

THE IUPL/IAPL: 125 YEARS OF SERVING CRIMINAL JUSTICE,
HUMAN RIGHTS, AND HUMANITY

John A.E. Vervaele

ERES | « *Revue internationale de droit pénal* »

2015/3 Vol. 86 | pages 733 - 758

ISSN 0223-5404

ISBN 9782749250922

This document is the English version of:

John A.E. Vervaele, « UIDP/AIDP: 125 ans au service de la Justice Criminelle, de l'Humanité et des Droit de l'Homme », *Revue internationale de droit pénal* 2015/3 (Vol. 86), p. 733-758.

Available online at :

https://www.cairn-int.info/article-E_RIDP_863_0733--the-iupliapl-125-years-of-serving.htm

How to cite this article :

John A.E. Vervaele, « UIDP/AIDP: 125 ans au service de la Justice Criminelle, de l'Humanité et des Droit de l'Homme », *Revue internationale de droit pénal* 2015/3 (Vol. 86), p. 733-758.

Electronic distribution by Cairn on behalf of ERES.

© ERES. All rights reserved for all countries.

Reproducing this article (including by photocopying) is only authorized in accordance with the general terms and conditions of use for the website, or with the general terms and conditions of the license held by your institution, where applicable. Any other reproduction, in full or in part, or storage in a database, in any form and by any means whatsoever is strictly prohibited without the prior written consent of the publisher, except where permitted under French law.

The UIDP/AIDP: 125 years serving Criminal Justice, Human Rights and Humanity

John A.E. Vervaele

1. Union International de Droit Pénal (UIDP, 1889-1918)

It is common knowledge that the AIDP, established in 1924, was a reactivation and renewal of the UIDP, founded in 1889 by von Liszt from Germany, Prins from Belgium, and van Hamel from the Netherlands.³⁶ For that reason, the AIDP is, without any doubt, the oldest international association of criminal science. As correctly stated by H.-H. Jescheck (see Document 15), who studies the history of the association, the AIDP cannot deny the establishment, mission and work of the UIDP before the Great War of 1914-1918.

The UIDP was created in an era in which the Nation States in Europe had to address serious social problems and increased criminality. It was also an era of political turmoil resulting in the creation of the first liberal and socialist parties and the labor unions. The classic model of *laissez faire and laissez passer* based on economic liberalism had created too much inequality in society. In his famous 1891 "Rerum Novarum" Encyclical on the Rights and Duties of Capital and Labor, Pope Leo XIII made a strong plea in favor of states that promote social justice through the protection of rights. He described the prevailing atmosphere:³⁷

That the spirit of revolutionary change, which has long been disturbing the nations of the world, should have passed beyond the sphere of politics and made its influence felt in the cognate sphere of practical economics is not surprising. The

· President of the AIDP, since 2014 and Professor in European and economic criminal law at Utrecht School of Law and the College of Europe in Bruges.

³⁶ See M. Cherif Bassiouni, *Un Siècle de Service Consacré à la Justice Criminelle et aux Droits de l'Homme: L'Association Internationale de Droit Pénal et l'Institut Supérieur Internationale des en Sciences Criminelles*, 61 REV. INT'L DE DROIT PENAL 29-57 (1990); H.-H. Jescheck, *Der Einfluss der IKV und der AIDP auf die Internationale Entwicklung der Modernen Kriminalpolitik*, in BEITRÄGE ZUM STRAFRECHT 1980-1998 495-510 (see Document 14) (Theo Vogler ed., 1998; and I. Berdugo, *El movimiento de política criminal tendente a la unificación legislativa. Su desarrollo hasta 1940* (1976) (unpublished doctoral thesis, Universidad Complutense de Madrid) (full text available at: www.cienciaspenales.net).

³⁷ Leo XIII, *Rerum Novarum, 1891*, CATHOLIC SOCIAL THOUGHT: THE DOCUMENTARY HERITAGE (1931).

elements of the conflict now raging are unmistakable, in the vast expansion of industrial pursuits and the marvelous discoveries of science; in the changed relations between masters and workmen; in the enormous fortunes of some new individuals, and the utter poverty of the masses; the increased self-reliance and closer mutual combination of the working classes; as also, finally, in the prevailing moral degeneracy. The momentous gravity of the state of things now obtaining fills every mind with painful apprehension; wise men are discussing it; practical men are proposing schemes; popular meetings, legislatures, and rulers of nations are all busy with it—actually there is no question which has taken deeper hold on the public mind.

It was in the context of that economic and political turmoil that the postulates of the classical school of thought in criminal justice, going back to the Enlightenment (Beccaria, Voltaire, Feuerbach, Carrara, Binding, etc.), were strongly questioned. The classical school was itself a reaction to the feudal class-society and the Ancien Régime, with privileges of all kinds for the upper class. The classical school started with the proposition that every individual had the free will to choose how to act. The punishment for committing offences was deterrence by objective sanctions, mostly imprisonment, in order to achieve general and special prevention.

The classical school of thought was based on legal equality and rationalist standards. In practice this equality was a legal fiction, and the prisons were overcrowded with lower-class people who had not always committed serious offences. Already around 1850 interest in “la question pénitentiaire” was growing. Ducpétiaux published his famous studies, influenced by Quetelet, and the Howard League started its Prison Reform Movement. The International Penal and Penitentiary Commission (IPPC) was established in 1875.³⁸ The “question pénitentiaire” was rapidly transformed into an increasing interest in the causes of criminality (criminal etiology, criminal anthropology) and thus into a “question sociale.” The main focus of the classical school of thought, defining as rationally as possible the relationship between the illegal conduct and the penalty, shifted to the personal and social causes of crime and the ways in which scientific study of crime and crime correction and rehabilitation could prevent and repress it as a social problem. This was the main focus of the new science of criminology and of the modern positivist school of thought in criminal justice, with main figures such as Lombroso, Ferri, Tarde, and Garafalo.

³⁸ After WWII the organization itself, as well as its functions, were integrated into the Secretariat of the UN, and a group of experts established the International Penal and Penitentiary Foundation.

