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SWEDEN

The Center for Family and Human Rights (C-Fam) is a nongovernmental organization that was founded in 1997 and has held Special Consultative Status with the UN Economic and Social Council since 2014. We are headquartered in New York and Washington, D.C. and are a nonprofit, nonpartisan research and advocacy organization that is dedicated to reestablishing a proper understanding of international law, protecting national sovereignty and the dignity of the human person.

INTRODUCTION

1. This report focuses on Swedish parents' right to choose alternative forms of education for their children with a specific emphasis on homeschooling, as well as on Sweden's safeguards against "gender-affirming care" for minors, and its position regarding the right to life for all.
2. The Universal Declaration of Human Rights Article 26.3 states that parents have a right to decide the kind of education for their children. By banning homeschooling unless for extraordinary circumstances, Sweden is not in compliance with this right.
3. The Swedish National Board of Health and Welfare (SNBHW) released a report in 2022 warning against the certain forms of "gender-affirming care" for minors, including the administration of puberty blockers, hormones, and surgical sex-change procedures. By abiding to the findings of the report, Sweden complies with SDG 4 which is a commitment to "ensure healthy lives and promote well-being for all at all ages." However, a recent Swedish law that allows for legal transition for minors above the age of 16 could roll back the progress achieved in Sweden to protect minors from making life-altering decisions while they are still in the course of development.
4. Sweden's permissive abortion laws and social acceptance of abortion violate the right of life to all, enumerated in Article 3 of the Universal Declaration of Human Rights.

THE RIGHT OF PARENTS TO CHOOSE THE EDUCATION OF THEIR CHILDREN

Background

5. The United Nations Declaration of Human Rights states that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State" and that "parents have a prior right to choose the kind of education that shall be given to their children."¹
6. The Program of Action adopted at the International Conference on Population and Development held in Cairo in 1994 states that "Governments should formulate family-sensitive policies in the field of housing, work, health, social security and education in order to create an environment supportive of the family" and that "The best interests of the child shall be the guiding principle of those responsible for his or her education and guidance; that responsibility lies in the first place with the parents."²
7. Homeschooling or home education is a type of education where children are taught at home, as opposed to a public or private schooling institution, and where parents or other family members and caregivers take responsibility for the child's learning.
8. Parents may choose to homeschool for varying reasons, including the perceived benefits of customizing the curriculum based on the child's learning style and pace, as well as from a desire to impart certain values to their children. Some parents homeschool some children while enrolling others in formal educational settings, or choose to alternate between approaches at different points in their children's education. Many homeschooling families also cooperate with each other and with public and private schools to supplement their children's curriculum and gain access to sports, arts, and other extracurricular activities.³

Sweden's Ban on Homeschooling Undermines Parents' Right to Decide the Best Education for their Children

9. In 2011, Sweden enacted a law that banned homeschooling unless for extraordinary circumstances. Such a restriction deprives parents of their right to choose alternative routes of learning for their children and the children's right to get the best education they can, based on their unique circumstances. Such a restrictive measure has led Swedish parents to be threatened with large fines and visits from social authorities, some of whom decided to leave the country for a place with more permissive legislation towards homeschooling.⁴
10. Children with special needs or with temporary illnesses who would otherwise be able to learn at home are deprived of an education they are entitled to according to Sustainable Development Goal 4 which is a commitment to "ensure inclusive and equitable quality education and promote lifelong learning opportunities for all."⁵ In 2007, the Special Rapporteur on the right to education noted that "education may not be reduced to mere school attendance," and that "[d]istance learning methods and home schooling represent valid options which could be developed in certain circumstances, bearing in mind that parents have the right to choose the appropriate type of education for their children." He stated that "the promotion and development of a system of public, government-funded education should not entail the suppression of forms of education that do not require attendance at a school."⁶

