libya
- University of Maribor, Slovenia
- University of Melbourne, Australia
- University of Sarajevo, Bosnia and Herzegovina

Personnel from the Following Peace Operations

- Office of the High Representative in Bosnia and Herzegovina (OHR)
- United Nations Advance Mission in the Sudan (UNAMIS)
- United Nations Border Relief Operation, Thailand (UNBRO)
- United Nations Mission in Kosovo (UNMIK)

- United Nations Mission in Liberia (UNMIL)
- United Nations Mission in Sierra Leone (UNAMSIL)
- United Nations Mission of Support in East Timor (UNMISSET)
- United Nations Operation in Mozambique (ONUMOZ)
- United Nations Stabilization Mission in Haiti (MINUSTAH)
- United Nations Transitional Administration in East Timor (UNTAET)
- United Nations Transitional Authority in Cambodia (UNTAC)

Judicial, Prosecutorial, Defense, Legal Advisory, Police, and Military Personnel Who Worked in or Originated from the Following Countries

- Afghanistan
- Australia
- Bangladesh
- Belgium
- Bosnia and Herzegovina
- Cambodia
- Canada
- Croatia
- Democratic Republic of the Congo
- East Timor
- Egypt
- Fiji
- Germany
- Ghana
- Haiti
- Hungary
- India
- Iraq
- Ireland
- Jordan
- Kosovo
- Liberia
- Malawi
- Malaysia
- Mauritius
- Mozambique
- Nepal
- The Netherlands
- New Zealand
- Nigeria
- Pakistan
- Philippines
- Poland
- Romania
- Rwanda
- Sierra Leone
- Singapore
- Slovenia
- South Africa
- Spain
- Sri Lanka
- Sudan
- Sweden
- Thailand
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- Zimbabwe

Individuals

The affiliations listed are those at the time the individual first contributed to the Model Codes Project.

- Hugh Adsett Legal Affairs Counselor, Permanent Mission of Canada to the United Nations
- Mohammed Akida Department of Criminal Law, Eins Shams University, Egypt
- Abdel Rahim Al-Awadi Islamic Affairs, Attorney General’s Office, Ministry of the Justice, United Arab Emirates
- Hans-Joerg Albrecht Director, Max Planck Institute for Foreign and International Criminal Law, Germany
- Stuart Alford Barrister, United Kingdom, and former Prosecutor, Special Panels for Serious Crimes, East Timor
- Zeid Ra’ad Zeid Al-Hussein Permanent Representative of Jordan to the United Nations
- Abboud Al-Sarraj Faculty of Law, University of Damascus, Syria
- Diane Amann School of Law, University of California at Davis, United States
- Ricarda Amberg Rule of Law Section, Human Security Branch, UNODC
- Upendra Aryal Senior Superintendent of Nepal Police, and former UN Civilian Police, East Timor
- William Aseltine Defense Institute of International Legal Studies, United States
- Kelly Askin Open Society Justice Initiative
- Louis Aucoin United States Institute of Peace, and former Head, UNTAET Department of Justice
- Alfonso Avelar Human Rights Unit, UNMISSET
- Mohammed Ayat Legal Advisor, ICTR, and Faculty of Law, Rabat University, Morocco
- Mohamed Abdel Aziz President, International Human Rights Institute, College of Law, DePaul University, United States
- Mohamed Elewa Badar Judge, Ministry of Justice, Egypt
- Clive Baldwin Minority Rights Group, and former Legal Advisor to OSCE Mission in Kosovo
- Elaine Banar U.S. Attorney’s Office, New York, United States, and former Legal Advisor, UNMIK Police

