



Report on Sweden

United Nations Human Rights Council/ECOSOC

Submitted by HSLDA

About HSLDA

1. Home School Legal Defense Association (HSLDA) is a nonprofit advocacy organization with over 84,000 member families in the United States of America and around the world, including Sweden. HSLDA provides legal counsel and advice to member families on compliance with homeschool regulations, advocates for homeschool freedom with National and State Governments as well as greater recognition with inter and nongovernmental organizations and entities. HSLDA engages in litigation to protect the right to home education against infringement and to advance the principle of education freedom and family autonomy. For more information about home education please visit www.hsllda.org, www.ghex.world or contact the report author, HSLDA Senior Counsel Michael Donnelly at international@hsllda.org.

Home Education

2. Home Education is a form of education whereby caregivers and family members (or extended family or neighbors) take on the responsibility to educate their children or the children in their care. At a time when more and more children are unable to take advantage of any education, state must not be excessively dogmatic or hostile to parents choosing

alternative or different/non-institutional pedagogical approaches. This is especially true when the right of parents to decide how their children are educated is a fundamental human right.

3. Home Education is a right derived from numerous international treaties and declarations. Foremost among these is the Universal Declaration on Human Rights which enunciates that families are the fundamental group unit of society (UDHR 16.3) and that parents have a prior right to decide what kind of education their children shall receive (UDHR 26.3). The ICESCR and ICCPR impose binding international legal obligations on signatories but also provide a reference point for *jus cogens* concepts of human rights. Article 4.2 of the ICCPR assign non-derivability to the 18.4 right of parents to ensure that their children's education conforms to their religious or philosophical convictions. Article 13.3 and 13.4 of the ICESCR reaffirms this parental right and further acknowledges that private education is a right of both parents and children. UN Special Rapporteur on the Right of Education observed:

[I am] a strong advocate of public, free and compulsory education, [but] it should be noted that education may not be reduced to mere school attendance ... Distance 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, as stipulated in article 13 of the International Covenant on Economic, Social and Cultural Rights. 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.¹

4. SDG 4 is about quality education. Hundreds of millions of children all over the world are not in school and many of the reasons relate to inadequate infrastructure. Poor areas are unable to build schools, hire teachers, provide materials, or provide the most basic inputs for institutional education.

¹ Report of the Special Rapporteur on the right to education, Vernor Muñoz, UN General Assembly (A/HRC/4/29/Add.3), March 9, 2007.

5. Regrettably, there are numerous states, and even international human rights institutions, that fail to recognize the significance of the right of home education and the seriousness of failing to adequately respect and protect this right. States may not pick and choose which human rights they respect and protect. Even if a State recognizes some human rights, the fact that it is missing the mark in other areas must be pointed out. As the foundational sovereign power in the international system, states must always seek to ascertain areas of weakness in their human rights performance and undertake to improve when deficiencies are noted.

Homeschooling in Sweden

6. In 2011², Sweden effectively banned homeschooling by only allowing parents to choose home education because of “exceptional circumstances”. Since the change in the law, families who had been home educating successfully and freely were suddenly denied permission and threatened with child protection investigations and fines of up to 20,000 euros per child and year. This led to the flight of scores of families to flee to other countries³. The Swedish government described its motivation for the new language in an explanatory introduction:

“Current school conventions make it clear that the education in school shall be comprehensive and objective, and thereby will be created so that all pupils can participate, no matter what religious or philosophical views the pupil or its legal guardian(s) may have. In accordance with this, it is the opinion of the Government that there is no need for a law to make homeschooling possible based on the religious or philosophical views of the family.”⁴

7. This is an admission of a total violation of the spirit and letter of international human rights law.

² New Education Act 2011: <https://hslida.org/content/hs/international/Sweden/201007070.asp>

³ Swedish Home Educators: <https://hslida.org/content/hs/international/Sweden/201706130.asp>

⁴ Swedish Government Prop. 2009/10:165, 523. See also “How the Swedish Government voted against a human right,” Rohus, http://rohus.nu/en/?English_information (accessed Oct 24, 2011).

