

Model Code of Criminal Procedure

Chapter 1: General Provisions

Article 1: Definitions

1. *Accused* means a person against whom one or more counts in an indictment have been confirmed under Article 201.
2. *Application* means a written request made to a judge by a prosecutor or the police for the purpose of obtaining a warrant.
3. *Arrest* means the act of apprehending a person for the alleged commission of a criminal offense.
4. *Arrested person* means a person who has been apprehended for the alleged commission of a criminal offense.
5. *Child* means a person under the age of eighteen years.
6. *Competent* means possessing the power and legal authority to deal with a matter.
7. *Competent legislative authority* means the body with the authority to promulgate legislation in [insert name of state].
8. *Convicted person* means a person who has been tried and found criminally responsible by a trial court or the appeals court in a final court decision.
9. *Cross-examination* means the questioning of a witness by the party other than the direct examiner upon a matter that is within the scope of the direct examination of the witness.
10. *Day* means a calendar day, except when otherwise indicated as a working day in the MCCP.
11. *Defense* means the accused and counsel for the accused.
12. *Detainee* means a person deprived of his or her personal liberty, except as the result of conviction for a criminal offense.
13. *Detention* means the status of a person who is in custody.

14. *Detention authority* means the body responsible for the operation of detention centers in [insert name of state].
15. *Detention center* means a facility, authorized by law, where detainees and convicted persons are held.
16. *Direct examination* means the questioning of a witness by the party that calls the witness to testify before the court.
17. *Doctor* means a person who holds a degree in medicine at the university level and who holds a professional license or certification in [insert name of state] or in any other state.
18. *Document* means any physical embodiment of information or ideas.
19. *Evidence* includes all the means by which any alleged matter of fact, the truth of which is submitted to investigation, is established or disproved.
20. *Expert witness* means a witness qualified as an expert by his or her knowledge, skill, experience, training, or education in a particular area of scientific, technical, or other specialized knowledge.
21. *Forensic pathologist* means a medical doctor who holds a professional license or certification in forensic science in [insert name of state] or in any other state.
22. *Indictment* means the formal written accusation issued by the prosecutor against a suspect charged with a criminal offense.
23. *Interlocutory appeal* means an appeal under Article 295 that is heard prior to the final decision of a case.
24. *Investigation* means all activities conducted by the prosecutor or the police under the MCCP for the collection of information and evidence in a case.
25. *Jurisdiction* means the power to hear and determine a criminal proceeding.
26. *Juvenile* means a child between the ages of twelve and eighteen years.
27. *MCC* means Model Criminal Code.
28. *MCCP* means Model Code of Criminal Procedure.
29. *MDA* means Model Detention Act.
30. *MPPA* means Model Police Powers Act.
31. *Medical professional* means a person with specialized training and experience in one or more fields of health care, including but not limited to medicine, nursing, or emergency aid, and who holds a professional license or certification in such a field in [insert name of state] or any other state, such that the person is able properly to perform tasks relevant to such field or fields as specified in the MCCP.

32. *Motion* means a request made to the court by the prosecutor or the defense, and where applicable a witness or victim, for the purpose of obtaining an order in favor of the applicant.
33. *Nurse* means a person who holds a degree in nursing at the university level and who holds a professional license or certification in [insert name of state] or in any other state.
34. *Order* means an order of a court deciding on a measure that has been sought upon the motion of the prosecutor, the defense, and where applicable, a witness or victim.
35. *Premises* means any land or building.
36. *Probable cause* means an objectively justifiable and articulable suspicion that is based on specific facts and circumstances that it tends to show that a specific person may have committed a criminal offense.
37. *Psychiatrist* means a person who holds a degree in medicine at the university level and who holds a professional license or certification to practice psychiatry in [insert name of state] or in any other state.
38. *Psychologist* means a person who holds a degree in psychology at the university level and who holds a professional license or certification to practice psychology in [insert name of state] or in any other state.
39. *Public official* means:
 - (a) a person who holds a legislative, executive, administrative, or judicial office, whether appointed or elected, whether temporary or permanent, whether paid or unpaid, irrespective of the person's seniority;
 - (b) a person who performs a public function, including one for a public agency or public enterprise, or provides a public service as defined under the applicable law; or
 - (c) any other person defined as a public official under the applicable law.
40. *Reasonable suspicion* means evidence and information of such quality and reliability that they tend to show that a person may have committed a criminal offense.
41. *Relative* means any of the following:
 - (a) persons related to another by consanguinity (blood): a parent, a child, a brother, a sister, a grandparent, or a grandchild;
 - (b) persons related by affinity (marriage): a spouse, the child of a spouse, the mother or father of a spouse, the brother or sister of a spouse, the grandparent of a spouse, the grandchild of a spouse, the spouse of a child, the

spouse of a parent, the spouse of a brother or sister, the spouse of a grandparent, or the spouse of a grandchild; and

- (c) persons related through adoption: an adopted parent, an adopted child, an adopted brother, an adopted sister, or the grandparent of an adopted child.

