

## **Submission by Save the Children Sweden related to the Human Rights Council Universal Periodical Review of Sweden 2010**

### *Introduction*

Save the Children Sweden took an active part in the reporting process regarding the UN Convention on the Rights of the Child during spring 2009. As a Child rights organization in Sweden we regard all Human rights documents as important to promote the rights of the child. We therefore send our comments regarding the Universal Periodical Review on the most important issues from our “Supplementary report from Save the Children Sweden, in response to the Swedish Government’s fourth periodic response to the United Nations Committee on the Rights of the Child”. The report as a whole can be found on the webpage [www.rb.se](http://www.rb.se)

### **Children’s rights in Sweden – key issues of concern**

#### **Discrimination against “children in hiding”**

**The government has not taken measures to ensure that all children in Sweden enjoy the right to health care and services. Undocumented children who have not sought asylum are still excluded.**

According to the statutory responsibility of regional councils concerning health care for residents of each respective region<sup>1</sup>, the main rule applicable to people who are in Sweden without a residence permit is that they are entitled only to urgent health and medical services, without subsidies. This right is expanded somewhat for asylum-seekers.

A new law (Swedish Code of Statutes 2008:344) was enacted on 21 May 2008 concerning health and medical services for asylum-seekers, et al. Under the law, asylum-seekers and former asylum-seekers – that is, “children in hiding” – have a right to health care and medical services under the same conditions as children legally residing in the country. The law stipulates which health care and medical services regional councils are required to provide to asylum-seekers, and is essentially a codification of the agreement between the central government and the Swedish Association of Local Authorities and Regions which previously regulated these matters.

Undocumented children who have never sought asylum are not covered by the law at all.

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<sup>1</sup> Section 4, Swedish Health and Medical Services Act (Swedish Code of Statutes 1982:763).

These children have only a right to the urgent care, with no subsidies, for which regional councils are responsible under the Swedish Health and Medical Services Act. These children's right to health care and medical services is thus the same as, for example, that of tourists visiting the country.

The Ministry of Health and Social Affairs is currently drafting a directive for a forthcoming official inquiry concerning the possible expansion of the groups that have a right to health care and medical services.

Through the "*Utanpapper.nu*" project, Save the Children Sweden has come into contact with children who are living undocumented in Sweden, and has observed that their backgrounds vary widely.<sup>2</sup> Some of the children came to Sweden as tourists or to work and later remained in the country, while others have fled to Sweden but chosen not to seek asylum. Other children may have had their applications for asylum rejected, returned to their country of origin and later returned to Sweden.<sup>3</sup> These children have no statutory right in Swedish law to any health care beyond emergency medical care.

In the case of undocumented pregnant women, the same rules apply for prenatal and maternity care as for other primary care – i.e. these women have a right to emergency care only, for which they are required to pay the full cost. This circumstance endangers the health of both mother and child.

The situation as it stands does not conform with the UNCRC's requirement that States parties recognise the right of the child to enjoy the highest attainable standard of health and health care services (Article 24, clause 1), regardless of legal status (Article 2). The fact that undocumented adults in Sweden do not have a statutory right to maternity care is inconsistent with Article 24, clause 2 (d) of the UNCRC.

#### **Training and dissemination of the convention**

The government has taken measures to comply with the Committee's recommendations, but further measures are required, especially to increase awareness of the Convention among children and young people. In 2001, a government report tasked the Swedish Agency for Higher Education with working to encourage academic institutions to integrate the Convention into curricula. The report reflects the idea that viewing the Convention as a subject in education should be self-evident, yet at the same time sees this as being difficult to implement. At Save the Children Sweden we have learned that the work done in Swedish schools relating to the Convention is concentrated to 24 October, United Nations Day.

There is a long way to go before we can say that the Convention is "lived" in the classroom. Save the Children Sweden also maintains that education on human rights, and on the rights of children in particular, should be incorporated into school curricula and constitute part of the fundamental values on which the content and practice of school education are based.

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<sup>2</sup> See [www.utanpapper.nu](http://www.utanpapper.nu). Translator's note: "*Utan papper*" translates literally to "without papers."

<sup>3</sup> *Annual report from Utanpapper.nu, March 2006 – March 2007.*

***Save the Children Sweden proposes:***

*That education on human rights and the rights of the child be incorporated into school curricula;  
That training on the UNCRC should be required in undergraduate education for all professional groups that work with and for children;  
That the government should make further efforts to increase awareness of the content and implications of the Convention at local and regional level.*

**Non-discrimination – discrimination on the basis of place of residence (Article 2)**

Save the Children Sweden has chosen to highlight differences between various municipalities and regional councils, because there are still wide variations in how such entities make decisions on issues concerning children. Decisions can even vary between schools located in the same municipality. Save the Children Sweden is of the opinion that the government's efforts to improve the way municipalities and regional councils apply the Convention have been insufficient.