- Pat Barron Ireland's National Police Service
- Peira Barzano Terrorism Prevention, Treaty Affairs Division, UNODC
- Cherif Bassiouni International Human Rights Institute, College of Law, DePaul University, United States
- Kurt Bassuener Political Department, OHR, Bosnia and Herzegovina
- Jeff Batha Civilian Police Assistance Training Team, Iraq, and former Corrections Officer, United States
- Ahmad Belal Faculty of Law, University of Cairo, Egypt
- Hudson Benzu Police Commissioner, UNAMSIL
- Per Berling Department of Law, Umea University, and former Rule of Law Advisor, OHR, Bosnia and Herzegovina
- Zulkifli bin Haji Alias Training Program, Southeast Asia Regional Centre for Counter-Terrorism, Malaysia
- Kjell Bjornberg Judge, Court of Appeals, Sweden, and former Head, Judicial System Assessment Programme, UN, Bosnia and Herzegovina
- Catarina Bolognese Department of Crime Problems, Council of Europe
- Frits Bontekoe Legal Advisor, UNAMIS
- Vinod Boolell International Judge, UNMIK, and former Judge, Supreme Court, Mauritius
- Krisna Bovornratanaraks Military Legislation/Foreign Affairs, Judge Advocate General's Department, Defense Ministry, Thailand
- Lakhdar Brahimi Under-Secretary General, Special Advisor to the Secretary-General, United Nations
- Lois Lewis Bruthus President, Association of Female Lawyers of Liberia
- Richard Buellesbach Legal Advisor, Federal Ministry of Defense, Germany, and former Deputy Legal Advisor, KFOR
- Patrick Burgess Legal Counsel, Commission for Reception, Truth and Reconciliation, East Timor
- Dammann Burkhard Anti-Trafficking Unit, UNODC
- Jean Christian Cady Deputy Special Representative of the Secretary-General, UNMIK

- Susan Carroll International Criminal Investigative Training Program, U.S. Department of Justice, Bosnia and Herzegovina
- Attaporn Charoenpanich Judge Advocate General, Defense Ministry, Thailand
- Tom Chaseman Rule of Law Advisor, OSCE, Bosnia and Herzegovina
- Paul Chia Criminal Justice Division, Attorney General's Chambers, Singapore
- Demosthenes Chryssikos Crime Conventions Section, Treaty Affairs Division, UNODC
- Roger Clark Faculty of Law, Rutgers University, United States
- Felicia Coleman Law Reform Commission Task Force, Liberia and former Judge, Supreme Court, Liberia
- Michael Coleman External and Politico-Military Affairs/Police Unit, Council of the European Union
- Tonya Cook-Pedersen DPK Consulting, and former Advisor to the United Nations Police Commissioner, Bosnia and Herzegovina
- Nicholas Cowdery President, International Association of Prosecutors
- David Crane Chief Prosecutor, Special Court for Sierra Leone
- Jim Crane U.S. Attorney's Office, Georgia, United States, and former Legal Advisor, U.S. Department of Justice, Bosnia and Herzegovina
- John Cubbon Legal Advisor's Office, UNMIK
- Lynn Cuddington Corrections Policy, Solicitor General's Office, Canada
- Anthony Cullen Irish Centre for Human Rights
- Elisabeth Dallas The Henry L. Stimson Center, United States
- Sylvia De Bertodano Barrister, United Kingdom, and former Defense Counsel, ICTY
- Jo Dedeyne Treaty Affairs Division, UNODC
- Rob Deere Security Sector Advisor, UNMIL
- Michael de Feo Terrorism Prevention Branch, UNODC
- Felipe De La Torre-Corral Anti-Organized Crime and Terrorism Unit, UNODC
- Andrea de Maio International Development Law Organization

- Anne Marie Devereaux Legal Advisor, UNMISSET
- Knut Doermann Legal Division, International Committee of the Red Cross
- Martha Doggett UN Department of Political Affairs
- Andrew Dunn Military Justice, Defence Legal Services, Australia
- Michelle Dunn Australian Federal Police, International Deployment Group
- William Durch The Henry L. Stimson Center, United States
- Frederick Egonda-Ntende International Judge, UNMIK, and Judge, Uganda
- Ahmad El-Gehani Faculty of Law, University of Garyounis, Libya
- Awad Hassan el-Nour Justice Council, Institute of Training and Law Reform, Sudan
- Paul English Executive Director, Penal Reform International
- Charles Erdmann Judge, United States Military Court of Appeals, and former Legal Advisor, OHR, Bosnia and Herzegovina
- Essa Faal Serious Crimes Unit, UNTAET
- Megan Fairlie Irish Centre for Human Rights, and former Legislative Counsel, New York, United States
- Alexander Faite Legal Division, International Committee of the Red Cross
- Femi Falana Secretary General, African Bar Association, President, West African Bar Association, and Lawyer, Nigeria
- Ravan Farhadi Permanent Representative of Afghanistan to the United Nations
- Chandra Fernando Inspector General of Police, Sri Lanka
- Peter Fitzgerald Ireland's National Police Service, and former Commissioner, International Police Task Force, Bosnia and Herzegovina
- Dieter Fleck International Agreements and Policy, Federal Ministry of Defense, Germany
- Joseph Flomo Criminal Investigation Division and Interpol Affairs, Liberia National Police
- Alfred Fofie Director, Legal and Judiciary System Support Division, UNMIL