- 42. *State* includes an organized area or entity, such as an autonomous territory or a separate customs territory.
- 43. *Suspect* means a person against whom there exists a reasonable suspicion of his or her having committed a criminal offense.
- 44. *Territory* means the land, coastal seas, and water surfaces within the territory of [insert name of state], as well as the air space over these areas.
- 45. *Victim* means a person against whom a criminal offense has been committed. When a criminal offense is committed against a child, his or her parents or legal guardians are also classified as victims. Where the person against whom a criminal offense is committed is killed or incapacitated, his or her spouse, parent, child, brother, sister, grandparent, grandchild, adopted parent, adopted child, adopted brother, adopted sister, adopted grandparent, adopted grandchild, or foster parent is classified as a victim, except if that person is accused of the criminal offense.
- 46. *Warrant* means an order of the court issued upon the written application of the prosecutor or the police that empowers the police to undertake the measure sought in the application.
- 47. *Witness* means a person who is summonsed or has relevant knowledge and may be summonsed to testify before a court in the course of criminal proceedings.

Commentary

Paragraph 1: The terms *accused* and *suspect* are both used throughout the *Model Codes for Post-Conflict Criminal Justice* (hereafter, the Model Codes). A *suspect* is a person against whom there is a reasonable suspicion of him or her having committed a criminal offense, as defined in Paragraph 43. A *suspect* becomes an *accused* when an indictment against him or her is prepared, submitted to the court, and confirmed by it under Article 201 of the MCCP. After the confirmation of the indictment, the accused must stand trial before the court. Reference should be made to Articles 193–203 of the MCCP and their accompanying commentaries.

Paragraph 2: During the course of an investigation, the prosecutor or (in certain limited and defined circumstances) the police may make an *application* to the court to authorize certain investigatory actions, for example, a search of premises and dwell-

ings (Articles 118–121) or covert surveillance measures (Articles 134–140). Where the court approves an application, it will grant a *warrant*. A warrant is defined under Article 1(46)

Paragraph 3: The definition of *arrest* used in the MCCP has been taken from the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (“Use of Terms,” [a]). Reference should be made to Chapter 9, Part 1, on “Arrest,” and particularly to Article 170 (“Arrest without a Warrant”) and Article 171 (“Arrest under Warrant”), which set out the standards applicable to the arrest of a person. In some states, the term *arrest* means that the person is apprehended but not detained. The person may be notified that he or she is under arrest. The person may be prevented from leaving the scene temporarily, may be handcuffed, and may even be questioned at the scene of arrest in a police car, for example. However, in order for the person to be moved from the scene of arrest to a police station for questioning, a separate warrant for detention is required. In other systems, the term *arrest* is taken to mean that the person is apprehended and may also be detained beyond the point of apprehension. In these systems, detention and removal from the scene of arrest are implicit in the arrest warrant (subject, of course, to the time limits on detention contained in the criminal procedure law). The latter meaning of *arrest* is the one that was favored by the drafters of the MCCP. Thus, under the MCCP, the power to arrest a person under Article 170 or Article 171 is taken to mean that the police, once they have arrested a person, may take that person to the police station and may, for example, question the person pending the arrested person’s hearing before a judge under Article 175. Under Article 172(3)(f), an arrested person must be brought before a judge as soon as possible and no later than seventy-two hours after the moment of arrest. In order for detention to be legal after this time, a warrant for detention must be obtained from a judge under Chapter 9, Part 3, of the MCCP.

Paragraph 5: The definition of the term *child* as contained in Paragraph 2 is taken from Article 1 of the United Nations Convention on the Rights of the Child. It is important to stress the distinction between the terms *child* and *juvenile*, both of which are used throughout the Model Codes. A juvenile falls within the definition of a child (that is, he or she is under the age of eighteen years). However, the term *juvenile* has a distinct meaning for the purposes of asserting jurisdiction over the person. Under the MCC, a court may assert criminal jurisdiction over a juvenile, meaning a child over the age of twelve, but not over a child. Reference should be made to Article 7 of the MCC and its accompanying commentary, which deals with personal jurisdiction over juveniles.

