

**INTERNATIONAL SOCIETY FOR THE
REFORM OF THE CRIMINAL LAW
20TH ANNIVERSARY CONFERENCE,
1987-2007**

**TWENTY YEARS OF CRIMINAL
JUSTICE REFORM: PAST
ACHIEVEMENTS AND FUTURE
CHALLENGES**

JUNE 22-26

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VANCOUVER, BC CANADA



WORKSHOP B2
125 YEARS OF CRIMINAL CODES:
CRIMINAL CODE REFORM – CODIFICATION
AND CLARIFICATION

CRIMINAL LAW CODIFICATION IN IRELAND

By

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INTRODUCTION AND BIOGRAPHICAL NOTES



PHASE ONE

- Establishment of Expert Group in December 2002
- Terms of Reference of Expert Group
- Membership
- Working Methods
- Consultation Process
- Publication of Report, *Codifying the Criminal Law*
(Dublin, 2004)



GUIDING QUESTIONS

- Is codification a good idea in principle?
- What form should codification take in Ireland?
- How should the process of codification be managed?



THE ISSUE OF PRINCIPLE

- Guided by consideration of:
 - Definition of codification;
 - Varieties of Codification;
 - Value of codification;
 - Risks



THE QUESTION OF FORM

- Key considerations included:
- The case for a comprehensive criminal code;
- The scale of the task;
- Design of codifying instrument;
- Scope of the Special Part
- Choreography;
- Offences outside the code;
- Fate of the common law



MANAGING THE PROCESS

- Advisory Committee model
- Enacting the code
- Problem of Maintenance



SUMMARY OF PRINCIPAL RECOMMENDATION

'A programme of phased codification comprising an inaugural instrument dealing with the general principles of criminal liability and the core criminal calendar, followed by additional enactments incorporating the remainder of the common and statute law into the code as and when it is modernized.' (*Codifying the Criminal Law*, p.3).



PHASE TWO

- Criminal Law Codification Advisory Committee informally established in 2005
- Committee placed on statutory footing by Part 14 of the Criminal Justice Act 2006
- Broadly speaking the 2006 Act gives legislative expression to the model of codification developed by the Expert Group as described in *Codifying the Criminal Law*



SUMMARY OF PRINCIPAL PROVISIONS OF PART 14 OF THE CRIMINAL JUSTICE ACT 2006

- Thus s. 168 (1) of the Act provides that the 'function of the Committee shall be to oversee the development of a programme of codification of the criminal law';



SUMMARY OF PART 14 OF THE 2006 ACT CONTINUED

- While s. 168 (2) provides, *inter alia*, that 'the Committee shall-
 - plan, monitor and review the implementation of a programme for the codification of the criminal law,
 - advise and assist the Minister on consideration of areas of criminal law for inclusion in the code,
 - advise and assist the minister in relation to the amendment and future maintenance of the code,



SUMMARY OF PART 14 OF THE 2006 ACT CONTINUED

- d) undertake or commission, or collaborate or assist in, research projects relating to the codification of criminal law,
- e) consult [expert opinion, etc],
- f) monitor, review and advise and assist the minister on international developments in the codification of the criminal law...



POST-LEGISLATIVE DEVELOPMENTS

- June 2006, Department of Justice, Equality and Law Reform invites Expressions of Interest to establish Codification Research Support Unit
- Unit to be integrated with Permanent Secretariat in host academic institution
- Unit generously funded by Department of Justice, Equality and Law Reform



POST-LEGISLATIVE DEVELOPMENTS CONTINUED

- Contract awarded to UCD School of Law Criminal Code Team in July 2006
- May 2007, Codification Research Support Unit opens its doors in UCD
- May 2007, Criminal Law Codification Advisory Committee begins to draw up draft programme of work to be undertaken by Research Unit