The founding fathers of the UIDP, von Liszt, Prins, and van Hamel, belonged to the new liberal parties and were all members of the Freemasonry movement,³⁹ also an important social reform actor. UIDP included not only university professors, but also members of Parliament (von Liszt and van Hamel) and the Director of the Penitentiary Institutions (Prins), who had a strong impact on legislative and justice reform in the first decades of the 20th century. The founding fathers of the UIDP clearly supported the criminal policy views of the modern positivist school. In its 1889 founding statutes (see Document 2), the mission of the UIDP was laid out in nine points in article II:

1. La mission du droit pénal c'est la lutte contre la criminalité envisagée comme phénomène social.
2. La science pénale et la législation pénale doivent donc tenir compte des résultats des études anthropologiques et sociologiques.
3. La peine est un des moyens les plus efficaces dont l'Etat dispose contre la criminalité. Elle n'est pas le [seul] moyen. Elle ne doit donc pas être isolée des autres remèdes sociaux et notamment pas oublier les mesures préventives.
4. La distinction entre les délinquants d'accidents et les délinquants d'habitude est essentielle en pratique comme en théorie: elle doit être la base des dispositions de la loi pénale.
5. Comme les tribunaux répressif et l'administration pénitentiaire concourent au même but et que la condamnation ne vaut que par son mode d'exécution, la séparation consacrée par notre droit moderne entre la fonction répressive et la fonction pénitentiaire est irrationnelle et nuisible.
6. La peine privative de liberté occupe à juste titre la première place dans notre système de peines, l'Union accorde une attention spéciale à tout ce qui concerne l'amélioration des prisons et des institutions qui s'y rattachent.
7. En ce qui concerne toutefois les peines d'emprisonnement de courte durée, l'Union considère que la substitution à l'emprisonnement de mesures d'une efficacité équivalente est possible et désirable.
8. En ce qui concerne les peines d'emprisonnement de longue durée, l'Union estime qu'il faut faire dépendre la durée de l'emprisonnement, non pas uniquement de la gravité matérielle et morale de l'infraction commise, mais aussi des résultats obtenus par le régime pénitentiaire.

³⁹ For the interaction between the Freemasonry movement and the modern positivist school, see J.A.E. Vervaele, *RECHTSSTAAT EN RECHT TOT STRAFFEN* 538 (1991).

9. En ce qui concerne les délinquants d'habitude incorrigibles, l'Union estime qu'indépendamment de la gravité de l'infraction, et quand même il s'agit que de la réitération des petits délits, le système pénal doit avant tout avoir comme objectif de mettre ces délinquants hors d'état de nuire, le plus longtemps possible.

These postulates of criminal policy had been influenced by the famous Marburg Programme⁴⁰ of von Liszt and the writing of Italian, French and Belgian penal lawyers like Ferri, Tarde, and Prins, and would later influence the so-called new social defense movement of M. Ancel.⁴¹ In fact, by 1910 Prins had already written his famous book on "La défense sociale et les transformations du droit pénal."

The UIDP started with 75 members, half coming from Germany, but the organization grew to more than 1,000 members with national groups in many parts of Europe, including Scandinavia, Eastern Europe and Russia. The French were quite slow to set up a national group, but eventually did so in 1905, and the group became very active. However, the UIDP remained unsuccessful in setting up a national group in the United Kingdom.

From the very beginning the UIDP and its national groups were composed of a mixture of university professors and practitioners from the ministerial departments, judiciary, police, forensic criminal sciences, etc. This was fully in line with von Liszt's "Gesamte Strafrechtswissenschaften,"⁴² a theoretical concept by which the criminal sciences were composed of criminal law, criminal procedure, criminology, and forensic sciences. Between 1889 and 1914 the UIDP held 14 international conferences in different countries—starting in Brussels—dealing with the study of crime, causes of crime, and tools to prevent and repress crime; and seeking reforms in the domestic criminal justice systems.

Concerning the study of crime, it is astonishing that the main focus remained on classic crimes committed within national territories, like theft and passion crimes. No attention was paid to economic offences. In 1905, international crime or transnational crime was put on the agenda for the first time, specifically in relation to trafficking in human beings and the need to elaborate specific mutual legal assistance regimes. There were a lot of discussions on the constitutive elements of the international criminal offence of trafficking of human beings, and also on the need to set up specialized police agencies with cross-border cooperation

⁴⁰ F. von Liszt, *Der Zweckgedanke im Strafrecht*, 3 ZStW 1, 7 (1883).

⁴¹ M. Ancel, *LA DÉFENSE SOCIALE NOUVELLE* (1954).

⁴² J.A.E. Vervaele, *La naissance de l'Etat: Providence et le modèle des sciences pénales intégrées (Gesamte Strafrechtswissenschaft)*, 13(2) DÉVIANCE ET SOCIÉTÉ 141-154, 141 (1989).

mechanisms.⁴³ However, the UIDP members could not agree on a common definition of the international crime, nor how to tackle it. They decided to ask the Bureau of the UIDP to study the issue further, and it never reappeared on the agenda.

The study of the causes of crime, and the criminal policy standpoint on prevention and repression of crime, became the organization's real battlefield. Both issues were strongly expressed in article II of the founding statutes, articulating UIDP's mission. Although von Liszt insisted on the fact that the criminal code was the criminal's Magna Carta, in the sense that such a person had the right to be punished only under legal conditions and within the limits of the law, the same modern positivist school insisted on, *inter alia*, indefinite terms of sanctions or security measures for recidivists or for persons whose behavior could not be corrected, who were thus not suitable for rehabilitation or resocialisation.

At its congresses, the UIDP was continually discussing the possibilities for compromise between the classical school (legality principle) and the modern school (safety measures, indeterminate sentencing). With the focus on resocialisation, the emphasis shifted from the study of criminal conduct to the study of the perpetrator and the functionality of penalties. The UIDP pleaded for the replacement of short-term imprisonment with fines, for probation sentencing, and for a separate track for juvenile criminal justice. In other words, the criminal penalties were the individualized answer to the question of resocialisation or exclusion in the context of social defense.

In 1897, after tough discussions, the postulates of modern positivist thought, expressed in article II, were removed in full from UIDP's statutes. Too many members were no longer willing to subscribe to its dogmas and postulates without further discussion.⁴⁴ From that very moment the UIDP became, on paper, an

⁴³ H.-H. Jescheck, *Der Einfluss der IKV und der AIDP auf die Internationale Entwicklung der Modernen Kriminalpolitik*, 92 ZstW 997-1020 (1980) (see Document 14); E. Bellmann, *DIE INTERNATIONALE KRIMINALISTISCHE VEREINIGUNG (1889-1933)* (1994); F. Kitzinger, *L'Union Internationale de Droit Pénal*, 13 BULLETIN DE L'UNION (1906); and L. Radzinowicz, *THE ROOTS OF THE INTERNATIONAL ASSOCIATION OF CRIMINAL LAW AND THEIR SIGNIFICANCE: A TRIBUTE AND A RE-ASSESSMENT ON THE CENTENARY OF THE IKV* (1991).

⁴⁴ T. Peters & J.A.E. Vervaele, *Aperçu historique et importance actuelle de l'Union internationale de droit pénal: Notions sur le système des sanctions pénales*, 61 REVUE INTERNATIONALE DE DROIT PENAL 239-254 (1990); M.S. Groenhuisen & D. Van der Landen, *L'Union International de Droit Pénal dans la zone de tension entre les notions de droit classiques et les conceptions juridiques modernes*. 61(1-2) REVUE INTERNATIONALE DE DROIT PÉNAL: BULLETIN DE L'ASSOCIATION INTERNATIONALE DE DROIT PÉNAL 143-223 (1990); Sylvia Kesper-Biermann, *Wissenschaftlicher Ideenaustausch und "kriminalpolitische Propaganda" in DIE INTERNATIONALE KRIMINALISTISCHE VEREINIGUNG (1889-1937) UND DER STRAFVOLLZUG:*

organization in which all schools of thought were welcome, in other words, an organization based on neutrality. This was, however, not the end of the story.