International human rights norms and standards provide that a child (and by necessary implication a juvenile) who is involved in criminal proceedings not only should be afforded the same guarantees and protections as an adult but also is entitled to additional protections on account of his or her vulnerable status. Rule 2(2)(a) of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice specifically provides that a juvenile is a person who is tried “in a manner which is different from an adult.” The protective legal framework aimed at safeguarding the rights of children consists of international conventions (e.g., the United Nations Convention

on the Rights of the Child and the African Charter on the Rights and Welfare of the Child) and a number of nonbinding instruments (e.g., the United Nations Standard Minimum Rules for the Administration of Juvenile Justice [the Beijing Rules], the United Nations Guidelines for the Protection of Juveniles Deprived of Their Liberty, and the United Nations Guidelines for the Prevention of Juvenile Delinquency [the Riyadh Guidelines]). The drafters of the Model Codes have sought to integrate these international norms and standards applicable to children into the codes' substantive provisions. Reference should be made to Section 14 of the MCC, on juvenile penalties, and Chapter 15 of the MCCP, which specifically deals with the procedural rights of juveniles involved in criminal proceedings.

Paragraph 7: The term *competent legislative authority* is used as a generic term throughout the MCCP to signify the relevant domestic state authority with the power to promulgate or adopt legislation. For example, Article 52 of the MCCP requires that the competent legislative authority establish a mechanism to provide for free legal assistance to an arrested person or an accused person who cannot afford his or her own lawyer. In some states, the competent legislative authority will be the parliament or legislature. In other states, the president may have the power to pass relevant legislation in the criminal sphere by way of presidential decree.

Paragraph 9: In some legal systems, a trial is predominantly led by the judge or panel of judges, who may also take the primary role in the questioning of witnesses before the court. A prosecutor and defense counsel may be present during the trial (in addition to a lawyer representing the victim); however, they may not take an active role in questioning the witness. In other legal systems, the proceedings are adversarial and party driven. Under this model, the prosecutor and the defense take the lead roles in the questioning of witnesses. Under such systems, the judge acts in a supervisory capacity. Depending on the particular legal system in question, the judge may question the witness once he or she has been questioned by the prosecutor and the defense. The judge may also have the discretion to call certain witnesses.

Under the MCCP, the trial is adversarial in nature with the prosecutor and defense being responsible for calling witnesses before the court and examining them. The judge may question a witness after he or she has been questioned by the prosecutor and the defense. Reference should be made to Article 224 and its accompanying commentaries. The form that the questioning of witnesses takes is also contained in Article 224. Paragraph 3 of Article 224 provides that a witness will be *directly examined* (the definition of *direct examination* is contained in Article 1[16]), then *cross-examined* (the definition of *cross-examination* is contained in Article 1[9]), then *reexamined*. A witness will be directly examined by the party that called him or her before the court (e.g., if the prosecutor calls a witness before the court, then the prosecutor will be responsible for directly examining this witness). The witness may then be cross-examined by the opposing party (e.g., if the prosecutor calls a witness before the court, the defense may cross-examine the witness after direct examination has been undertaken). The party conducting the cross-examination may only question the person in connection with matters raised by the party who has undertaken the direct examination (i.e., within the scope of direct examination). After cross-examination, the party who

called the witness has the opportunity to reexamine the witness in light of the cross-examination just undertaken.

Paragraph 10: The terms *day* and *working day* are used throughout the MCCP to distinguish between calendar days and working days. For example, under Article 99(2), the prosecutor has fifteen working days to notify a victim of his or her decision to initiate, suspend, or renew an investigation. In contrast, under Article 136(9), a warrant for covert or other technical measures of surveillance or investigation must not exceed sixty calendar days.

Paragraph 12: The definition of *detainee* is inspired by the definition of *detained person* contained in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (“Use of Terms,” [b]).

Paragraph 13: The term *detention* includes police detention, where a person has been arrested and is being detained by the police pending a hearing before a judge under Article 175, and detention pending trial, or *detention on remand*, as it is called in some legal systems.

