

## **FIRST INTERNATIONAL CONGRESS OF PENAL LAW (Brussels, 26-29 July 1926)<sup>1</sup>**

*Topics:*

1. Security measures. Should they replace the penalty or be complementary to it?
2. Work “*in aperto*”. Should work «*in aperto*» be recommended for the prisoners; if the answer is in the affirmative, how should it be organized?
3. International criminal court. Is there need for instituting an international criminal jurisdiction? If the answer is in the affirmative, how should it be organized?

### **I.- Security measures. Should they replace the penalty or be complementary to it?**

The Congress, without prejudice to the question of the difference in form or substance between penalties and measures of security, declares that in the case of offenders mentally defective or of confirmed criminal tendencies or habits, as well as in the case of juvenile offenders, penal measures alone do not constitute an adequate protection against vermin.

It, therefore, expresses the desire that the Penal Code should make the necessary provisions also for security measures, to be determined according to the personality of the offender; and that the judges should have the power of awarding either the penal measure, or the security measure, or both, or both, in accordance with the circumstances of the case and the personality of the accused.

### **II. - Work “in aperto”. Should work «in aperto» be recommended for the prisoners; if the answer is in the affirmative, how should it be organized?**

The Congress, considering that when judiciously awarded and organized the work is a most effective means of re-education and social re-adaptation of the convicts, expresses the desire that it should be extended as much as the social and economic conditions of the various countries permit. It is being understood that the work «in aperto» should be established only for the benefit of selected convicts, who appear to be capable of improvement and moral betterment and whom this type of employment will bring progressively in touch with social life.

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<sup>1</sup> RIDP vol. 3, 4, 1926, pp. 461-464 (French); pp. 465-468 (English).

### **III. - International criminal court. Is there need for instituting an international criminal jurisdiction? If the answer is in the affirmative, how should it be organized?**

*The Congress expressed the desire:*

1. - That cognizance in matters of repression should be vested in a Permanent Court of international justice.
- 2.- That this court should be consulted in matters relating to the settlement of disputes of cognizance, judicial or legislative, which may arise between the States, as well as on the review of irreconcilable sentences, pronounced on the same crime or offence by the tribunals of different states.
3. - That the said permanent Court should have knowledge of criminal liability of the States arising from an unjust aggression or any other violation of international law. It should have the power to pronounce against the guilty State both penal sanctions and measures of security.
4. - That the said permanent Court should have also the knowledge of the individual responsibilities, which may amount to aggression, or to similar crimes or offences, as well as of all violation of international law committed in time of peace, or in time of war, and especially of crimes of Common Law, which, by reason of the nationality of the victim or the presumed perpetrator, may be considered, by themselves or by other states, as international offences constituting a menace to the peace.
5. - That there should also be amenable to the said permanent Court any individual offender, who cannot be brought before the Court of the particular State, either because the place of his crime is unknown or because the sovereignty of this territory is contested.
6. - All offences which may be committed by States or individuals must be specified and approved. International conventions shall define offences within the cognizance of the Court and shall specify which penal and security measures may be employed.
7. - The number of judges in the Court shall be increased. The new members shall be chosen from among people reputed to have special knowledge of criminal law and its administration. The personnel of the Court shall be completed by the appointment of a body of magistrates. Public international action shall be exercised by the Council of the League of Nations. The instruction shall be entrusted to a special organization.
8. - The procedure shall be written and oral. It shall include conflicting debates in public. There shall be no other way of appeal than a revision of the terms in the present statute of the Court.
9. - The decisions of the Court shall be binding. The sentences pronounced against States shall be carried out by the Council of the League of Nations. The execution of those

concerning individuals shall be entrusted by the Council to a chosen country, which will be obliged to act under its supervision, according to its own legislation.

10. - The Council of the League of Nations will have the right to suspend and to commute penalties.

11. - A special commission of the Council of Management of the International Association of Penal Law shall be entrusted with framing the statute.

12. - Finally, the Council considers that the establishment of an international penal justice can only be realized progressively, by means of bilateral agreements between States which other states may later join.

***Vote in favor of the unification of penal Law***

Moreover, on the proposal of Mr. V. Pella, deputy and professor at the University of Jassy, the Congress adopted the following vote, in favor of the unification of penal law

*The Congress,*

having considered the reports on the present legislative position and considering it highly desirable to unify the fundamental principles of penal law as adopted by various States in accordance with the principles with the contemporary science of Penal Law has unanimously consecrated.

*Expresses the desire:*

that the commissions entrusted by the various governments with the task of preparing drafts of Penal Codes should meet in an international conference. This conference should discuss and unify the principles at the base of the plans evolved by the commissions, and to adopt as far as possible, a common basis for the exercise of repression.

To this end, the Congress entrusts the Bureau of the International Association of Penal Law to make known the present suggestion to all governments of the States in which new Penal Codes are now being evolved.