From the beginning of the century the debate in the UIDP was very much concentrated on criminal policy and justice reform, and on related comparative criminal law and codification issues. Von Liszt tried to have a direct impact on the reform of criminal justice in Germany⁴⁵ through major investments in comparative criminal law. Prins had a substantial impact on Belgian criminal legislation, also thanks to incoming socialist Ministers of Justice. Belgium's legislation included laws on juvenile criminal justice and laws on security measures for psychiatric offenders.⁴⁶ Most of the UIDP discussions were on the substantive criminal law and related penalties. Sometimes topics of criminal procedure were also touched upon, such as prosecutors' control over the police and reform of the pre-trial investigation, both in relation to certain procedural safeguards for suspects.

In the Association's Bulletins, certainly since 1889, a great deal of attention was paid to comparative criminal justice, or at least to country reports on various topics. The German Group of the UIDP started to publish foreign codes of criminal law⁴⁷ and contributed substantially to the German Ministry of Justice's initiative to realize the "Vergleichende Darstellend des Deutschen und Ausländischen Strafrechts," published in 15 massive volumes between 1905 and 1908.⁴⁸

On the occasion of its 25th Anniversary in 1914, the publication of the *Mélanges* reflected the international spirit, the impact, and the modernity of the UIDP's criminal policy ideas. However, it is striking that the topics of criminal procedure were rarely on the agenda and that criminology did not play a more important role.

The First World War resulted in the dissolution of many national groups, and the founding fathers died during or just after the war. After the Great War the divide was so big that it was impossible to go on as usual. However, the German Group (IKV) continued as a national group and did not even join the AIDP after its

VERBRECHER IM VISIER DER EXPERTEN. KRIMINALPOLITIK ZWISCHEN WISSENSCHAFT UND PRAXIS IM 19. UND FRÜHEN 20 79-97 (Sabine Freitag & Désirée Schauz, eds., 2007).

⁴⁵ See E. Bellmann, *DIE INTERNATIONALE KRIMINALISTISCHE VEREINIGUNG (1889-1933)* (1994). Part G on Die Arbeiten der deutschen Landesgruppe an der Reform des Strafrechts at 115.

⁴⁶ B. De Ruyver, *DE STRAFRECHTELIJKE POLITIEK GEVOERD ONDER DE SOCIALISTISCHE MINISTERS VAN JUSTITIE E. VANDERVELDE, P. VERMEYLEN EN A. VRANCKX* (1988) and J.A.E. Vervaele, *RECHTSSTAAT EN RECHT TOT STRAFFEN* 538 (1991).

⁴⁷ See e.g., *SAMMLUNG AUßERDEUTSCHER STRAFGESETZBÜCHER* (1935).

⁴⁸ Published by Verlag Otto Liebermann in Berlin.

establishment in 1924 (see *infra* point 2). In fact, they turned down an invitation to participate at the first conference of the AIDP in Brussels in 1926. The IKV was quite influential under the Weimar Republic, when von Liszt scholar G. Radbruch became Minister of Justice, but by the end of that era it had become mired in endless disputes about the social-liberal and authoritarian theories on criminal justice. New members with sympathy for the Nazi movement tried to use von Liszt's criminal policy to adapt criminal justice reform to authoritarian goals. In 1932/33 G. Dahm and F. Schaffstein published their famous book "Liberales oder autoritäres Strafrecht." In an IKV meeting in 1932 in Frankfurt, the French criminal lawyer Donnedieu de Vabres, founding father of the AIDP, tried to convince the German IKV to cooperate with the AIDP, but without any success. In elections in 1933, the social-liberal direction of the IKV (the old generation) lost in favor of the young pro-authoritarian group. However, this was also the IKV's last meeting, as with the victory of Hitler in 1933 most of the prominent scholars of criminal justice went into exile or committed suicide. In 1935 the new president resigned, as he considered that the new Nazi Minister of Germany, the President of the Academy of German Law, H. Frank, did not respect the legacy of von Liszt and the IKV. Thus the Nazi regime dissolved the IKV.

2. The Association International de Droit Pénal in the interbellum period (1924-1940)

In 1920 Italian E. Ferri tried to reestablish the UIDP, but due to French, Belgian and Swiss objections his initiative did not take off. From 1922 on, the French criminal lawyers prepared to re-launch the organization, and in 1924, under the leadership of Henri Donnedieu de Vabres,⁴⁹ the AIDP was founded in Paris. The first President, Carton de Wiart (Belgium), explicitly referred to this re-founding of the UIDP in his inaugural speech at the first AIDP Congress, again in Brussels. The founding statutes (see Document 3) are very brief and refer explicitly to neutrality of thought and the comparative study by scholars and practitioners of crime, its causes, and the tools to prevent and combat it. In other words, the AIDP's mission is exactly the same as the 1898 revised mission of the UIDP. However, a third branch introduces an entirely new dimension:

⁴⁹ Henri Donnedieu de Vabres had already published very influential textbooks on international criminal law in the 1920s. He was the author of *Introduction à l'étude du droit pénal international*, in 22 REVUE BELGE DE PHILOLOGIE ET D'HISTOIRE (1922) and *DES PRINCIPES MODERNES DU DROIT PÉNAL INTERNATIONAL* (1928) and became a Judge at the Nuremberg Tribunal after WWII.

Elle a pour but (...) de favoriser le développement théorique et pratique du droit pénal international, en vue d'arriver à la conception d'un droit pénal universel, à la coordination des règles de procédure et de l'instruction criminelle.

The starting meeting in Paris in 1924 was a great success and many national groups were present. However the Germans and Austrians were not invited, and the Netherlands—who had been neutral in WWI and refused to extradite the German Kaiser to the Versailles Tribunal—as well as Switzerland (also neutral) and the Scandinavian countries did not join. At the 1926 conference in Brussels the German IKV was invited but refused the invitation. This shows that even 8 years after the Great War the divide was still profound. Nevertheless, the congress in Brussels was a great success with the participation of 22 national groups.

The topics of the congresses during the inter-bellum period illustrate an innovative approach.⁵⁰ New topics such as the criminal responsibility of legal persons are addressed (Bucharest, 1929). Much more attention is focused on criminal procedure, administration of justice, and the position of the suspect. The rights of the suspect and legal safeguards are finally on the agenda. The judicialisation of the execution of criminal penalties and security measures and judicial safeguards during pre-trial investigations are discussed in the Palermo Congress in 1933, for instance, and again in the Paris Congress in 1937. The innovations consist not only of an increasing interest in the enforcement of criminal law, but also in its humanization through the rights and legal safeguards approach. The individual suspect is not only an object of scientific study, as under the modern positivist school, but a citizen with rights and safeguards against the “*ius puniendi*” of the state. Criminal justice shifts from an exclusively crime control perspective towards a standpoint that balances crime control and due process or, in French, a combination of the “*fonction épée et fonction bouclée*,” the sword and shield functions of criminal justice.