Paragraph 15: The term *detention center* is used as a generic term throughout the MCCP to denote the facility where detainees and convicted persons are held. In some states, detainees and convicted persons are held in completely separate facilities: detainees may be initially held in police custody at the police station and then transferred to *jail* or a detention center for pretrial detainees; if convicted, a convicted person is placed in *prison*. This is the ideal scenario and one that is consistent with international human rights norms and standards (see, for example, Article 10[2][a] of the International Covenant on Civil and Political Rights: “Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons”). Often, given the limited resources available in most post-conflict states, detainees and convicted persons are held in the same facilities. In some instances, in order to comply with international human rights norms and standards, detainees and prisoners are kept separate from one another within the same facility.

Paragraph 16: Reference should be made to the commentary to Paragraph 9.

Paragraph 20: Reference should be made to Article 141 and its accompanying commentary on the appointment of expert witnesses.

Paragraph 21: Forensic pathology is a branch of medicine that determines the cause of death. Under Article 145(4) of the MCCP, the court may appoint a forensic pathologist to conduct an autopsy to determine how a victim died and to gather evidence that may be useful in the investigation and prosecution of an alleged perpetrator.

Many post-conflict states have a shortage not only of relevant criminal justice actors but also of other professionals such as forensic pathologists that are necessary to investigate a criminal offense. In East Timor, for example, because of the absence of forensic

pathology expertise, a forensic pathologist had to be flown in from Australia to assist in investigations. Many post-conflict states also lack pathology laboratories, where the evidence gathered by a forensic pathologist would be tested. Laboratory testing of forensic findings is crucial to the gathering of credible evidence in many criminal investigations, particularly in murder or rape cases. In some post-conflict states where there are no laboratories, evidence is sent to a laboratory outside of the state for testing; in post-conflict Kosovo, for example, evidence was sent to laboratories in Germany. In Liberia, through the efforts of international donors, a laboratory has been established in its capital, Monrovia, which precludes the need to send evidence out of the state.

Paragraph 22: Under the MCCP, upon the completion of a criminal investigation, if the prosecutor finds it appropriate to pursue the case, he or she must prepare a written indictment against the suspect. An indictment can take a number of different forms, but typically it contains the accusations against the suspect (listing the criminal offenses with which they are charged) and provides relevant facts relating to the alleged criminal offenses and the suspect's involvement. In order for the suspect to become an accused (see the discussion in the commentary to Paragraph 1), the written indictment must be presented to the court under Article 195 and confirmed under Article 201. Reference should be made to Chapter 10, Part 1, "The Indictment," and Chapter 10, Part 2, which provides the procedural rules for the presentation, hearing, and confirmation of an indictment.

Paragraph 23: An interlocutory appeal is an appeal that is heard by the appeals court prior to the final determination of criminal responsibility at trial. Only certain issues may be appealed to the appeals court prior to and during the trial. These recognized grounds of interlocutory appeal under the MCCP are set out in Article 295. Reference should be made to Article 295 and its accompanying commentary.

Paragraph 24: Reference should be made to Chapter 8, which deals with the investigation of a criminal offense.

Paragraph 26: Reference should be made to the commentary to Paragraph 5.

Paragraphs 27–30: The Model Criminal Code and the Model Code of Criminal Procedure make up volumes I and II, respectively, of the *Model Codes for Post-Conflict Criminal Justice* (hereafter, the Model Codes). The Model Codes are a set of four model codes published in three volumes. Volume III contains a Model Detention Act and a Model Police Powers Act. For a discussion of the origins, aims, and content of the Model Codes, see the User's Guide at the beginning of this volume.

Paragraph 31: Article 1 of the MCCP includes a definition of *doctor* (Paragraph 17) and *nurse* (Paragraph 33), in addition to *medical professional*. Specific mention of a doctor, nurse, and medical professional is made in Article 142, "Physical Examination of a Suspect or an Accused," and in Article 172 on the right of an arrested person to a medical examination. Ideally, a qualified doctor would conduct a physical or medical examination; however, in a post-conflict setting there may be a lack of qualified doc-

tors. For this reason, Articles 142 and 172 provide that a nurse, in place of a doctor, or a medical professional (where no qualified nurse is available) may conduct a physical or medical examination of a person.

Paragraph 32: A *motion* can be made to the court by either the prosecutor, the defense, a witness, or a victim (where applicable). A *warrant*, like a motion, is a petition to the court to take certain action; a warrant, however, can only be requested by and granted to the prosecutor or the police. If the court agrees with the motion filed, it will grant an *order*, as defined in Paragraph 34.

Paragraph 34: Reference should be made to the commentary accompanying Paragraph 32.