PROTECTING MINORS FROM TRANSGENDER SURGERIES

Background

11. UN Sustainable Development Goal 3 is a commitment to "ensure healthy lives and promote well-being for all at all ages." A core principle of medical ethics is that of "doing not harm", also known as nonmaleficence. "Nonmaleficence is the obligation of a physician not to harm the patient...The practical application of nonmaleficence is for the physician to weigh the benefits against burdens of all interventions and treatments, to eschew those that are inappropriately burdensome, and to choose the best course of action for the patient."⁷
12. "Gender-affirming care" refers to medical practices that seek to affirm someone's gender identity when that identity differs from their biological sex.⁸
13. In 1972, Sweden was the first country to allow for the legal change of someone's gender and has since had a history of providing "gender-affirming care" to those seeking to change their sex.
14. There is no consensus among the medical community confirming that "gender-affirming care" as a desirable strategy to treat gender dysphoria of minors and adolescents.⁹
15. Since 2008, Sweden has seen a considerable increase in adolescents, particularly females, seeking to transition towards the opposite sex,¹⁰ and despite the lack of research confirming that the best strategy to deal with the gender dysphoria of this unique demographic is through gender-affirming care, studies have shown that if "teens go through natural puberty there is 60-90 percent chance¹¹ of desistance (outgrowing gender dysphoria, aligning with one's biology)."^{12,13} Nevertheless, many medical establishments around the world offer puberty blockers and cross-sex hormone therapies to young girls.
16. In 2022, the Swedish National Board of Health and Welfare (SNBHW) released a report calling for a cautious approach when it comes to the administration of puberty blockers,

hormones, and surgical sex-change procedures to change a minor's sex. The report says there is not enough evidence to support the carrying out of those procedures and that they are likely to cause more harm than good. Thus, SNBHW recommended that medical professionals refrain from treating gender dysphoria with "puberty blockers, hormones and mastectomies" for minors and, if they do, that they only do it in "extraordinary circumstances."¹⁴ Sweden is to be commended for its willingness to respond to the growing body of scientific knowledge on this issue and for its cautious approach to "gender-affirming care" for minors.

Sweden's Recent Law Lowering the Age for Legal Gender Changes

17. Sweden has recently passed a law expected to enter into force in 2025 that would allow minors aged 16 and above to change their legal gender. Per the new law, a simple visit to a psychologist and approval from SNBHW would suffice to allow the minor to make the legal change, even if the minor does not suffer from gender dysphoria.¹⁵
18. Allowing minors to have their gender identity changed in legal documents is a form of social affirmation that can impact their development as they are still in the process of growing and maturing. Such social and legal affirmation could go against the very pathos of the SNBHW report which urged for more caution in affirming the gender identity of minors when that differs from their biological sex.

PROTECTING THE RIGHT TO LIFE OF ALL

19. Sweden is notable for having a high level of social acceptance for abortion, even later in gestation. Abortion became legal in Sweden in 1975 and remains permissible until the 18th week of gestation. A recent poll found that Sweden has the highest support rate for abortion in Europe with 95% of the Swedish respondents saying abortion should be legal, including 66% saying it should be legal in all cases.¹⁶
20. UN expert human rights bodies, including treaty monitoring bodies and special procedures operating under the Office of the High Commissioner for Human Rights (OHCHR) have expressed concern about the use of selective abortion in the context of discrimination on the basis of disability or its use for sex selection. However, when it is not targeted at a class of people protected by accepted standards for nondiscrimination in international human rights law, these expert bodies have increasingly pressured UN member states to liberalize their abortion laws, decriminalize the practice, and remove practical barriers to accessing abortion, including by curtailing the conscience rights of health care providers.¹⁷
21. It is essential to note in this context, that the views and recommendations of experts within the UN human rights system are neither binding nor authoritative interpretations of human rights treaties. Such views and recommendations have been widely recognized as often failing to follow rigorous legal interpretative methods and have been described as becoming politicized. Any action taken by states following such views and recommendations may not be considered as based on *opinio juris* but should only be seen as an independent effort of states to implement their human rights obligations.
22. Nevertheless, it is true that no international human right to abortion exists, whether in binding UN human rights treaties or in nonbinding agreements adopted by consensus and

accepted by the General Assembly. As outlined in the *San Jose Articles* drafted by internationally-renowned scholars, human life begins at conception and “all human beings, as members of the human family, are entitled to recognition of their inherent dignity and to protection of their inalienable human rights. This is recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other international instruments.”¹⁸ To the extent that UN human rights experts on treaty monitoring bodies assert abortion as a right, they exceed their mandates and move well beyond the boundaries of the texts of the treaties they monitor.

23. Despite these facts, Sweden has been urging its fellow member states to liberalize their abortion laws in the context of the UPR. During the third session of the UPR Sweden issued 10 recommendations explicitly promoting abortion. In contrast, 160 of 193 countries made no such recommendations, in keeping with the consensus reached in 1994 at the International Conference on Population and Development that abortion laws are a matter for national governments to determine without external pressure.

