

THE TRANSFER OF CONVICTED OFFENDERS FROM AND TO COMMONWEALTH JURISDICTIONS

Memorandum By The Government Of Uganda

The Government of Uganda notes with appreciation Mr. A. M. F. Webb's paper on a possible Commonwealth approach on the above subject. We shall continue to study this subject with a view to making any contribution we may deem appropriate at a later stage.

As preliminary observations we would like to make the following comments on the paper:—

1. While agreeing in principle that the convicted offender to be considered within the framework of this Scheme must be a citizen of the country to which he is to be transferred, it is pointed out that the provisions of the European Conventions that require a country which adheres to one or other of them to enforce such a sentence on a person ordinarily resident therein (i.e. not necessarily citizen) is a better approach to the problem than the formulation based on the Canadian experience that limits this arrangement to citizens only.

Under the European Conventions, a degree of latitude is given to the offender to decide where he may wish to be transferred if he has to make a choice. This would be the case where the offender is a citizen of country X but may be residing with his family and working for gain in country Y. It is felt that in requesting to be transferred to either country X or country Y as in this example, the offender will pay due regard to a place where he may better serve his remaining sentence and it would not matter whether he is a citizen of country Y or not, so long as his application for transfer is accepted by Y.

The meeting may wish to address itself to this problem at the appropriate time.

2. We emphasize that the rationale of the transfer arrangements as proposed in this paper is the humane considerations on the part of the offender. It is our view therefore that the transfer should apply to all types of offences, but the sending country to reserve the right to refuse to surrender the convicted offender of certain types of offences.

3. It is given in paragraph 22 of Mr. Webb's paper that there are two alternatives to meet the costs of transfer arrangements under this Scheme:

- (a) That the Government of the country in which the offender is convicted, upon his transfer to his home country being agreed with the government of that country, should make the arrangements and pay for his journey on the basis that that government will be relieved of the future cost of keeping the offender in prison, and supervising him on parole; and
- (b) That the government of the country whose national is being repatriated has the greater interest in the wellbeing and rehabilitation of the offender.

A possible third alternative could be the sharing of or the apportionment of the costs of such a transfer between the sending country and the receiving country. We consider this as an appropriate alternative considering that both parties stand to gain by this arrangement. Again the meeting may wish to address itself on this possible third alternative. When negotiating such a transfer arrangement the countries concerned will then choose which of the three alternatives to apply as regards the settlement of costs.