- Joaquim Fonseca Foundation for Law, Human Rights and Justice, East Timor
- Dara Francis The Henry L. Stimson Center, United States
- Wilfredo Franco UN Police Division, UNMIL
- Hakan Freeman Judge of Appeals, Sweden, and Legal Expert, Swedish Ministry of Justice
- Gerald Gahima Attorney General, Rwanda
- Kenneth Gallant School of Law, University of Arkansas at Little Rock, United States
- Fiana Gantheret Irish Centre for Human Rights
- Paddington Garwe Judge, High Court, Zimbabwe
- Alan Gibbens Legal Affairs, Permanent Mission of Ireland to the United Nations
- Martin Gillvray British National Crime Squad, and former UNMIK Civilian Police
- Sheryl Goldstein Lawyer, United States, and former Legal Advisor, OSCE, Criminal Defense Resource Centre, Kosovo
- James Gondles Executive Director, American Corrections Association
- Andrea Goodman UNDP, and former Legal Advisor, Department of Justice, UNMIK
- Giovanni Grasso European Commission Representative and Law Faculty, University of Catania, Italy
- Cecil Griffiths Liberia National Law Enforcement Association
- Jonas Grimheden Raoul Wallenberg Institute, Lund University, Sweden
- Adalbert Gross Police Force North Rhine-Westfalia, Germany, and former UNMIK Civilian Police
- Elise Groulx International Criminal Defence Attorneys Association
- Jean-Marie Guehenno Under-Secretary General, UNDPKO
- David Guinn International Human Rights Law Institute, College of Law, DePaul University, United States
- Amod Gurung Civilian Police Division, UNDPKO
- Alan Gutman Defense Attorney, Special Panels for Serious Crimes, East Timor

- Michael Hanrahan Military Advisor, Permanent Mission of Canada to the United Nations
- Michael Hartmann International Prosecutor, UNMIK
- Enver Hasani Faculty of Law, University of Pristina, Kosovo
- Kamran Hashemi Irish Centre for Human Rights
- Shamin Hasnain Judge, High Court Division, Supreme Court, Bangladesh
- Ahmet Hasolli Criminal Defence Resource Centre, Kosovo
- Jill Heine Legal Advisor, Amnesty International
- Isabel Hight Corrections Policy Advisor, UNDPKO
- Gary Hill International Scientific and Professional Advisory Council, Crime Prevention and Criminal Justice Programme, United Nations
- Lynn Holland Law Enforcement Technical Advisor, Dyncorp International, and former Police Recruitment, Kosovo Police Service School
- Adrian Horn Horn, Ltd., and former Head, Community Safety and Security Project for Sierra Leone Police, United Kingdom, Department for International Development
- Reyko Huang Security-Development Nexus Program, International Peace Academy, United States
- Susan Hulton Department of Political Affairs, United Nations
- Agnes Hurwitz Security-Development Nexus Program, International Peace Academy, United States
- David Hutchinson Office of Legal Affairs, United Nations
- Phyllis Hwang Legal Advisor's Office, UNMIK
- Shelley Inglis Criminal Law and Judicial Advisory Unit, Best Practices Section, UNDPKO
- Pernille Ironside Rule of Law/Transitional Justice, UNICEF
- Mark Jalandoni Department of Justice, Secretary of the Office of the President, Philippines
- Eva Jansen Crime Prevention, UNODC
- Piyachart Jaroenpol International Law Section, Judge Advocate General's Department, Defence Ministry, Thailand
- Michael Jarrett Australian Federal Police, International Deployment Group

