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Agenda item 13

QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

Report of the Secretary-General

Addendum

SPECIFIC COMMENTS (continued)

Member States (continued)

MALAWI

[Original: English]
[7 February 1979]

Article I

We feel that clarifications on the following points are necessary:

- (1) the meaning the Convention attributes to the term, "child";
- (2) Any extensions attributed to the term "child" like, for example, in our Wills and Inheritance Act (Cap. 10.02) Section 2(1), whereby the word "child", includes an illegitimate adopted child and a grandchild; and
- (3) the question of whether or not the Convention intends to leave interpretation matters to Municipal Law.

Article III

We are concerned with the nationality requirement since nationality is a matter of Municipal Law. It is a fact that each State decides who are to be its nationals and who are not going to be its nationals. This serves, above all, to determine that the person upon whom nationality is conferred enjoys the rights and is bound by the obligations which the law of the State in question grants and imposes on its nationals.

Because of the foregoing, there are some people who are considered as stateless persons and others who are considered as persons with dual nationality.

We, therefore, feel that clarifications on the following points are also necessary:

- (1) the nationality that would be conferred upon children born from stateless persons or persons with dual nationality;
- (2) the question of whether or not nationality is going to be conferred purely on the basis of a child's birth place;
- (3) the question of whether or not the article is imposing on State Parties something which is supposed to be taken care of by Municipal Law; and
- (4) the guarantee that the State Parties will have its nationality on the child; the child will honour the obligations that the State in question expects of the child, for example, like accepting to go to war when called upon to defend the State.

Article IV

With respect to the last sentence of article IV, which states that the child shall have the right to adequate nutrition, housing, recreation and medical services, in Malawi we do not as a Government normally provide food and housing to members of the general public. This we feel is a preserve of the individuals concerned. Moreover, it would be necessary to state who would determine whether or not the food and housing provided are adequate.

Article VII

We have objections to this article which is in contradiction with our educational system because education in Malawi, for very good reasons, is not compulsory at any level. What would, for example, be the meaning of compulsory education in a country which has limited resources?

Article XI

Article XI obliges State Parties to this Convention to submit periodic reports to the United Nations Economic and Social Council on the implementation of the Convention. We feel it might be necessary to clarify the nature of the reports so that at least some State Parties can determine beforehand whether or not they have the necessary capabilities for the production of such reports.

In conclusion we would have preferred if the Convention left matters of interpretation to Municipal Law and if the Convention avoided to encroach upon areas which are matters of Municipal Law.