

# Parental Rights and the Republic of Germany

## Parental Rights are “Prior Rights”

1. Parents have long been universally acknowledged as having the primary responsibility of raising and caring for their children. The laws of many, if not most, countries are based on the principle that the parent-child relationship pre-dates the state, just as other natural individual rights pre-date the state in the classic political theory of human rights. Natural parents are not mere trustees of the state who receive their authority for childrearing because the state delegates that power to them, but parents have a “prior right.” “The child is not the mere creature of the state” (U.S. Supreme Court 1925) and parents are duty-bound to care for, teach and guide their children without government interference – except in unusual and unfortunate cases.
2. United Families International urges the Republic of Germany to give serious consideration to changing laws which are in conflict with parental rights to ensure these laws align with both international and natural law while meeting the needs of Germany's children.

## International Commitments to Parental Rights

3. Parental influence in the life of their child is a right and takes precedence over the influence the state may have in the life of the child. This understanding protects both the rights of children as well as their parents, as both are benefited from a strong familial relationship, as reiterated in the World Fit for Children (2002) :“We recognize and support parents and families or, as the case may be, legal guardians as the primary caretakers of children, and we will strengthen their capacity to provide optimum care, nurturing and protection.”[1]
4. This basic principle is often misunderstood as reflected in the following example. Several years ago, a prominent U.S. media personality sparked heated controversy by arguing that if we are going to start investing adequately in public education, “we have to break through our kind of private idea that kids belong to their parents or kids belong to their families and recognize that kids belong to whole communities.” [2]
5. It is true that children “belong to”, or more appropriately said, are members of a larger community beyond their families. But to say that we need to break the idea that children belong to their parents, or that kids belong to their families, is making a fundamental mistake and is in breach of international covenants and commitments of parents “prior rights” and responsibility to care for and nurture their children.
6. States’ governments, with few exceptions, have committed to act in a supporting role in order to respect the rights of parents. “Parents, families, legal guardians and other caregivers have the primary role and responsibility for the well-being of children and must be supported in the performance of their child-rearing responsibilities.”[3]

7. "States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child." [4] State Parties are required to not infringe on parental rights in the rearing and upbringing of children.

8. Parents have a right to raise and guide their children. [5]

9. "Greater attention should be paid to helping the family in its supporting, educating and nurturing roles, to the causes and consequences of family disintegration, and to the adoption of measures to reconcile work and family life for women and men." [6]

## **Parental Rights Impacted in the Republic of Germany**

### **A. Parental Right regarding Homeschooling**

10. Parents are responsible for and have the pre-existing right to control the education and moral development of their children. Judgments regarding what, where and how to educate their children belong to the parents. In effort to enforce a state led educational program, German families who have wanted to homeschool their children have been criminalized. Moreover, children have been traumatized as they have been separated and removed from their parents and families. [7] Consequences of such actions cause more harm to children than good. Thus, damaging the attachment between the parent child relationship as children are "overwhelmed with feelings of abandonment, rejection, worthlessness, guilt, and helplessness." [8] The German homeschool ban is a violation of the parents' natural and given rights. [9]

11. Parents in Germany are unable to exercise their right to choose what and how their children receive an education in their learning development. This is a violation of the Universal Declaration, Article 26-3 which states that "Parents have a prior right to choose the kind of education that shall be given to their children."

12. The International Covenant on Economic, Social and Cultural Rights (ICESCR, Article 13-3) is clear: "The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions."

13. "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.*" (emphasis added) [10]

14. In addition, it is the parents and the family that have the opportunity, and obligation, to instill morals and values in their children.

15. "The family has the primary responsibility for the nurturing and protection of children from infancy to adolescence. Introduction of children to the culture, values and norms of their society begins in the family. For the full and harmonious development of their personality, children should grow up in a family environment, in an atmosphere of happiness, love, guidance and understanding. Accordingly, all institutions of society should respect and support the efforts of parents and other care-givers to nurture and care for children in a family environment." [11]

16. According to the Convention on the Rights of the Child (Article 29-1c), the education a child receives should encourage "respect for the child's parents, his or her own cultural identity, language and values." Germany violates this by ensuring that parents are not able to educate, and in particular, to homeschool their children according to their preferences.