8. Surrounded by controversy, the vote on the new education law was split from the beginning. MPs were required to vote on the law in totality and could not elect to vote against specific portions. As such, the Social Democrats, the Green Party, and the Leftist party that had originally proposed the dramatic changes for homeschoolers—when the overhaul of the law began in 2004—now opposed the law. MPs from these parties disliked changes such as increased control by the Minister of Education, the giving of performance grades at earlier ages, punishing bullies by simply moving them to another school, proposals to introduce more “school” and less play in daycare, and imposing more fines.⁵
9. In the end, however, the sweeping education reform passed into law on June 22, 2010.⁶ Only one MP from the ruling party voted against the proposed law.⁷
10. Although Swedish officials had legitimate aims in reforming the country’s decades-old education law, including the collection of various laws and regulations on education into one place and the creation of a more uniform structure, the overall effect of the new Education Act (2010:800) was to reduce both students’ and parents’ choice regarding education. The law now mandates a national curriculum and obliterates the notion of “independent” (or private) schools and school choice. With laws such as the Education Act increasingly encroaching upon individual freedom and responsibility, some have called Sweden a “reluctant democracy.”⁸ Then President of the National Swedish Homeschooling Association, Rohus, Jonas Himmelstrand forecast the impact on the families. “The Swedish political authorities have deeply underestimated the convictions of Swedish homeschoolers,” Himmelstrand said. “Most will not accept the new law.”⁹
11. In correspondence with the Home School Legal Defense Association (HSLDA), the Swedish government pointed to the United Nations Convention on the Rights of the Child as one of the reasons it has undertaken to regulate home education harshly. It appears that the Swedish government has interpreted its legal obligations under the treaty to include requiring that children go to a government school. Although the Convention states, as do

⁵ ”Swedes need help in final push to avoid extreme homeschool law,” HSLDA, June 8, 2010, <http://www.hslda.org/hs/international/Sweden/201006080.asp> (accessed October 25, 2011).

⁶ “New education law makes homeschooling illegal,” HSLDA, July 7, 2010, <http://www.hslda.org/hs/international/Sweden/201007070.asp> (accessed October 25, 2011).

⁷ Ibid.

⁸ “Sweden takes a hardening line,” HSLDA, March 8, 2010, <http://www.hslda.org/hs/international/Sweden/201003080.asp> (accessed October 25, 2011).

⁹ Newman, “Sweden Bans Home-schooling, Religious instruction.”

other treaties, that children have a "right to an education," the convention does not specify that education must be in a government school, nor could it since the right to private education is clearly established as a prior and understood right.

12. The idea that governments should be the only authority to determine what values and information are necessary for a democratic society and how they should be taught is a totalitarian idea that was rejected by the founders of the modern human rights system and should be rejected by all free, liberal democracies and should be censured by all human rights treaty monitoring institutions.

Cases of Persecution of Homeschooling Families in Sweden

13. These cases are personally known to the author, who has knowledge of the details disclosed herein.

Himmelstrand

14. Jonas Himmelstrand and his family fled Sweden after enduring heavy social and financial pressures and threats. They now live at peace in Finland where they homeschool their children. Even before the law change in 2011, the Himmelstrands had homeschooled their daughter, who had special learning needs, for years. In 2008, however, they were suddenly denied permission by their municipality who never stated any reason as to why the home education is not adequate. The family currently faces fines approaching \$40,000 USD. In March 2011 the *Kammarrätten* appeals court agreed to take their case but denied them relief. The Swedish Supreme Court declined to hear their appeal. Jonas Himmelstrand was the President of Rohus, the Swedish national homeschooling association, and is a former Chairman of the Global Home Education Exchange Council and travels internationally to speak about the negative impact of Sweden's family policies.¹⁰

Johansson

¹⁰ "In breakthrough, Swedish appeals court to hear homeschooling case," HSLDA, March 25, 2011, <http://www.hslda.org/hs/international/Sweden/201103250.asp> (accessed October 25, 2011). See also "Hemundervisning på spel i rättsfall," *Världen idag*, March 17, 2010, <http://www.varldenidag.se/nyhet/2010/03/17/Hemundervisning-pa-spel-i-rattsfall/> (accessed October 25, 2011).