Paragraph 36: There are a number of different standards of proof provided for in the M CCP. The term *standard of proof* refers to the degree or level of proof required in a specific situation. The standard set out in Paragraph 36 is that of *probable cause*, which is employed in many legal systems around the world. In some systems, the term *grounded suspicion* is used instead. In the M CCP, and in many criminal procedure codes around the world, the probable cause standard is the standard of proof required in order to arrest a person (see Articles 170 and 171 of the M CCP) or to search a premises or a person (see Articles 118–125). Probable cause is a higher standard of proof than *reasonable suspicion*, which is contained in Article 1(40). Unlike reasonable suspicion (see the commentary to Paragraph 40), probable cause is wholly objective in nature and requires that such facts are present that would create a reasonable belief that a criminal offense had been committed; put differently, the probable cause standard requires that there are facts present that would convince a *reasonable person* or a *prudent person* that a criminal offense has been committed.

Under the M CCP, there are two further standards of proof: *the balance of probabilities* and *beyond reasonable doubt*. The latter is the highest standard of proof contained in the M CCP and is the one required to convict a person of a criminal offense. The balance of probabilities test is used at a confirmation hearing under Article 201. Reference should be made to Article 216 for a discussion of the *beyond reasonable doubt* standard and to Article 201 for the meaning of *the balance of probabilities*.

Paragraph 39: The definition of *public official* has been taken from Article 2(a) of the United Nations Convention against Corruption, currently the most comprehensive definition of public official in international and regional instruments.

Paragraph 40: As discussed in the commentary to Paragraph 36, the standard of proof of *reasonable suspicion* may be met where a police officer believes, on the basis of specific objective facts or inferences and in light of that police officer's experience, that a person has committed a criminal offense. The test is part objective and part subjective and is a lesser burden than that of probable cause, the balance of probabilities and beyond reasonable doubt.

Paragraph 42: The precise legal definition of the term *state* is a subject of debate among scholars of public international law and lies beyond the scope of this work. Paragraph 42 is not intended to provide a definitive statement of what a state is but instead to provide an inclusive definition of the term *state*. The purpose of doing so is to ensure that when the MCCP refers to a state, other entities are included. The reform of post-conflict laws may take place outside the context of a recognized state—as has been the case, for example, in Kosovo and in the early stages of the peace operation in East Timor (before East Timor was recognized as an independent state at an international level). In some articles of the Model Codes, it will be obvious to the reader that the term *state* could refer only to a state proper, such as with the signing of extradition treaties mentioned in Article 312 of the MCCP. The inclusive definition contained in the MCC is inspired by the commentaries to the Organization for Economic Cooperation and Development’s Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which discuss the scope of the term *foreign country* as defined in Article 1(4)(b) of the convention.

Paragraph 43: Reference should be made to the commentary to Paragraph 1.

Paragraph 44: The definition of *territory* is important in determining whether a state possesses territorial jurisdiction over a criminal offense under Article 4 of the MCC. It is also relevant to the determination of extraterritorial jurisdiction under Article 5 of the MCC. The question of territoriality of coastal seas and air space is one that is regulated by public international law and should be determined on a case by case basis. With regard to coastal seas, the generally recognized rule is that the waters 12 nautical miles from the coast of a state are considered part of its territory. A state may have certain rights regarding seas up to 200 nautical miles from its coast as part of an “exclusive economic zone” designated for the purpose of exploitation of resources; the state, however, does not have criminal jurisdiction over these waters.

Paragraph 45: The drafters of the Model Codes originally considered using the definition of *victim* contained in the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Principle 1). The declaration defines victims as “persons who, individually or collectively, have suffered damage, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal law operative within Member States.” While this definition is both comprehensive and accurate in terms of defining victimhood in a general sense, it was decided to narrow this definition slightly for the purposes of drafting a legal definition of victim for use in the Model Codes. The intent of the drafters was to create a definition that is practical and workable. The interests of victims are protected throughout the Model Codes (see, for example, Chapter 5 of the MCCP), and the drafters were concerned that such rights should be enforceable in a practical sense. If the definition of victim from the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power was used in the MCC, a broad reading of it would require—for example, in Article 99 (“Notification of a Victim”)—that the police make efforts to inform every person in the state who has been personally or collectively affected by a criminal offense

of the progress of the criminal proceedings. In theory, this requirement may impose an obligation upon the police to inform large numbers of individual “victims,” an impracticable task that may have the adverse result of depriving victims who are more closely related to the criminal offense of their rights. The definition of victim contained in Paragraph 45 is based on a comparative survey of national legislation and the legal definition of the term *victim* contained in that legislation. The definition that was constructed gives both the person against whom the criminal offense was committed and close family members of that person enforceable rights under the M CCP. A partner (meaning a person in a nonmarital committed relationship with the person against whom the criminal offense was committed) has not been included in the definition of victim. A state may wish to consider adding partner to the list of victims. Reference should be made to Articles 72–79 and 99–100 of the M CCP and their accompanying commentaries, which address the rights of victims.