As innovative as this was, it developed further through comparative criminal justice and the elaboration of international criminal justice, in the form of codification of international crimes and of international prosecutorial and adjudicative jurisdiction for those crimes. We must not forget that WWI had been a new form of warfare, with the use of mustard gas and the killing of millions of

⁵⁰ P. Cornil, *Réflexions sur le cinquantenaire de l'Association Internationale de droit pénal*, 46 *Revue Internationale de Droit Pénal* 387 (1975) and M. Cherif Bassiouni, *L'Association Internationale de Droit Pénal (AIDP): Plus d'un siècle de dévouement à la Justice Pénale et aux droits de l'homme*, Recueil de L'Association Internationale de droit pénal / Compendium of the International Association of Penal Law, 18 *NOUVELLES ETUDES PÉNALES* 13 (1999) (see Document 11b).

people. One of the conditions placed upon Germany in the Versailles Treaty was that Kaiser Wilhelm II, who abdicated in 1918, would be formally tried. It is clear that the Allied forces proposed a new concept, namely that heads of state guilty for international crimes such as war crimes should be prosecuted and adjudicated by an international criminal tribunal. Articles 227–230 of the Treaty of Versailles elaborated on international criminal proceedings, by stipulating the arrest and trial of German officials defined as war criminals by the Allied governments. Article 227 made provisions for the establishment of a special tribunal, presided over by a judge from each one of the major Allied powers—Britain, France, Italy, the United States and Japan. It identified the former Kaiser Wilhelm II as a war criminal, and demanded that an extradition request be addressed to the Dutch government, which had given him asylum in since his abdication in November 1918. The Netherlands refused based on its neutrality, contending that it was not bound by the Versailles Treaty and its Article 227.⁵¹

That was not the only set-back under the Versailles Treaty. In February 1920, the Allies submitted to the German government a list of another 900 names of individuals accused of committing alleged war crimes. However, the Germans refused to extradite any German citizen to Allied governments, and instead suggested trying them within the German justice system, i.e., at the *Reichsgericht* in Leipzig. This proposal was accepted by the Allied leaders, and in May 1920 they handed over to the German government a reduced list of 45 accused persons. At the end, only twelve individuals were brought to trial in 1921. Some of them were found not guilty and others were sentenced to short prison terms for the war crimes they had committed. The whole experience was considered a failure by the international community, because of the small number of cases tried and the perceived leniency of the court.

In this context it is not a surprise that the outcry for international criminal justice is included in the Statutes of the AIDP, and that the resolutions of the first Brussels Congress in 1926 are already pleading for the establishment of a permanent international criminal court. In fact, the International Law Association (ILA) had already put this idea forward in its Buenos Aires and Stockholm Congresses of 1922 and 1924. In 1926 the ILA and the AIDP submitted a joint proposal for an

⁵¹ In December 1918, the Dutch Government sought advice from legal experts Struycken and Bles. In their advice, which remained confidential at the time, they qualify extradition as possible when it comes from a country with which the Netherlands has an extradition treaty and for ordinary crimes, excluding political crimes. They do, however, advise the Dutch government to extradite for an independent international crime. For more information, see A.H. Klip, *De Keizer-kwestie, over een uitlevering die niet doorging*, in C. Kelk, F. Koenraadt & D. Siegel (eds.), *VEELZIJDIGE GEDACHTEN* (liber amicorum prof. dr. Chrisie Brants) (2013).

ICC to the Inter-Parliamentary Union, a burgeoning international institution gathering parliamentarians from all over the world and serving as the counterpart of the League of Nations. During the AIDP's inter-bellum congresses, the topic was constantly on the agenda. In the 1937 Congress the resolutions called for an international criminal offence prohibiting war of aggression. Without any doubt, during the inter-bellum period the driving force behind the international criminal justice agenda was V.V. Pella, member of the Board of Directors of the AIDP, Romania's minister representative in the League of Nations and the first President of the AIDP after WWII. In this volume we have included two of Pella's texts. He also created the "Bureau International pour L'Unification du Droit Pénal" in 1932 at the League of Nations in Geneva.

The first text (see Document 4) is Pella's address on behalf of the AIDP, given in Bern and in Geneva in 1924 and published by the Interparliamentary Bureau of the League of Nations. Pella's address just before the AIDP Congress in Brussels in 1925 illustrates the innovative character of the very notion of international criminal justice. Pella insists that his meaning of "droit penal international" does not correspond to the classic meaning, namely of resolution of criminal jurisdiction conflicts between sovereign states, but refers to a new legal regime dealing with the criminal liability of states for offences against other states or collectivities. It is also interesting that Pella is using basic notions of the modern positivistic school, referring to Tarde, van Hamel and Gierke, in order to understand "the collective psychology" of states. The scientific study of this "collective psychology" of states and their war crimes will be the objective basis for the elaboration of a preventive and repressive international criminal justice system. The offences that Pella has in mind are still very much concentrated around the notions of war crimes and do not include all concepts of what we now call international core crimes. Pella also refers to the modern school and the social defence movement for the categorization of offenders. He pleads for a clear distinction between pure political crimes and crimes committed by anti-social actors using political means that mostly end up in dangerous and bloody revolutions.

The second contribution (see Document 5) is Pella's report on the crime of war aggression and the organization of its international repression. This report was written on behalf of the Permanent Commission for the study of legal questions, of which Pella later would become President. The report was presented at the XXIII conference of the Interparliamentary Union of the League of Nations in 1925. In this report, Pella insists on the scientific study of state crime and collective crimes in order to be able to develop a preventive criminal policy. He expands on the basic notions of his "Code Répressif des Nations," based on the limitation of the absolute independence of states and of their external sovereignty in order to protect international order and justice. In his elaboration of the constitutive elements of international crimes, he emphasizes the need to develop

a system of criminal sanctions that complies with the legality principle—one of the big discussion points in the forerunner to the AIDP, the UIDP:

Le principe 'nulla poena sine lege' qui est à la base de l'édifice du droit pénal de tout Etat civilisé, doit pareillement constituer un dogme pour le nouveau droit pénal international. Il serait extrêmement regrettable si, dans nos efforts pour établir le règne de l'ordre et de l'harmonie dans les rapports internationaux, nous consentons à que l'arbitraire, qui constitue certainement la négation de toute idée de justice, règne dans l'exercice de la répression.⁵²

Pella rejects legal constructions which would require that the Permanent Court of International Justice of the League of Nations determine penalties. Unfortunately his fears were realized after WWII in worse scenarios, as the military tribunals of Tokyo and Nuremberg had to deal with this.

Although Pella pleads for the application of universal jurisdiction for these offenses, he is not in favor of their imprescriptibility, as he insists on legal security and justice in due time. Interestingly, he provides for sanctions against States as well against individuals for international crimes. In fact, he wants to integrate diplomatic, legal (e.g., seizure, loss of IPR rights), economic and military sanctions into the criminal justice scheme. In light of the discussion of smart sanctions imposed by the UN sanctions committee, and thus by the executive bodies, this is an interesting aspect of international criminal justice that has been left aside since WWII.