## **B. Parental Rights Regarding Sexuality Education**

17. Sexuality education, often Comprehensive Sexuality Education, is taught and required in German schools, often without the consent of parents in terms of its timing or content. [12] Parents receive a fine if their children do not attend these mandatory classes. Furthermore, parents such as the Wiens were imprisoned because they did not want their 9 and 10 year old children to participate. [13] This violates parental rights as outlined in the ICPD "...Age-appropriate education, especially for adolescents, ...taking into account the rights and responsibilities of parents and the needs of adolescents... should involve the active participation of parents and families..." [14]

18. In addition, Germany violates a parents right to guide and support their children when they deny them the opportunity to object to controversial curriculum being taught to their children. Germany forces children to be subject to topics written in various German sexual education curriculum that is known to be harmful and cause children to be vulnerable to sexual abuse and gender confusion. [15] Parents have the privilege, right and responsibility to determine when and how to teach within their values the principles of sexuality to their children. The implementation of any type of sexuality education, without knowledge, input and consent of parents, violates the numerous conventions and treaties that specifically establish that parents have the right to instill their own cultural identity, language and values. (See Section A above, for a review of those commitments and language.)

## **C. Parental Rights regarding Health and Medical Issues**

### **I. Abortion**

19. The Republic of Germany violates parental rights by giving the decision to the doctor to determine if a minor at the age of 14 is mature enough to be prescribed birth control without parental consent. [16] Furthermore, Germany allows minors at the age of 16 to be prescribed birth control without parental consent. This excludes the guiding influence of the parents who are interested in the health of their child. Parents have the right to guide their children in sensitive and important matters regarding sexual and reproductive health.

20. In addition to Germany allowing abortion with the gestational limit of 14 weeks, after mandatory counseling, except in circumstances, such as rape or if the health of the mother is at risk, Germany also violates the parental rights when they allow women under 18 years of age to receive an abortion without parental consent. German law gives the right to abortion solely to the pregnant person. [17] Parents have the privilege and the right to protect and assist their minor children in medical procedures that have well known health risks. Within the institution of the family, It is the right of the parents to ensure the safety and the health of their children.

21. Fathers are meant to actively work with the mother in all decisions related to their child. "Special efforts should be made to emphasize men's shared responsibility and promote their active involvement... shared control and contribution to family income, children's education, health and nutrition; and recognition and promotion of the equal value of children of both sexes.[18]

22. "States Parties shall respect the responsibilities, rights and duties of parents . . . to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention." [19]

23. We reiterate the role of the government in regard to family life as one of respect and support to parents. Parents have the "primary responsibility for the upbringing and development of the child." [20] This includes allowing parents to teach and rear their children in accordance with their convictions.

24. "The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions." [21]

## II. Medical Treatments

25. Governments are to "strengthen early childhood development by providing appropriate services and support to parents, including parents with disabilities, families, legal guardians and caregivers, especially during pregnancy, birth, infancy and early childhood, so as to ensure children's physical, psychological, social, spiritual and cognitive development." [22]

26. We wish to voice concern regarding the recent movement in Germany toward allowing children as young as 14 years of age to legally change their gender up to once a year without parent consent. Giving the right to the courts to overrule parents who object to their children changing their gender, takes away the right of parents to teach, guide and act in the best interest of their children. Furthermore, the actions of loving parents may be classed as child abuse if they object to helping their children receive "gender affirming health care". [23] Allowing minors to start transitioning without parental knowledge or consent is in direct violation of a parent's right and responsibility to assist their children in medical decisions that have lifelong consequences, regarding health and sexuality. Parents retain the right to make

medically informed decisions that are in accordance with their values regarding the healthcare of their children.

## Recommendations

27. We recommend the Republic of Germany change laws regarding homeschooling, allowing parents to teach their children at home, and giving parents back their “prior right” to control the education and moral development of their children. Furthermore, we recommend the Republic of Germany to render appropriate assistance to work alongside parents, supporting them in their parental role in caring for the educational development of their children.