15. The tragic case of Domenic Johansson offers a case study of the far-reaching effects of Sweden's hostility to families exercising their right to home education. In 2009, seven-year old Domenic Johansson, was forcibly removed from his parents, Christer and Annie, while the family was boarded on a plane bound for Domenic's mother's homeland of India. Swedish police snatched Domenic placed him in state custody, and never charged the Johansson' with a crime. Authorities subsequently pointed to minor dental problems and a spotty vaccination history as justification for continuing to hold Dominic in state custody.
16. Prior to homeschooling the Johansson family took the proper steps to inform their municipality of their intent to homeschool their son in preparation for their relocation. Municipal officials ignored normal procedure and did not meet with the family to assist them in pursuing home education; instead, the municipality fined them and referred the matter to the local court, with Swedish social services eventually authorizing what amounted to the kidnapping of Domenic.
17. In addition to being denied the right to freely leave their country, over the course of this tragic situation, the family were denied due process and the right to choose an attorney of their choice, including two noted human rights attorneys.¹¹ By October 2010, their case had been heard at every level of the Swedish court system and the actions of social services upheld. With the assistance of HSLDA, the Alliance Defense Fund, and a Swedish human rights attorney, the family filed their application at the European Court of Human Rights (ECHR), their only remaining recourse. The ECHR finally assigned their application a case number in April 2011 but rejected the case in 2012.¹²
18. In 2013, social services authorities filed for and subsequently received a permanent transfer of parental custody to Domenic's then foster family effectively terminating Annie and Christer's parental relationship with Domenic ¹³ The parents have not seen their son

¹¹"Sweden denies due process to family," HSLDA, June 14, 2010, <http://www.hslda.org/hs/international/Sweden/201006140.asp>; "Urgent action needed," HSLDA, December 13, 2010, <http://www.hslda.org/hs/international/Sweden/201012130.asp> (accessed October 25, 2011).

¹²"ECHR addresses Johansson case," HSLDA, April 2011, <http://www.hslda.org/hs/international/Sweden/201104140.asp> (accessed October 25, 2011).

¹³"Officials seek to terminate Johansson parenthood," HSLDA, October 7, 2011, <http://www.hslda.org/hs/international/Sweden/201110070.asp> (accessed October 25, 2011).

Dominic since 2010. In Christer Johansson's words: "The government has taken over my family, and now we are living in a nightmare."¹⁴

Sandberg

19. Despite the government regulations that have made homeschooling a very difficult choice to make, the Sandberg family determined to stay in their home and continue to homeschool their children. They have endured great financial pressure and other government repression including, endured threats, fines, ongoing and repeated investigations and public shaming. According to Swedish National Homeschool Association President Jonas Himmelstrand, the Sandbergs are very likely the "last known homeschooling family in Sweden." Every investigation of the family has rendered the same results – findings that the children are healthy, happy, socialized and well educated. Although the government persecution has a negative impact on their family. The children and parents are determined to continue to exercise their rights to home education.

Conclusion

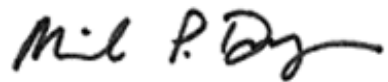
20. There are nearly 3 million homeschooled children in the world with over 65% of them in the United States. Homeschooling in the United States is fully recognized and many countries around the world are experiencing growth in this form of education. According to research, the reasons that parents choose home education include: a concern about the environment in other schools, a desire to provide religious or moral instruction, dissatisfaction with academic instruction in other schools, to address a particular issue such as a learning disability, giftedness, school bullying or other concerns. Swedish families are turning to homeschool for these reasons as well.

21. Education is a human right as is the right of parents to choose the kind of education their children receive. Government run education is a recent historical phenomenon whereas parents have been educating their children for millennia. Technology advances continue to erode the sensibility of institutional education. Research on home education reveals that children who are homeschooled perform well academically and socially. Home education

¹⁴ "Sweden—the next Germany for homeschoolers?" HSDLA, September 2009, <http://www.hslida.org/hs/international/Sweden/200909160.asp> (accessed October 25, 2011).

is not a danger to children or to the state. Rather, home education is a human right that offers a new pedagogical pathway to deliver quality education to children.

22. By failing to respect, protect and fulfill the right to home education, Sweden is failing to meet its human rights obligations.

A handwritten signature in black ink that reads "Michael P. Donnelly". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Michael P. Donnelly, Esq.
Senior Counsel, Global Outreach
Home School Legal Defense Association