It is also worth reading Pella on criminal procedure and administration of justice. He pleads not only for an international public prosecutor at the League of Nations, but also for an international chamber of indictment to be joined at the Superior Court of Justice. Ideally, he believes that the international public prosecutor should be sustained by an international judicial police force, but due to the fear of too much intrusion into national sovereignty, he opts for the application of rogatory commissions.

Pella concludes with wisdom, certainly in light of what will happen in the decades to come:

La paix restera précaire aussi longtemps qu'une pareille œuvre répressive ne sera pas réalisée, et que les volontés rebelles ne seront pas contraintes de se soumettre aux nouvelles conditions de la vie internationale. Ce n'est que par une sage politique criminelle internationale, ainsi que par la détermination de la coordination des mesures d'ordre préventif et répressif, que nous arriverons à

⁵² Page 221 of the Report.

mettre un frein à la criminalité de la guerre d'agression et à donner aux nations la possibilité de jouir en paix des avantages de la solidarité humaine.⁵³

The establishment of a new regime of international criminal justice did fail in the inter-bellum period. However, in the League of Nations states were willing to agree upon the 1937 Convention for the Prevention of Terrorism, signed on behalf of the Netherlands by van Hamel and on behalf of Romania by Pella. This convention deals not only with the obligation to incriminate terrorist offences and conspiracy to terrorism, as defined under the convention, but also with extensive obligations of mutual legal assistance.

The 1937 Terrorist Convention is complemented by a Convention for the Creation of an International Criminal Court at the League of Nations, with a seat in The Hague to adjudicate terrorist offences (see Document 6). This document is much colored by a major attack. Several UN States were willing to negotiate and sign these conventions after the King of Yugoslavia and the French Minister of Justice were killed by Croatian terrorists in Marseille. The convention on the international criminal court sets aside the refusal grounds for political offenses and does not deal primarily with foreign states or high state officials but with ordinary nationals committing terrorist offenses. The jurisdiction of the international criminal court would also be limited to adjudication, as investigation and prosecution would be carried out by the High Contracting Party that had seized the ICC (Article 25). The ICC would adjudicate on the basis of national substantive law, as implemented under the 1937 Terrorist Convention. In case of conflict, the least severe law should apply and the ICC shall decide upon the applicable substantive law (choice of substantive jurisdiction in Article 21). The ICC would also establish regulations to govern its practice and procedure (Article 15). Article 23 provides for a notification procedure in case of conflicting national proceedings, but does not contain any complementarity principle.

Scholars have criticized the whole setting of the Terrorist Convention as lacking legal certainty, with broad substantive definitions and net-widening preparatory acts included. The Convention on the ICC has been perceived as a hybrid, ad-hoc response to the situation at the time and was certainly not in line with Pella's main ideas. Due to WWII, the two conventions never came into force and remained a dead letter.

It would be unfair, however, to judge the contribution of the League of Nations on the unification of national criminal law only on this Terrorist Convention. The League of Nations produced important conventions with the aim of suppressing certain forms of crime, such as the Conventions on Slavery (1919 & 1926), the

⁵³ Page 242 of the Report.

Conventions on Trafficking of Women and Children (1921 & 1933), the Conventions on Illegal Drugs (1925, 1931 & 1933) and the Convention on Counterfeiting of Currencies (1929). Pella did not succeed in fulfilling his dream of developing an international code of core international crimes and a related ICC, but he succeeded in approximating this through substantive national criminal laws, which were also very important tools to strengthen judicial cooperation in criminal matters.

The 1930s were not easy years for the AIDP. Due to the economic and financial crises, the Palermo conference was postponed from 1932 until 1933, and because of political divisions the Athens conference of 1936 was postponed until 1937 and held in Paris.⁵⁴ The Congress scheduled for 1941 could not take place at all because of the dramatic events of WWII.

3. The Association Internationale de Droit Pénal (1946 -)

The restart of the AIDP after WWII could not have occurred at a more symbolic place than the seat of the Nuremberg Military Tribunal, where one of the founding fathers of the AIDP, Donnedieu de Vabres, was magistrate. An interesting group of persons were present at the meeting, held on May 18, 1946 (see Document 7). Biddle, who was also a Judge at the Tribunal, represented Carton de Wiart, the President of the AIDP. Attendees also included Tribunal Judge Falco and counselor Houdo, Secretary at the French seat at the Tribunal, as well as Minister Pella, then a member of the Board of Directors of the AIDP and Secretary-General of the Bureau International pour l'Unification du Droit Pénal, and Pierre Bouzat, Secretary-General and later President of the AIDP.

Donnedieu de Vabres underlines that the Nuremberg trial was a unique occasion for criminal scientists, as they had to confront their various legal traditions, doctrines and cultures. From that perspective, he criticized the AIDP for lacking worldwide ambition, and for being too focused on the French-speaking community. He called for a global comparison of the criminal justice systems in order to learn from the Anglo-Saxon, Latin, Slavic and other experiences and build a better system of criminal justice. Pella called for the expansion of the work on comparative law and unification of criminal law. They decided that the seat of the AIDP would remain in Paris, but that a commission would be established to plan the future of the AIDP. The composition of the commission was multilingual and represented different legal families. It included the President of the Nuremberg Tribunal, Lord Justice Lawrence, and Judge Biddle. All of the

⁵⁴ Cornil, *supra* note 16.

essentials of the restart were discussed at this meeting, including the mission, seat, and strategies of the AIDP.

In the post-bellum period Pella took over the presidency of the AIDP from de Wiart, who had been President from 1924 until 1946. This period was of course much affected by the horrors of WWII. The Nuremberg Tribunal affirmed in its judgments of 1946 the principle of individual criminal responsibility under international law. The Universal Declaration of Human Rights was adopted by the UN's General Assembly in 1948.⁵⁵ President Pella and honorary President Donnedieu de Vabres were two of the three experts charged with the drafting of the Convention on the Prevention and Punishment of the Crime of Genocide,⁵⁶ also adopted in 1948 and entered into force in 1951. The universalization of human rights and the elaboration of international core crimes went hand in hand, although the relationship between them was not entirely clear yet. Pella kept advocating for the idea of an international criminal court, and in 1950 he presented his proposals for its creation to the International Law Commission of the UN.⁵⁷

A number of eminent AIDP members, including R. Alfaro and J. Spiropoulos, were rapporteurs for the Committee established by the General Assembly in 1947 to develop a draft Code of Crimes Against the Peace and Security of Mankind/Projet de Code des Infractions contre la Paix et la Sécurité de l'Humanité, based on the formulation of the principles of international law recognized and reinforced in the Nuremberg Charter and judgments. They completed a text in 1954 and continued to work on that text until 1978, and on the Committee to Establish an International Criminal Court from 1951 through 1953.

The AIDP was also represented in the Special Committee charged with the elaboration of two projects concerning the creation of an ICC, which was established by the UN General Assembly. The shadow of the Cold War, starting in 1947, impeded any agreement and would freeze the file for decades.