CONCLUDING RECOMMENDATIONS

24. We recommend that Sweden rescinds the 2011 law that bans homeschooling and allows parents to make informed decisions on which kind of education best suits their children.
25. We recommend that Sweden continues to protect minors from “gender-affirming care” interventions such as puberty blockers, cross-sex hormone therapy, and surgical interventions and that it rescinds the law that allows minors to change their legal gender at age 16 and above.
26. We further recommend that Sweden commit to protecting human life at all stages, including the lives of children in the womb and ensure that women who find themselves pregnant in adverse circumstances have access to the services and support they need to live a healthy and productive life without sacrificing the life of their children.
27. Finally, we recommend that Sweden refrain from using the UPR to pressure its fellow member states to liberalize their abortion laws, as abortion is not an internationally agreed human right and no consensus exists that it should be.

¹ United Nations. Universal Declaration of Human Rights. 1948. Available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

² United Nations International Conference on Population and Development. (1994). “Programme of Action of the International Conference on Population Development,” Cairo.

³ Kunzman, R, Gaither, M. Homeschooling: An Updated Comprehensive Survey of the Research. Other Education: The Journal of Educational Alternatives ISSN 2049-2162 Volume 9(2020), Issue 1 pp. 253-336

⁴ Elseth, Michal. Home-school ban in Sweden forces families to mull leaving. The Washington Times, July 18, 2010. Available at <https://www.washingtontimes.com/news/2010/jul/18/home-school-ban-in-sweden-forces-families-to-mull-/>

⁵ UNESCO. Sustainable Development Goal 4 (SDG4). Available at <https://www.unesco.org/sdg4education2030/en/sdg4>

⁶ Report of the Special Rapporteur on the right to education, Vernor Muñoz, UN General Assembly. March 9, 2007. Available at <https://undocs.org/A/HRC/4/29/Add.3>

⁷ Varkey, B. Principles of Clinical Ethics and Their Application to Practice. Medical Principles and Practice, 30(1), 17-28. 2021. <https://doi.org/10.1159/000509119>

⁸ <https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd>

⁹ Vrouenraets LJ, Fredriks AM, Hannema SE, Cohen-Kettenis PT, de Vries MC. Early Medical Treatment of Children and Adolescents With Gender Dysphoria: An Empirical Ethical Study. *J Adolesc Health*. 2015 Oct;57(4):367-73. doi: 10.1016/j.jadohealth.2015.04.004. Epub 2015 Jun 25. PMID: 26119518.

¹⁰ Özel F, Indremo M, Karamanis G, Elofsson U, Beckman U, Fazekas A, Frisén L, Isaksson M, Sandström L, Thelin N, Tivesten Å, Wahlberg J, Skalkidou A, Bodlund O, Papadopoulos FC. Exploring gender dysphoria and related outcomes in a prospective cohort study: protocol for the Swedish Gender Dysphoria Study (SKDS). *BMJ Open*. 2023 Apr 19;13(4):e066571. doi: 10.1136/bmjopen-2022-066571. PMID: 37076146; PMCID: PMC10124297.

¹¹ Cantor, James. Do Trans- Kids Stay Trans- When They Grow Up? *Sexology Today*, January 11, 2016. Available at http://www.sexologytoday.org/2016/01/do-trans-kids-stay-trans-when-they-grow_99.html

¹² Drummond KD, Bradley SJ, Peterson-Badali M, Zucker KJ. A follow-up study of girls with gender identity disorder. *Dev Psychol*. 2008 Jan;44(1):34-45. doi: 10.1037/0012-1649.44.1.34. PMID: 18194003.

¹³ Wallien, M.S., & Cohen-Kettenis, P.T. (2008). Psychosexual outcome of gender-dysphoric children. *Journal of the American Academy of Child and Adolescent Psychiatry*, 47 12, 1413-23 .

¹⁴ Swedish Agency for Health Technology Assessment and Assessment of Social Services. Hormonbehandling vid könsdysfori – barn och unga. February 2022. Available at <https://www.sbu.se/342>

¹⁵ Gillett, Francesca. Sweden passes law lowering age to change legal gender from 18 to 16. *BBC*, April 17, 2024. Available at <https://www.bbc.com/news/world-europe-68841275>

¹⁶ Fetterolf, Janell, and Clancy, Laura. Support for legal abortion is widespread in many places, especially in Europe. *Pew Research Center*. May 15, 2024. Available at: <https://www.pewresearch.org/short-reads/2024/05/15/support-for-legal-abortion-is-widespread-in-many-countries-especially-in-europe/>

¹⁷ Office of the High Commissioner for Human Rights. Information Series on Sexual and Reproductive Health and Rights: Abortion. 2020. Available at https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Abortion_WEB.pdf

¹⁸ The San Jose Articles, 2011. Available at <https://sanjosearticles.com/>