***Background***

Implementing the UN Convention on the Rights of the Child (UNCRC) in Sweden is a responsibility of the state, and the Convention is to be implemented whatever the country's administrative system.<sup>4</sup> Under the terms of the Swedish Local Government Act (SFS 1991:900), municipalities and regional councils in Sweden have a high level of autonomy.

This makes it difficult for the state to influence decisions taken at local or regional levels. The only way that the state can influence the decisions taken by municipalities and regional councils is through legislation or via decisions on the allocation of government funding. In Sweden, no legislation is enacted at the local level – all legislation is enacted at the national level. At local and regional levels, there are policies, action plans and budget documents, which, in addition to legislation, are the documents which steer the work done. Sweden has chosen to implement the UN Convention on the Rights of the Child as part of its national legal system.

**Autonomy at municipal and regional level**

Save the Children Sweden is of the opinion that the high level of municipal and regional autonomy, with highly decentralised decision-making, may impede implementation of the UNCRC, and that this may be particularly true for decisions that have to do with children, since children are not entitled to vote.

***Save the Children Sweden therefore proposes:***

*That the State should increase the incentives for municipalities and regional councils to implement the UNCRC in both their decision-making and their practical work.*

*The following presents examples of differences between municipalities:*

**Child Poverty**

There are large variations in the level of child poverty both within and between municipalities. There is more than a 27 per cent difference between the municipality with the lowest proportion of

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<sup>4</sup> *SOU 1997:116. Barnets bästa i främsta rummet*

children living in poverty and the municipality with the highest proportion. Furthermore, there is wide variation between urban boroughs with a low proportion of child poverty and those with a high proportion – and this gap has increased considerably since the beginning of the 1990s. In 1991, the level of child poverty in the borough of Rosengård in Malmö was 7 times that of Torslanda, in Gothenburg. Today, that figure has significantly increased, with the child poverty level in Rosengård now 20 times that of Torslanda.<sup>5</sup>

**Social Services' resources for children at risk** are wide variations between the various municipalities when it comes to the level of resourcing available to the social services for helping children at risk<sup>21</sup>. Save the Children Sweden sent out a questionnaire to municipalities and urban-borough administrations, asking whether they provided support groups for children in different types of risk situations. In total, 210 completed questionnaires were returned. Among those that responded "Yes" to this question, support groups were provided for the following categories of children at risk:

- Children of drug addicts: 166
- Children in mourning: 15
- Children who have been subjected to violence: 30
- Children who have witnessed domestic violence: 70
- Children with mentally ill parents: 64

Although ninety-seven municipalities/borough administrations failed to respond, the results nevertheless show that there are wide variations when it comes to group support. On the basis of interviews held with social workers, the same report also shows that there are significant differences between the various municipalities in terms of routines, priorities, knowledge, co-operative efforts, pre-emptive measures and early intervention initiatives such as family welfare centres.

## Education

a) **The Committee's recommendation that all children must be guaranteed their right to education has not been implemented, even if some measures have been taken.**

Save the Children Sweden does not agree with the government's claim that children and young people seeking asylum in Sweden have the same right to education, pre-school activities and child-care programmes as children who are residents of Sweden.

Children in hiding and other undocumented children do not currently have a legal right to education in Sweden. A commission<sup>6</sup> presented a proposal in May 2007 to give children in hiding the right to education, but other children lacking identity papers are not included in this proposal. Children who have not applied for a residence permit, children whose temporary residence permit has expired and children whose deportation order has expired would not have the right to education under this proposal.

Children who are residents of Sweden have the right to go to school according to the Education Act. Children without a residence permit are not recognised as being residents of the country. Asylum-seeking children are covered by the "Ordinance on education, preschool activities and school child

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<sup>5</sup> *Child Poverty in Sweden - Annual Report 2007. Save the Children Sweden 2008.*

<sup>6</sup> *Skolgång för barn som ska avvisas eller utvisas; Swedish Government Reports 2007:34*

care".<sup>7</sup> According to the ordinance, these children are entitled to education, pre-school activities and school child-care within the public education sphere (although school is not compulsory for them). The right to education, etc., does not cease to apply if the child's asylum application is rejected, although it does become invalid if the child goes into hiding. Municipalities may offer a place in their schools to children who are not residents or are not covered by the ordinance, but are not obliged to do so.

A government inquiry<sup>8</sup> has proposed enshrining in law the right to education of children who are avoiding the enforcement of an expulsion or deportation order – i.e. children in hiding. Save the Children Sweden considers that the proposal presented in the inquiry's report is insufficient on several counts. As stated above, the proposal only includes children who are avoiding the enforcement of an expulsion or deportation order, i.e. children in hiding. The proposal neither proposes changes with respect to confidentiality, nor restricts the enforcement agency's power to collect children when they come to school or the other activities – which means that it is difficult for children to utilise this right. However, the proposal presented by the inquiry would be a step in the right direction since more children would have a legal right to education, even though certain groups of children would still fall outside the law.