The AIDP got consultative status at the ECOSOC Council of the United Nations in 1948. That Council became responsible for the Crime Prevention and Criminal Justice Branch in Vienna,⁵⁸ charged with criminal policy elaboration and the

⁵⁵ Adopted in G.A. Res. 217 A (III), 10 December 1948.

⁵⁶ Adopted in G.A. Res. 260 (III), 9 December 1948.

⁵⁷ *Memorandum Concerning a Draft Code of Offences Against the Peace and Security of Mankind, presented by the Secretariat* (1950), 2. Y.B. INT'L L. COMM'N 278, U.N. Doc. A/CN.4/39.

⁵⁸ E. Vetere, *The work of the UN in crime prevention and criminal justice*, in M.C. Bassiouni (ed.), *THE CONTRIBUTION OF SPECIALIZED INSTITUTES AND NON-GOVERNMENTAL ORGANIZATIONS IN THE UN CRIMINAL JUSTICE PROGRAMME 15-63* (1995), and F. Adler and G.O.W. Mueller, A

organization of the quinquennial UN Congresses on Crime Prevention and Criminal Justice. The UN Standard Minimum Rules (SMR) for the treatment of prisoners were adopted by the ECOSOC Council during its first Congress in 1955, later adopted by ECOSOC in 1957.⁵⁹ As the UN became involved in the suppression of crime from its preventive and repressive angles and established regional institutes, organized global and regional conferences and stimulated the sharing of knowledge and expertise, the UN became an even more important institutional reference for the AIDP. The AIDP organized its first Congress after WWII in Geneva in 1947. Under Pella, a new German national group became affiliated with the AIDP in 1952. Pella left the Presidency of the AIDP in 1953, due to his increasing obligations at the UN. For the new Belgian President Cornil, the neutrality concerning schools of thought was essential to the opening of the AIDP to the US and to the communist countries, including the Soviet Union. Important national groups were established on both sides of the Cold War, and the AIDP was able to function as a global organization that did not suffer from the Cold War divide. From 1964 the Russians had official delegates at the AIDP Congresses.

In the post-bellum there was also a clear shift in topics and approaches. Already the agenda of the 1953 Rome Congress seems to us very innovative and modern, dealing with criminal protection in the international conventions on humanitarian law, protection of personal freedoms during criminal proceedings, social economic penal law, and problems of unification of criminal punishment and criminal measures.

In my opinion the substantive approach of the AIDP after WWII can be summarized under three headings that reflect the main substantive missions: internationalization of criminal justice, humanity and solidarity in the application of criminal justice, and criminal justice and the rule of law/human rights. See also the contribution of Burgstaller (see Document 13) of 1989, reflecting on and assessing crime control policy from 1898 to 1989, a century of UIDP/AIDP work.

The internationalization of criminal justice is high on the scientific and political agenda, and for the AIDP it is certainly not a new topic, considering its activity at the UN in the inter-bellum period and its involvement in the International Law Commission in the aftermath of WWII. The Rome Congress clearly reflects this engagement. The extent of the activity of the AIDP in the field had been impressive and on the the occasion of the Rome Congress in 1953, Pope Pius XII

very personal and family history of the UN Crime Prevention and Criminal Justice Branch, in M.C. Bassiouni (ed.), *THE CONTRIBUTION OF SPECIALIZED INSTITUTES AND NON-GOVERNMENTAL ORGANIZATIONS IN THE UN CRIMINAL JUSTICE PROGRAMME 3-13* (1995).

⁵⁹ E.S.C. Res. ¶ 663, U.N., ESCOR, 24th Sess., Supp. No. 1 at 11, U.N. Doc E/3048 (1957).

addressed (see Document 8) this topic in a very explicit way (in light of two world wars) and insisted upon the necessity of developing an international criminal justice system to protect individuals and peoples against injustice and violations of their basic rights, and to avoid the impunity of crimes against humanity. Pope Pius XII saw in the Second World War and in other conflicts inhuman treatment and behavior, as if the adversaries were not human beings or part of mankind. The denial of their humanity and human dignity was not justified by the conflict. However, the Pope was also very much aware of the fact that in international criminal justice general principles should apply to the elements of the crimes and to their sanctions, and to the construction of criminal liability. He even tackled questions such as the chain of command and criminal liability.

Jean Graven,⁶⁰ from Switzerland, was President of the AIDP between 1963 and 1969, and representative of Switzerland at the Nuremberg trials. He invested in the further elaboration of international criminal justice, as did Hans-Heinrich Jescheck, President of the Max Planck Institute in Freiburg, Germany, and President of the AIDP from 1979 to 1989. Jescheck dedicated his 1949 "Habilitation" to this topic.⁶¹

Between 1967 and 1968, the AIDP spearheaded the UN's effort to develop the Convention on the Non-applicability of Statutes of Limitations to War Crimes and Crimes Against Humanity. Gerhard O.W. Mueller was the lead on the project, and in 1968 the RIDP published a volume on that subject, in order to enhance state accession to that treaty.

M. Cherif Bassiouni, President of the AIDP in the period 1989-2004, had already instigated several initiatives to put international criminal justice back on the international agenda during his time as Secretary-General (see Document 12). Following the adoption of a Special Resolution against Torture by the Fifth UN Congress on Crime Prevention and Criminal Justice, held in Geneva in 1975, a Committee of Experts was established under the co-chairmanship of Bassiouni and Judge MacDermott, respectively Secretary-General of the AIDP and the International Commission of Jurists (ICJ). The Committee of 20 Experts met in Siracusa in 1977 at the International Institute of Higher Studies in Criminal Sciences (ISISC) and prepared a draft Convention for the Prevention and Suppression of Torture. A commentary was prepared which was published in *48 Revue Internationale de Droit Penal*, n. 34 (1977). In 1978 Bassiouni submitted, on behalf of the AIDP, a Draft Convention for the Prevention and Suppression of Torture (see Document 11) to the UN Commission on Human Rights. Sweden,

⁶⁰ See *ÉTUDES EN L'HONNEUR DE J. GRAVEN* (1969).

⁶¹ H.-H. Jescheck, *DIE VERANTWÖRDLICHKEIT DER STAATORGANE NACH VÖLKERSTRAFRECHT* (1952).

which was a member of the Committee of Experts meeting in Siracusa, officially proposed the joint AIDP/ICJ text to the Commission. It was supported by Austria and the Netherlands, which were also represented in the Committee of Experts. The text that was approved by the UN Commission on Human Rights in 1984 and which became the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the United Nations General Assembly on 10 December 1984, was substantially the same as the one that was drafted by the AIDP/ICJ Committee of Experts meeting in Siracusa. It came into force in 1987.