Paragraph 45 refers to an adopted parent and an adopted child. In some legal systems, it is not possible to “adopt” a child in the sense that the child will take the name of the adoptive parents. Different terminology is used to describe a relationship that is akin to adoption but in which the child maintains his or her family name. In a state that does not recognize adoption, the definition of victim used in domestic legislation should include any relationships that operate similarly to adoption.

Paragraph 46: Reference should be made to the commentary to Paragraph 2.

Article 2: Purpose of the M CCP

1. The M CCP determines the rules of criminal procedure that are applicable to criminal proceedings before the courts in [insert name of state] and to all actors and participants involved in the proceedings.
2. The M CCP sets out rules to guarantee that criminal offenses are investigated and prosecuted effectively and efficiently while at the same time guaranteeing that suspects, accused persons, victims, and all other persons coming into contact with the criminal justice system are treated equitably, fairly, and in a manner that complies with international human rights standards.
3. Any restrictions on the rights of persons in the investigation of a criminal offense may only be imposed in compliance with the M CCP and the applicable law.

Commentary

Article 2 provides a broad statement on the purpose, or goals, of the criminal procedure laws laid out in the M CCP. Two goals were of particular importance to the draft-

ers of the MCCP. First, it was important that the MCCP be tailored to fit the exigencies of a post-conflict environment. Second, it was essential to create legal provisions that would enable a criminal investigation and prosecution to be undertaken efficiently and effectively while ensuring that the rights of persons coming into contact with the criminal justice system (primarily suspects, accused persons, and victims) would be treated in a manner that complies with international human rights standards. The balancing of rights against the need to effectively and efficiently investigate and prosecute crime was a constant theme in drafting the MCCP, as it is in the drafting of post-conflict criminal procedure laws. Article 2, in setting out the purpose of the MCCP, articulates the importance of this balance. Article 2 also lays out the principle that all suspects, accused persons, victims, and all other persons who come into contact with the justice system are treated equitably and fairly.

In the aftermath of conflict, many states decide to reform their preexisting criminal laws. Some post-conflict states completely overhaul their entire criminal procedure framework. As a reaction to past human rights abuses, significant emphasis is often placed on ensuring that new laws comply with international human rights norms and standards. The United Nations report *The Rule of Law and Transitional Justice in Conflict and Post-Conflict States* (UN document S/2004/106) states that international human rights law should form the normative framework of all rule of law interventions (paragraph 9). While fully agreeing with this position, the drafters of the MCCP and many experts consulted during its creation also deemed it imperative to balance the need to incorporate international human rights norms and standards into criminal procedure laws against the need to ensure public safety and security through effective and efficient criminal investigations and prosecutions. Some post-conflict states, facing epidemics of crime, have introduced legislation that is more focused on crime control than on ensuring that human rights are adequately and comprehensively addressed. Conversely, other post-conflict states have made the mistake of tipping the scales too far in favor of a purely rights-based approach to justice. Paradoxically, this latter approach has inadvertently led to violations of human rights. Where the criminal procedure law does not provide sufficient powers to investigate crimes, the criminal process is stymied and thus the citizen's right to adequate redress for criminal wrongs committed against him or her or his or her property (inherent in a state's duty to respect and protect the rights of citizens, such as their right to life or property, under international human rights law) is not protected. In the case of El Salvador, for example, reform of domestic criminal procedure law was widely criticized for overemphasizing international human rights law and underemphasizing the need to fight crime and effectively investigate criminal offenses, to the detriment of the safety and the rights of its citizens (see Margarita S. Studemeister, *El Salvador: Implementation of the Peace Accords*, Peaceworks no. 38, United States Institute of Peace, p. 17). The example of El Salvador underscores the importance of the broad purposes of the MCCP set out in Article 2, which require that the MCCP simultaneously protect rights, ensure public safety and security, and ensure efficient and effective criminal investigations and prosecutions.