In this context, Save the Children Sweden would also like to comment on the differences in the right to education for children who are residents of Sweden, and children who are seeking asylum. Asylum-seeking children have a legal right to education within the public education sphere, but not at independent schools. Moreover, unlike resident children it is not compulsory for them to attend school. Save the Children Sweden does not believe there should be any differences in the kind of educational choice, or in the applicability of laws and regulations, unless such differences can be justified as being in the best interests of the child.

**b) The government has not implemented the Committee's recommendations on ensuring that the variations in academic results between different schools and regions are eradicated.** Save the Children Sweden makes the same assessment as the government as to why there are differences in results, but does not see that any proposals have been put forward for measures which properly address these variations.

Save the Children Sweden is encouraged that the government has instructed the Swedish National Agency for School Development to initiate close collaboration with municipal authorities to improve the quality of school education. However, Save the Children Sweden does not share the government's belief that children who live in areas where a high proportion of children have a foreign background perform worse at school than other children. In 2007 we conducted a survey of 2,360 school pupils;<sup>9</sup> the answers from the survey show that instead, the determining factor in this lower level of academic performance is the social conditions (crowded housing conditions, high unemployment among adults, absence of a functioning social network, etc.), which characterise areas with a large immigrant population. Another reason might be that the pupils/students come

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<sup>7</sup> Ordinance No. SFS 2001:976

<sup>8</sup> *Skolgång för barn som ska avvisas eller utvisas; Swedish Government Reports 2007:34.*

<sup>9</sup> *Save the Children Sweden, Barns rätt till utbildning i Sverige – del I och II. 2007. The respondents were pupils from grades 6-9 in sixteen comprehensive schools (ten municipal and six independent) together with students from seven upper-secondary colleges in Stockholm, Gothenburg, Malmö and Sundsvall.*

from home environments that lack a tradition of academic achievement. In one of the schools that participated in the study, only 54.5 per cent of the ninth-graders qualified for upper secondary-level studies, despite the fact that the proportion of pupils with an immigrant background was not particularly large.<sup>10</sup>

The inspections carried out by the National Agency for Education in 2005 and 2006 show that ten per cent of pupils at Swedish comprehensive schools, in other words 15,000 pupils every year, do not meet the qualifications for entry to an upper-secondary education programme. The inspection's also show that a quarter of all pupils, or 37,000 pupils each year, have one or more subjects in which they do not meet the entry requirements. The National Agency for Education points out that there is an increased tendency for schools to implement general measures for improving overall results instead of drawing up individual support programmes for each student who falls short of the entry requirements which is what education law actually requires them to do.<sup>11</sup>

Save the Children Sweden's survey results also show that there is a heavy emphasis on homework. The majority of students have to do their homework at home, but opportunities to receive help at home vary considerably.<sup>12</sup>

Save the Children Sweden welcomes the strategy developed by the Swedish National Agency for School Development for improving, among other things, the reception of students who have recently arrived in Sweden. However, we do not believe that this solves the underlying problem, which can only be dealt with by addressing the disparities in social and economic conditions.

***Save the Children Sweden proposes:***

*That schools with extremely low average performance ratings should receive increased resources in the aim of eradicating the variations in results between schools and regions;*

*That students with specific needs should receive the help they need so they can meet the qualification criteria;*

**Unaccompanied children**

**c) The government has not implemented the Committee's recommendation to ensure that a temporary guardian is appointed for every unaccompanied child within 24 hours of arrival in the country.**

According to the Act on Trustees for Unaccompanied Minors<sup>13</sup>, a trustee should be appointed for each unaccompanied refugee child as quickly as possible. The 24-hour rule for the appointment of a trustee has been discussed in parliament, but no such provision has been entered into law.

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<sup>10</sup> *Ibid.*

<sup>11</sup> *The National Agency for Education, Utbildningsinspektionen 2003-2007.*

<sup>12</sup> *Save the Children Sweden, Barns rätt till utbildning i Sverige – del I och II. 2007.*

<sup>13</sup> *Act on Trustees for Unaccompanied Minors (2005:249).*

***Save the Children Sweden proposes:***

*That the government should conduct a thorough evaluation of trusteeship for unaccompanied children, and should thereafter formulate national guidelines and clear directives defining the work of a trustee.*

**e) The government has not taken any effective measures to ensure that child-specific reasons for or forms of persecution are taken into account when children's asylum applications are being processed.**

Save the Children Sweden's report<sup>48</sup> on children's asylum applications<sup>49</sup> also showed that child-specific reasons for or forms of persecution occurred regularly not only among unaccompanied children, but also among children applying for asylum with their parents.

***Save the Children Sweden proposes:***

*That the government should appoint an inquiry charged with framing legislation which establishes that child-specific reasons for or forms of persecution may serve as grounds for granting refugee status or other protective status.*