- Stéphane Jean Civilian Police Division, UNDPKO
- Emry Jones Perry Permanent Representative of the United Kingdom to the United Nations
- Michael Jorsback Swedish Ministry of Justice, and former Civilian Police Division, UNDPKO
- Michael Karnavas Defense Counsel, ICTY, and former Head, Law Revision Commission, Brcko, Bosnia and Herzegovina
- Bart Katureebe Lawyer and former Attorney General, Uganda
- Nekibe Kelmendi Head, Department of Judicial Affairs, Kosovo
- Shyam Khadka Deputy Senior Superintendent of Nepal Police, and former UN Civilian Police, Mozambique and Kosovo
- Bill Kirk Australian Federal Police (Ret.), and former civilian police, UN Border Relief Operations, Thailand
- Goran Klemencic Faculty of Criminal Justice and Security Studies, University of Maribor, Slovenia
- Agnieszka Klonowiecka-Milart International Judge, UNMIK, and Judge, Poland
- Alexander Knoops Criminal Lawyer, The Netherlands, Defense Counsel, ICTY
- Neil Kritz Director, Rule of Law Program, United States Institute of Peace
- Mark Kroeker Civilian Police Division, UNDPKO, and former police commissioner, UNMIL
- Elizabeth Kuteesa Director, Criminal Investigation Division, Uganda Police
- Richard Kuuire Director-General of Prisons, Ghana
- Zaheer Laher Legal Affairs, Permanent Mission of South Africa to the United Nations
- Nina Lahoud Special Advisor to the Executive Director of UNIFEM
- Birgit Lange-Klepsch International Judge, UNMIK, and former Judge, Germany
- Gilbert Laurin Permanent Representative of Canada to the United Nations
- Paddy Leahy Ireland's National Police Service

- Mark Lee Australian Federal Police, and former Police Trainer, East Timor
- Anders Liden Permanent Representative of Sweden to the United Nations
- Suzannah Linton Solicitor, United Kingdom, and formerly with the Serious Crimes Unit, UNTAET
- Istvan Lipniczki Human Rights and Protection Section, UNMIL, and former Inspector, Hungarian Police
- Terseli Loial Office of Legal Affairs, United Nations
- Antero Lopes Civilian Police Division, UNDPKO
- Christopher Lord Institute of International Relations and Charles University, Prague
- Patrick Pierre Louis UNDP
- Joyce Low Supreme Court, Singapore
- Wiley McAfee International Criminal Investigative Training Program, U.S. Department of Justice
- Sean McDonald Deputy Permanent Representative of Ireland to the United Nations
- John McManus War Crimes Division, Canadian Ministry of Justice
- Stephanie McPhail Legal and Judicial System Support Division, UNMIL
- Jerzy Makarowski First Secretary, Legal Affairs, Permanent Mission of Sweden to the United Nations
- Sunil Kumar Malik Legal Advisor, Indian Air Force
- Tiyanjana Maluwa OHCHR
- Sabelo Sivuyile Legal Advisor, Permanent Mission of South Africa to the United Nations
- David Marshall OHCHR
- Ian Martin International Center for Transitional Justice
- Manuel Mazuelos Judge, Spanish Judicial Network of Experts in International Judicial Cooperation
- Grace Mensah Legal Advisory and Monitoring Unit, UNMIL
- Anthony Miller Office of Legal Affairs, United Nations
- Khaled Ahmed Mohey International Human Rights Law Institute, College of Law, DePaul University, United States
- Craig Mokhiber OHCHR

- Nuala Mole The AIRE Centre (Advice on Individual Rights in Europe)
- Richard Monk Senior Police Advisor, OSCE, and former Police Commissioner, IPTF, Bosnia and Herzegovina
- Longuinhos Monteiro Prosecutor General, East Timor
- Jonathan Morrow Legal Advisor, UNTAET
- Josephine Moss Legal Advisor, UNMISSET
- Dieumerci Mutombo Lawyer, Legislature, Democratic Republic of the Congo
- Francis Ng State Counsel, Criminal Justice Division, Singapore
- Patrick Ng Operations Control, Singapore Prison Service
- Louis Nkopipie UNDP
- Daniel Nsereko Faculty of Law, University of Botswana
- Sylver Ntukamazina Judge, Special Panels for Serious Crimes, UNTAET
- Kamudoni Nyasulu International Prosecutor, UNMIK, and former Prosecutor, Malawi
- Bahame Tom Nyanduga African Commission on Human and Peoples' Rights
- Jennifer Oades International Corrections and Prisons Association
- Nnamdi Obasi Center for Peace and Conflict Resolution, National War College, Nigeria
- Vivienne O'Connor Irish Centre for Human Rights
- Sok Sam Oeun Cambodian Defenders Project
- John Ohiorhenuan UNDP
- Kaoru Okuizumi Legal Advisor to the Registrar, Special Court for Sierra Leone
- Clementine Olivier Irish Centre for Human Rights
- William O'Neill Rule of Law Consultant, and former Chair, Executive Committee for Peace and Security Task Force on Rule of Law, United Nations
- Bruce Oswald Asia-Pacific Centre for Military Law, University of Melbourne, Australia
- Sushil Kumar Pant Lawyer, and former Attorney General, Nepal
- Tudor Pantiru International Judge, UNMIK, and former Judge, Romania