In 1979 the UN Commission on Human Rights charged Bassiouni with drafting a statute for an international criminal court, which served as a model for the draft of the International Law Commission of 1994. In 1995 Bassiouni was nominated Vice-President of the ad-hoc Committee, Vice-President of the Preparatory Committee, and finally President of the Draft Committee of the Statute for the ICC, which resulted in the Rome Statute of the International Criminal Court, entered into force in 2002. As President of ISISC since 1989, he also organised an impressive number of conferences on the topic for scholars and practitioners of criminal justice. All of this work was duly reflected in the AIDP publications.⁶² For a more in detail reflection on the Chronology of the Efforts to establish the ICC, see Document 14, written by Bassiouni in 1993, and Document 17, written by Ottenhof and de la Cuesta in 2010. For all of his efforts, Bassiouni was nominated for the 1999 Nobel Peace Prize by the International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme (ISPAC) (see Document 16).

⁶² *Draft Statute International Criminal Tribunal*, 9 NOUVELLES ETUDES PÉNALES (M. Cherif Bassiouni ed., 1989); *Draft Statute International Criminal Tribunal*, 10 NOUVELLES ETUDES PÉNALES (M. Cherif Bassiouni ed., 1993); *Commentaries on the International Law Commission 1991 Draft Code on the Peace and Security of Mankind*, 11 NOUVELLES ETUDES PÉNALES (M. Cherif Bassiouni ed., 1993); *Crimes by Government Officials, Roundtable of the XVth International Congress of Penal Law*, 12 NOUVELLES ETUDES PÉNALES (Helmut Epp and Abdel Azim Wazir eds., 1995); *The International Criminal Court: Observations and Issues before the 1997-1998 Preparatory Committee and Administrative and Financial Implications*, 13 NOUVELLES ETUDES PÉNALES (M. Cherif Bassiouni ed., 1997); *Observations on the Consolidated ICC Text Before the Final Session of the Preparatory Committee's Text to the Diplomatic Conference, Rome, July 15-17, 1998*, 17 ter NOUVELLES ETUDES PÉNALES (Leila Sadat Wexler ed., 1998); *Reigning in Impunity for International Crimes and Serious Violations of Fundamental Rights: Proceedings of the Siracusa Conference, 17-21 September 1997*, 14 NOUVELLES ETUDES PÉNALES (Christopher C. Joyner and M. Cherif Bassiouni ed., 1998).

The internationalization of criminal justice was certainly not limited to the elaboration of international criminal law, but was also focused on the international dimension of domestic criminal justice. Bouzat, President of the AIDP 1969-1979, invested in this dimension. He was co-responsible for the creation of ISISC in Siracusa, Italy, in 1972, that enjoys consultative status with the United Nations and the Council of Europe. ISISC has a special cooperation agreement with the United Nations Office in Vienna and became one of the eighteen organizations comprising the United Nations Crime Prevention and Criminal Justice Programme Network (PNI Network). The Network supports the United Nations Office on Drugs and Crime (UNODC) in strengthening international cooperation in criminal matters. Bouzat established also an International Coordination Committee between the four major organisations for criminal sciences: the AIDP, the International Society of Criminology, the International Society for Social Defense and the International Penal and Penitentiary Foundation.⁶³ Under the AIDP presidency of Bouzat and Jescheck, a great deal was invested in comparative criminal justice in order to improve codification and implementation of the international standards and international suppression conventions.⁶⁴

The second topic, humanity and solidarity in the application of criminal justice, became much more prominent than before. The replacement of short prison terms with financial penalties, imprisonment as *ultima ratio*, social work in prisons, the decriminalization of possession of soft drugs, state damages for victims of crimes, etc., are all issues that the AIDP tackled in the decades after WWII. At the 1974 Budapest Congress it was stressed that criminal policy must be based on humanity and respect for human dignity. This is certainly a new dimension to criminal policy as envisaged by von Liszt and the positivist and social defense movements. It is also rooted in a comparative criminal justice approach, a dimension that was at the AIDP's center of attention under President Jescheck, as he also led the Max Planck Institute for Foreign and International Criminal Law in Freiburg, Germany⁶⁵ (see Document 15).

In his message in 1953, Pope Pius XII also insisted on the fact that international criminal justice should apply international human rights standards, such as impartiality of judges, the legality principle, due process and the right of defense. In a second message (see Document 9) of the Vatican, by Pope Paul VI on the

⁶³ In 1979 Bouzat also affiliated the AIDP with the World Society for Victimology.

⁶⁴ *Procédure pénale comparée dans les systèmes modernes: Rapports de synthèse des colloques de l'ISISC*, 15 NOUVELLES ETUDES PÉNALES (Jean Pradel ed., 1998); *Les systèmes comparés de justice pénale: de la diversité au rapprochement*, 17 NOUVELLES ETUDES PÉNALES (1998).

⁶⁵ Ulrich Sieber, *Hans-Heinrich Jescheck zum Gedächtnis*, 121 (4) ZStW 813ff (2009).

occasion of the 1969 Rome AIDP Congress, the Pope stated in French, “A l’égard de tous il faut agir avec humanité et justice.” He insisted that this especially applies to those suspected of a crime, in order to avoid arbitrary treatment, and against the convicted, in order to assure their reintegration into society.

The humanity dimension of criminal justice is not always directly visible in the topics addressed by the AIDP Congresses, but it is definitely a dominant foundation of all of the work of the AIDP.

The third topic, criminal justice and the rule of law/human rights, is entirely new. The judicial control over pre-trial investigation, pre-trial procedural safeguards and reduction of pre-trial detention were all on the agenda of the Rome Congress in 1953 under the heading protection of personal freedoms during criminal proceedings. In 1961 the Lisbon Congress did put the ‘*nulla poena culpa*’ principle on the agenda. And the social defense movement was aware of the importance, as M. Ansel⁶⁶ published on it in 1969 in the *Liber Amicorum* for J. Graven, the former President of the AIDP. The 1974 Budapest conference stipulated that criminal policy must be based not only on humanity and respect for human dignity but also on respect for human rights. Since then the topic has been addressed in a permanent way at the Congresses, dealing, for instance, with the protection of human rights in criminal proceedings (Hamburg, 1979), concurrent national and international criminal jurisdiction and the principle ‘*Ne bis in idem*’ (Beijing, 2004), or special procedural measures and respect for human rights (Rio de Janeiro, 2009).

President de la Cuesta (2004-2014), together with R. Ottenhof, who had been Secretary-General from 1989 to 1994, reflected back in 2009 on the evolution of the AIDP (see Document 17). Their title refers to service to justice reform, international criminal justice and peace, the internationalization of criminal justice, humanity and solidarity in the application of criminal justice, and criminal justice and the rule of law/human rights. The three main points of the AIDP’s mission after WWII are clearly visible in their reflection and serve also as guidance for the future:

Quant à l’intervention pénale, instrument fondamental, étant donnée qu’elle trouve seulement son sens et sa légitimité au service de la paix et en faveur d’une justice de plus en plus humaine et efficace, l’exigence serait non seulement d’être vigilant sur les questions techniques, mais de travailler aussi au renforcement de son profil démocratique, de façon que, lors de la défense des valeurs fondamentales, en plus de l’axiome de l’humanité, les garanties et la

⁶⁶ M. Ansel, *La protection des droits de l’homme selon les doctrines de la défense sociale moderne*, in ETUDES EN L’HONNEUR DE J. GRAVEN 1-12 (1969).

défense des droits et des postulats pénaux et procéduraux primordiaux soit assurée à tous les niveaux.

