



ALMA MATER STUDIORUM
UNIVERSITÀ DI BOLOGNA
DEPARTMENT OF LEGAL STUDIES



CRIMINAL JUSTICE IN THE PRISM OF HUMAN RIGHTS

X AIDP SYMPOSIUM FOR YOUNG PENALISTS

UNIVERSITY OF BOLOGNA, ITALY, 27-28 OCTOBER 2022

CALL FOR PAPERS

Concluding her teaching experience at the Collège de France, Mireille Delmas-Marty described a «torn *legal humanism*, a myth that shows cracks on all sides», while attempting to maintain an optimistic outlook on the opportunities offered by globalization (*mondialisation*), with specific reference to the development of international human rights law (Delmas-Marty, *Une boussole des possible. Gouvernance mondiale et humanismes juridiques*, Paris, 2020, whose Italian translation was published by the University of Bologna in 2021). Indeed, the instrumentalisation of individuals in the name of efficiency and security claims and the recurrent temptation to reduce law to a justification of the use of force represent constant threats to the humanisation process and its resilience in the face of the global challenges of recent years.

Criminal law occupies a central role in this discourse, given that trial and punishment are human rights-sensitive, due to their ability to invade the personal sphere in the name of social defence, which can easily be instrumentalised for political purposes, especially in a context, as acknowledged by many scholars, of “penal populism”. It is no coincidence that when the Enlightenment shifted the focus from the State to the person, the main fundamental guarantees of criminal law were affirmed, then enshrined in the 1789 Declaration of the Rights of Man and of the Citizen and today recognised in most criminal law systems and in the international treaties aimed at protecting human rights.

In fact, the dialogue between Courts on human rights – horizontal (i.e. between Courts of different countries) or vertical (i.e. between national and supranational Courts) – has made the greatest contribution in contemporary times to the development of criminal law guarantees. This dialogue has led to implementing fundamental principles – such as legality, fair trial, presumption of innocence and *ne bis in idem* – and redefining the boundaries of the “criminal matter” in which these principles apply. In this perspective, moreover, the dual face of fundamental rights as a “shield” and “sword” of criminal law has emerged, as they may be at the same time a curb on the expansion of criminalisation, especially through the proportionality test, and a promotional factor, as is strikingly evident in the theme of the so-called “positive obligations” of criminal protection of fundamental rights (which emerge in the jurisprudence of both the European Court and the Inter-

American Court of Human Rights and which, after all, show several points of contact with international criminal justice).

It is precisely the attraction of fundamental rights into the supranational sphere, with the establishment of “external” jurisdictions before which States are respondents, that has allowed new forms of “justiciability” of violations of substantive and procedural guarantees in criminal matters and led to “courageous” decisions aimed at limiting the *Raison d’État* with solutions that national jurisdictions would have had difficulty affirming. It is also true, on the other hand, that harmonisation and globalisation are constantly challenged by recurrent claims of State sovereignty, which have already resulted in hesitant or contradictory decisions of supranational Courts in certain fields.

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We invite submissions discussing the relationship between criminal justice and human rights. The purpose of this two-day conference in Bologna is to, without prejudice to other relevant questions, shed light on the following:

- 1) The current state of humanisation of punishment, from the abolition of the death penalty to the debate on life imprisonment, protection of prisoners' rights and alternatives to prison.
- 2) The enhancement of individual responsibility/guilt in the evolutive interpretation of fundamental guarantees of criminal law (i.e. legality as foreseeability, prohibition of liability for an offence committed by others, prohibition of strict liability, *ne bis in idem*).
- 3) The limits to criminalisation arising from the balance with the protection of fundamental rights (from freedom of expression to sexual freedom and the right to self-determination, e.g. in end-of-life matters)
- 4) The protection of the accused’s guarantees in the criminal proceeding and in the trial by media.
- 5) The redefinition of the area of 'criminal matters' relevant to the application of criminal law guarantees in the face of the increasing diversification of penalty systems.
- 6) The foundations of the obligations to protect fundamental rights and the ways and limits of their implementation.

These issues could also be approached from a comparative and internationalist perspective, as well as highlighting the links with international criminal law.

Call for Papers

PhD students, postdoctoral researchers, young academics and professionals are invited to submit an abstract (length: max. 500 words) on these and related questions. Abstracts must be in English and submitted by e-mail (ypc@youngpenalists.com) by **10 July 2022**, along with contact and affiliation information and a short CV (max. 1 page).

On the Tenth Symposium for Young Penalists

The Tenth International AIDP Symposium for Young Penalists **will be held in person**. It is organized by the Young Penalists of the International Association of Penal Law (AIDP), in collaboration with

the Department of legal studies of University of Bologna and the Italian Group of the AIDP. The Scientific Committee of the Symposium is composed by Luyuan Bai, Francesco Mazzacuva, Miren Odriozola Gurrutxaga, Nicola Recchia and Alessandra Santangelo. Participation in the Symposium is free of charge. Speakers' **accommodation expenses will be covered** by the hosts and organizers. The **publication of the conference proceedings** is planned.

Website – Contact information

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