28. We recommend the Republic of Germany to respect the rights of parents in making decisions on when their children learn about human sexuality. It is the parents right and responsibility to determine where and what their children learn regarding human sexuality. The responsibility lies in the first place with the parents. It is the parent’s right to teach sexuality education to their children as it fits within their values and beliefs.

29. In order to provide the best outcomes for their pregnant daughter, we recommend that the Republic of Germany repeal laws that place the decision to abort a child solely in the hands of the pregnant woman, resulting in minors being able to abort without parental involvement and consent. The child has the right to be cared for, guided and supported by parents in such matters. We also recommend that consideration be given to the father of an unborn child, recognizing he is entitled to parental rights, as well.

30. Lastly, we recommend the Republic of Germany to recognize the rights and duties of parents to provide appropriate direction and guidance for their children who experience gender confusion, same-sex attraction or gender incoherence. Parents have an active right to participate in medical decisions and treatments of their children.

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[1] World Fit for Children (2002)10-6.

[2] Mckay, H. (2013). *Critics slam MSNBC host’s claim that kids belong to community, not parents*. Fox News. <https://www.foxnews.com/entertainment/critics-slam-msnbc-hosts-claim-that-kids-belong-to-community-not-parents>.

[3] World Fit for Children (2002) 32-2.

[4] Convention on the Rights of the Child, Article 5.

[5] International Conference on Population & Development, Chapter II Principle 11.

[6] Further Initiatives for Social Development, III 56.

- [7] Clarke, R. (2019, January 14) Daily Signal. <https://www.dailysignal.com/2019/01/14/the-german-government-forcibly-removed-these-children-from-their-parents-over-homeschooling/>
- [8] [https://www.americanbar.org/content/dam/aba/publications/litigation\\_committees/childrights/child-separation-memo/parent-child-separation-trauma-memo.pdf](https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/child-separation-memo/parent-child-separation-trauma-memo.pdf)
- [9] Homeschool Legal Defense Association. (2019). <https://hsllda.org/post/germany>
- [10] International Conference on Population & Development, Chapter II Principle 10.
- [11] World Declaration on the Survival, Protection & Development of Children, 18.
- [12] Britton, A. (2006). "A reference guide to policies and practices: Sexuality education in Europe." *The Safe Project*. (50-52).  
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- [13] Alliance Defending Freedom (2011, March 24). <https://adflegal.org/press-release/adf-stop-parents-second-prison-sentence-keeping-children-german-sex-education>
- [14] International Conference on Population & Development, 11.24.
- [15] Ahrbeck, B., Etschenberg, K., and Felder, M., (2022) "Neo-Emancipatory Sex Education in Germany: Sexual Abuse and Gender Confusion," *Dignity: A Journal of Analysis of Exploitation and Violence*: Vol. 7: Iss. 1, Article 2. <https://doi.org/10.23860/dignity.2022.07.01.02>  
<https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1303&context=dignity>
- [16] American Insitute for Contemporary German Studies, (Feburaury 23, 2012)  
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- [17] Profamilia, (2011)  
[https://www.profamilia.de/fileadmin/publikationen/Reihe\\_Koerper\\_und\\_Sexualitaet/Schwangerschaftsabbruch\\_englisch\\_2011.pdf](https://www.profamilia.de/fileadmin/publikationen/Reihe_Koerper_und_Sexualitaet/Schwangerschaftsabbruch_englisch_2011.pdf)
- [18] International Conference on Population & Development, 4.27.
- [19] Convention on the Rights of the Child, Article 5.
- [20] Convention on the Rights of the Child Article 18-1.
- [21] International Covenant on Civil & Political Rights, 18-3.
- [22] A World Fit for Children (2002) 37-10.
- [23] Archbishop Cranmer (2022, August 12) Germany to allow annual gender change (including children).<https://archbishopcranmer.com/germany-to-allow-annual-transgender-change-including-children/>