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LEAGUE OF NATIONS

**GRADUAL UNIFICATION OF CRIMINAL LAW AND
CO-OPERATION OF STATES IN THE PREVENTION
AND SUPPRESSION OF CRIME**

Note by the Secretary-General.

Since the publication on May 30th, 1933, of document A.7.1933.V. relating to the above-mentioned question, replies from the following Governments have been received by the Secretary-General in reply to the enquiry addressed to them (Circular Letter No. 174.1932.IV) :

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Austria.

LETTER OF MAY 29TH, 1933.

[*Translation.*]

The Austrian Federal Government has always viewed sympathetically the efforts made to ensure co-operation between States throughout the whole sphere of penal law. It accordingly welcomes with pleasure the suggestion made by the Assembly at its twelfth session in 1931.

It feels obliged, however, to draw attention to the possibility that, in practice, this co-operation may encounter certain difficulties. As regards the unification of penal law, experience shows that each people is particularly attached to the rules of its own national penal laws, which are adapted to its mentality and customs, and which have hence taken root in the minds of the whole population.

Every attempt to change these rules encounters, in principle, a resistance which is the more difficult to overcome, inasmuch as it is based, not on legal considerations, but on sentiments accumulated in the course of centuries. When the Austrian and German Governments endeavoured to reform the penal law of the two countries by common agreement, they had occasion to observe the full force of this factor.

For these reasons, the Austrian Federal Government considers that any work undertaken with a view to the international unification of penal law will only have positive results if it relates to crimes which by their very nature endanger the interests of two or more States, so that the prevention and suppression of these crimes directly concern the international community. As an example, the Austrian Federal Government recalls the conclusion of the International Convention for the Suppression of Counterfeiting Currency.

What has just been said with regard to the progressive unification of penal law also applies to the co-operation of States in the sphere of the prevention and suppression of crime. It is undoubtedly in the general interest of all States to secure the suppression of crime. Direct co-operation between States does not, however, seem essential, except in cases in which States are obliged to have recourse to the good offices of other States in order to secure such prevention and suppression. Among the questions to be considered in this connection are those relating to the search for criminals who have taken refuge abroad and those relating to extradition and also the repatriation of aliens after discharge from prison.

Canada.

LETTER OF AUGUST 11TH, 1933.

With reference to Circular Letter 174 of November 18th, 1932, I am requested to inform you that the Canadian Government, while recognising that, in certain matters where police action and criminal procedure call for special international action, such as, for example, the traffic in dangerous drugs, the assistance of the League has been of great value, are not prepared to concur in the suggested proposal for the unification of criminal law.

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Apart from exceptional cases, there does not appear to be any good reason for seeking uniformity in substantive criminal law. It is a matter of primary importance that substantive criminal law should harmonise with the social, economic and other conditions with which it is concerned. It is, on the other hand, unimportant that it should be uniform with the substantive criminal law of foreign countries in which the historical background and present conditions may be essentially different.

In respect of adjective criminal law, there are stronger reasons for seeking uniformity in practice and international co-operation. This is being accomplished by the extension and improvement of extradition arrangements as a result of bilateral negotiations. Such extension and improvement could not be accomplished by multilateral negotiation, as is contemplated in the joint reply of the organisations consulted on this question.

Italy.

LETTER OF JUNE 13TH, 1933.

[*Translation.*]

1. *Gradual Unification of Criminal Law.*

The Italian Government has invariably given its wholehearted support to international conferences for the progressive unification of criminal law.

The new Criminal Code takes into account the principal conventions which have been concluded at Geneva in recent times, under the auspices of the League of Nations, with a view to co-ordinating and therefore rendering more effective the efforts of individual States against certain forms of crime, such as slave-dealing, traffic in women and children, obscene publications and counterfeiting currency.

The new Code of Criminal Procedure also contains provisions for more effective international co-operation in the detection and punishment of crime, so that the Italian Government cannot do otherwise than approve, in general, the resolution adopted by the League of Nations, since the resolution may advance the unification of criminal law and co-operation between States for the prevention and suppression of crime.

2. *Co-operation of States in the Prevention and Suppression of Crime.*

The Italian Government is of opinion that any intervention by the League of Nations with regard to penitentiary matters should be limited to the making of suggestions and recommendations. The taking of actual steps in this domain belongs to the sphere of action of the International Penal and Penitentiary Commission.

In this connection the Royal Government can only endorse the statements made by the Italian delegate, His Excellency M. Giannini, at the meeting on September 18th, 1930, of the Fifth Committee of the Assembly, to the effect that any supervision by the League of Nations would be incompatible with the nature of the right of punishment, particularly at the stage of the enforcement of such punishment, which is essentially a sovereign right of each individual State.

On the other hand, it has no observations to make with regard to the co-operation of the League of Nations with the said International Penal and Penitentiary Commission, within the limits at present observed.

This co-operation takes the form of agreements and exchanges of views for the purpose of establishing a body of rules for the treatment of prisoners, which represent the minimum to be observed by the law of each State in regulating the punishment of criminals.

It should be noted that Italian law already stands high above this minimum; the competent organs of the League might find profit in studying it and the results of the recent International Congress at Palermo, which paid particular attention to Italian penitentiary legislation.

Siam.

LETTER OF JUNE 9TH, 1933.

His Majesty's Government is of the opinion that it is not practical to secure throughout the world unification of criminal law. The laws of any country must depend largely upon its degree of civilisation and the prevailing customs and traditions of both public and private life. In many respects, there are important differences between Far-Eastern and European countries.

With regard to co-operation in the prevention and suppression of crime, His Majesty's Government believes that greater success can be attained by special arrangements with neighbouring countries rather than through international conventions and agreements.

For these reasons, His Majesty's Government is not interested in securing the assistance of the League of Nations on these two questions.