During his presidency de la Cuesta developed strategic guidelines in order to implement in a more structural way the main mission of the AIDP. He did not only reactivate the AIDP's internal functioning, but invested also in its external dimension by establishing cooperation agreements with scientific institutions worldwide, organizing regional and global conferences, and establishing the Jescheck Prize (in collaboration with the Freiburg Max Planck Institute) for life-long contribution to criminal science and the Siracusa Prize for the excellent work of a young scholar. In the same vein, under his presidency, all of the resolutions of the AIDP were published in French, English and Spanish.⁶⁷

The Beijing Congress and the Rio Congress were certainly the fruit of this effort. In May 2014 Pope Francis wrote to the participants of the Rio de Janeiro AIDP Congress (see Document 18). After President de la Cuesta's response (see Document 19), the Pope invited the AIDP to an audience at the Holy See on 23 October 2014. At the initiative of the AIDP, the Pope agreed to receive an extend delegation of the five major world associations of criminal science and the Latin-American Association of Criminal law and Criminology (ALPEC). At the audience, the President of the AIDP, Vervaele, of Belgian-Dutch origins, and the President of ALPEC, Zaffaroni, spoke to the Pope (see Document 21). Pope Francis spoke to the delegation about dignity and humanity in criminal justice (see Document 20). After warning about incitement to revenge and penal populism, Pope Francis discussed a modern catalogue of guiding principles of criminal justice at the service of humanity and peace. The first guiding principle is '*cautela in poena*' based on '*ultima ratio*.' The second is dignity of the human person and the '*primatus principii pro homine*.' Under this principle Pope Francis condemns the death penalty, extra-judicial executions, illegal detention, torture and inhuman treatment, and the imposition of criminal penalties on vulnerable persons. Pope Francis is not only looking at restrictions on the use of criminal justice and the negative obligations under human rights in relation to criminal justice, but also upon the duties of the criminal justice system and the positive obligation under human rights to investigate behavior that seriously infringes upon human dignity, as trafficking in human beings and corruption do.⁶⁸

⁶⁷ See, <http://www.penal.org/fr/r%C3%A9solutions-des-congr%C3%A8s-aidp-iapl>; <http://www.penal.org/en/resolutions-aidp-iapl-congresses>; <http://www.penal.org/es/resoluciones-de-los-congresos-aidp-iapl>.

⁶⁸ For further information, see the forthcoming AIDP publication, *A real human justice—Por una justicia realmente humana. Audience of Pope Francis with the five major world associations of criminal science in 2014*.

4. The Future of the Association International de Droit Pénal

The new by-laws of the AIDP were approved at the Rio Congress. With one significant caveat, the association's mission does not differ much from the one set out in 1924, amended several times after WWII. There is just one substantial difference. Although the neutrality of thought remains central, it must be founded on respect for the humanitarian principles (Article 2(4)). Article 1 also indicates explicitly the aim of achieving a more humane and efficient administration of justice. The impact of the principle of humanity and respect for the rule of law and human rights are clearly reflected in the AIDP by-laws and are part of its theoretical and practical postulates as well as its mission. Although the AIDP is ideologically neutral, it is a scientific organization that is engaged in improving the criminal justice system through the study and development of:

- Criminal policy and the codification of Penal Law,
- Comparative penal law,
- Human rights in the penal justice system, and
- International criminal law (particularly, international criminal justice).

This is the reason why Pope Francis's address fully corresponds with the mission and aims of the AIDP, and the reason why use and abuse of criminal justice as a tool of authoritarian power and the existence and use of the death penalty or of other forms of extra-judicial execution are not in line with the AIDP's mission.

In 2014, President Vervaele presented to the Rio Congress Strategic Considerations for 2015-2019. The promotion of scientific activities and scientific collaboration is the vital goal and *raison d'être* of the association. In fact, the original UIDP was created as a platform designed to facilitate and promote scientific contacts among professionals from universities and practitioners of the criminal justice system. From the substantive point of view, the AIDP should deal with the challenges ahead in the field of criminal justice: the expanding functions of criminal justice, the neo-punitive approach, questions about the significance of codification, questions related to smart sanctions, etc. Both the functions and boundaries of criminal justice are at stake. New demands on the criminal justice system risk converting it into a security tool with flexible human rights standards. Concerning the prevention and suppression of crime, new legal interest in increasing criminal protection may be warranted in certain areas, such as corporate business, protection of the environment, and the cyber world. All this will be done through the AIDP Congress and its preparatory colloquia, the regional conferences and the World conference. This should not only result in resolutions, but also in publications of high value and great visibility.

Second, the AIDP will further operationalize the AIDP Network for Criminal Justice.⁶⁹ Now that the association has worldwide partnership agreements with international and regional institutions, this platform should not only be used for exchange of ideas, but also for acting operationally at the regional and global levels, including the UN committees. Throughout its history the AIDP has always cooperated with sister organisations and will continue to do so in the framework of its institutional cooperation with the five major organisations in the field of criminal justice.⁷⁰

Third, the AIDP should enhance its national and regional presence in the world through a stronger diversification of its national groups and also start to publish in Chinese, Russian and Arabic, to cover the UN working languages. The history of the UIDP and the AIDP has demonstrated that the presence of the AIDP in the common law countries is a historic problem. The AIDP has a strong national group in the USA, but will have to invest in widening its presence in the other common law countries.

In 2024 the AIDP will celebrate the centenary of its foundation in Paris. The celebration will certainly revisit the legacy but must also serve as momentum for assessing the essential role of the AIDP in the future. The task of codification of law and even of criminal law regulation is not the same as it was 100 years ago. The further digitalisation and robotization of society will continue to challenge the premises and postulates of the criminal justice foundations. And the boundaries imposed by human rights will remain at the centre of the debate, as most criminal justice related human rights don't have an absolute character and are thus of flexible application. Finally, after decades of experiences with international criminal justice for core international crimes, both questions of legitimacy and expansion will come forward.

Whatever the outcomes may be, a scientific world organisation like the AIDP will remain necessary in order to bring together scholars and practitioners, to link intercontinental experiences and debate, and to build global and regional foundations for a real human criminal justice in the future.

⁶⁹ The centers associated with the AIDP Criminal Justice Network are: the International Institute of Higher Studies in Criminal Sciences (Siracusa, Italy); Instituto Brasileiro de Ciências Criminais (IBBCRIM) (Sao Paulo, Brazil); Instituto de Derecho Penal Europeo e Internacional, Universidad de Castilla La Mancha (Ciudad Real, Spain); College for Criminal Law Science, Beijing Normal University (Beijing, China); and Institute for International Research on Criminal Policy (IRCP), Ghent University (Ghent, Belgium).

⁷⁰ The five major world associations are: Association Internationale de Droit Pénal; Société Internationale de Criminologie; Société Internationale de la Défense Sociale; International Penal and Penitentiary Foundation; and World Society of Victimology.