- Giovanni Pasqua Director, International Institute of Higher Studies in Criminal Sciences (ICISC), Italy
- Kenneth Payumo Faculty of Public Management, John Jay College of Criminal Justice, United States, and former Policy Advisor to the United Nations Police Commissioner, East Timor
- Gordon Peake Security-Development Nexus Program, International Peace Academy, United States
- Michael Peckover South Yorkshire Police Force, United Kingdom, and former UN Civilian Police, East Timor
- Carl Peersman Legal Advisor, Permanent Mission of the Netherlands to the United Nations
- Joe Robert Pemagbi Permanent Representative of the Republic of Sierra Leone to the United Nations
- Maria Natercia Gusmao Pereira Judge, Special Panels for Serious Crimes, East Timor
- Nadine Perrault Legislative Reform, UNICEF
- Jesse Pilgrim International Legal Consultant
- Chalermchai Pimolsri Border Patrol Police, Thailand
- Michael Platzer Rule of Law Section, Human Security Branch, UNODC
- Ben Playle Legal Advisor, Permanent Mission of Australia to the United Nations
- Mark Plunkett Barrister, Australia, and former Special Prosecutor, UNTAC
- Robert Pulver Criminal Law and Judicial Advisory Unit, Best Practices Section, UNDPKO
- Riika Puttonen Anti-Human Trafficking Unit, UNODC
- Subodh Pyakurel Chairperson, Informal Sector Service Centre, Nepal
- Sushil Pyakurel Former Commissioner, National Human Rights Commission, Nepal
- William Quade Australian Federal Police, International Deployment Group
- Joseph Rahall National Forum for Human Rights, Sierra Leone
- Radzi Rahman Alternate Permanent Representative of Malaysia to the United Nations
- Phillip Rapoza Judge, Special Panels for Serious Crimes, East Timor

- Colette Rausch Rule of Law Program, United States Institute of Peace
- David Reddin British Army (Ret.), and former Military Legal Advisor for Peace Operations
- Slawomir Redo Rule of Law Section, Human Security Branch, OHCHR
- Blerim Reka Joint Advisory Committee on Legislation Matters, Kosovo
- Brendan Reynolds International Corrections and Prisons Association
- Annamyriam Roccatello Department of Justice, UNMIK
- Jorge Romeau Legal Counselor, Permanent Mission of Spain to the United Nations
- Sylvain Roy Principal Defender, Special Court for Sierra Leone
- Lauren Rumble Rule of Law/Transitional Justice, UNICEF
- Ejup Sahiti Faculty of Law, University of Pristina, Kosovo
- Ali Saleem Asia Legal Resource Centre, Asian Human Rights Commission
- Ismet Salihu Faculty of Law, University of Pristina, Kosovo
- Sanaka Samarasinha UNDP
- Geeta Sangroula Kathmandu School of Law, Nepal
- Yubaraj Sangroula Executive Director, Kathmandu School of Law, Nepal
- Richard Sannerholm Örebro University, Sweden
- Domingos Sarmento Minister for Justice, East Timor
- Kim Sathavy Magistrates School Director, Cambodia
- William Schabas Director, Irish Centre for Human Rights
- Delphine Schantz Global Programme against Money Laundering, UNODC
- David Scheffer Center for International Human Rights, Georgetown University
- Eric Scheye UNDP
- Vanessa Sedletzki Legislative Reform, UNICEF
- Bigyan Sharma Senior Superintendent of Nepal Police, and former Commander, UN Special Police Unit, Haiti

- Mark Shaw Criminal Justice Reform Unit, UNODC
- Milbert Shin Office of the Prosecutor, ICTY
- Hajrija Sijercic-Colic Faculty of Law, University of Sarajevo, Bosnia and Herzegovina
- Elmo Siryon Human Rights Division, Ministry of Justice, Liberia
- Stephanie Smith Staff Judge Advocate's Office, United States Marine Corps, and former Military Advisor for Peace Operations
- Adelina Sokoli Kosovo Law Centre
- Adam Stapleton Penal Reform International
- Charles Steenson State Investigation and Protection Service, Bosnia and Herzegovina
- Oliver Stolpe Anti-Corruption Unit, UNODC
- Janez Stusek Faculty of Criminal Justice and Security Studies, University of Maribor, Slovenia
- Jitsiri Sukomorn Advisory Section, Judge Advocate General's Department, Defence Ministry, Thailand
- Visal Suon Cambodia Defenders Project
- Raket Surlien Independent Judicial Commission, OHR, Bosnia and Herzegovina
- Govind Thapa Additional Inspector General of Police (Ret.), Nepal
- Shambhu Thapa President, Nepal Bar Association
- Brenda Sue Thornton Trial Attorney, U.S. Department of Justice
- James Tillman International Criminal Investigative Training Program, U.S. Department of Justice, Bosnia and Herzegovina
- John Tobin Faculty of Law, University of Melbourne, Australia
- Gabriel Tuan Civilian Training Section, UNDPKO
- Aphophia Twiine Faculty of Law, National University of Rwanda
- Sandra Valle Treaty Affairs Division, UNODC
- Guy van Craen International Judge, Bosnia and Herzegovina, and Judge, Court of Appeals, Belgium
- Johan van Lamoen International Legal Consultant
- Eduardo Vetere Director, Treaty Affairs Division, UNODC
- Robin Vincent Registrar, Special Court for Sierra Leone

- Danielle Keenan Irish Centre for Human Rights
- Yoonie Kim United States Institute of Peace
- Vidal Martin-Hernando Irish Centre for Human Rights
- Patrice Mattingly United States Institute of Peace
- April O'Neill United States Institute of Peace
- Ann-Marie Quinn Irish Centre for Human Rights
- Kate Riggs Irish Centre for Human Rights
- Emily Wann United States Institute of Peace
- Nadia Zed Irish Centre for Human Rights

Abbreviations

ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IPTF	International Police Task Force
KFOR	Kosovo Force (NATO-led international military force)
OHCHR	Office of the United Nations High Commissioner for Human Rights
OHR	Office of the High Representative
OSCE	Organization for Security and Co-operation in Europe
UNAMIS	United Nations Advance Mission in the Sudan
UNAMSIL	United Nations Mission in Sierra Leone
UNDP	United Nations Development Programme
UNDPKO	United Nations Department of Peacekeeping Operations
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UMMIK	United Nations Mission in Kosovo
UNMIL	United Nations Mission in Liberia
UNMISSET	United Nations Mission of Support in East Timor
UNODC	United Nations Office on Drugs and Crime
UNTAC	United Nations Transitional Authority in Cambodia
UNTAET	United Nations Transitional Administration in East Timor

Introduction

This User's Guide introduces *Model Codes for Post-Conflict Criminal Justice*, a three-volume series designed to assist those working in criminal law reform in post-conflict states. The series is the product of a five-year project spearheaded by the United States Institute of Peace and the Irish Centre for Human Rights, in cooperation with the United Nations Office of the High Commissioner for Human Rights and the United Nations Office on Drugs and Crime.

This volume, volume I, contains the first of the Model Codes—the Model Criminal Code. Volume II contains the Model Code of Criminal Procedure, while volume III contains the Model Detention Act and the Model Police Powers Act.

This User's Guide is divided into four chapters. Chapter 1 outlines the need for criminal law reform in post-conflict states, the evolution of interest in the topic among the international community, and the drafting and consultation process used to create the Model Codes. Chapter 2 discusses the many potential uses of the Model Codes in post-conflict criminal law reform efforts. Chapter 3 provides a synopsis of the Model Criminal Code. Chapter 4 sets out guiding principles for those involved in the process of criminal law reform.