

The Ombudsman for Children in Sweden
Submission to the Universal Periodic Review
of Sweden,
35th UPR Session, January 2020
Submitted 1 July, 2019



Barnombudsmannen
Box 22106
SE-104 22 Stockholm
Telephone: +46-8-692 29 50
info@barnombudsmannen.se
www.barnombudsmannen.se

Report from the Ombudsman for Children in Sweden for Sweden's third review in the UPR process, June 2019

Introduction

The Ombudsman for Children in Sweden is a government agency established in 1993 with the mandate to represent the rights and interests of children and young people in Sweden based on the UN Convention on the Rights of the Child (UNCRC). The agency is an independent national institution for children's rights that monitors compliance with the UNCRC in society and advocates its implementation in municipalities, county councils/regions and government agencies. We are tasked with drawing attention to shortcomings in the implementation of the UNCRC and proposing legislative and regulatory changes.

The Ombudsman for Children has ongoing dialogues with children and young people, especially those in vulnerable situations, in order to understand their circumstances and their opinions on relevant issues.

Important steps for strengthening children's rights since the last review

In January 2015, the UN Committee on the Rights of the Child examined Sweden's progress on implementing children's rights under the UNCRC. Sweden received clear recommendations on changes from the committee.

On 13 June 2018, the Swedish Parliament voted for the UNCRC to be incorporated into Swedish law. This law will enter into force on 1 January 2020. At the same time, a decision was taken to implement a review of how Swedish legislation and practices are aligned with the UNCRC.¹ As support for legal practitioners, guidance is currently being developed on how to interpret and apply the UNCRC in Sweden.²

In 2016 Sweden committed to be a pathfinder country in the global partnership for fighting violence against children within Agenda 2030, and in 2018 the government hosted the first world summit to end violence against children.

Our work during 2015–2019 and the focus of this report

During the period since Sweden's previous review, the Ombudsman for Children has focused on various situations where children live in a particularly vulnerable situation in Sweden. These situations involve children who have experienced harassment and bullying at school, children with disabilities, children who have sought asylum in Sweden, children in homelessness, children living in particularly vulnerable areas, children in child welfare services, children living in environments where people are recruited for violent Islamist terrorism (including children who have personally experienced it), and unaccompanied children who go missing.

Common to all these groups is a strong presence of experiences of violence in their stories. Their stories are about all types of violence – physical, psychological and sexual. Their stories reveal violence in the home, at school, in the community, and in institutions or housing placements. The Ombudsman for Children has therefore chosen to focus our recommendations on what needs to be done to protect children against any form of violence, in accordance with the UNCRC and other Convention commitments that Sweden has undertaken.

We have also chosen to follow up on some of the recommendations that Sweden received during the last review concerning children held in police cells and in remand prisons. Sweden has also received recommendations from the UN Committee on the Rights of the Child and the UN Committee Against Torture.

Violence against children

In 1979, Sweden was the first country in the world to introduce an absolute ban on the corporal punishment of children. Since then, the attitude to violence against children has changed and incidents of corporal punishment have declined. Today, a relatively small percentage of children are subjected to corporal punishment. But there are still children who are victims of corporal punishment or more serious forms of violence both in the home and in other places, and these children often face difficulties getting the right support, help and redress.

The Children's Welfare Foundation Sweden was tasked by the government to survey the prevalence of violence against children using questionnaires sent to children as well as parents.

According to the foundation's latest survey from 2016³, 14% of the children surveyed experienced physical abuse by a parent at some point during childhood. 5% were victims of abuse many times. 11% of the children were subjected to psychological abuse by a parent.

Children also experience violence between parents. 14% experienced physical or psychological violence between parents at some point. 3% experienced repeated physical violence by one parent towards the other.

The survey also looked at the prevalence of sexual violence. 40% of girls and 10% of boys reported being sexually abused. Abuse is most commonly perpetrated by someone the child knows of the same age, but 6% of those who reported being sexually abused were abused by a parent or step-parent.

The survey also identifies particularly vulnerable groups. Children who neither identify as a boy or a girl constitute a small group, but are far more vulnerable than children who identify themselves as either a boy or a girl. Other vulnerable groups include children with disabilities or chronic illness, children living in economically vulnerable conditions, children born outside the Nordic countries, and children living with a single parent or parents who are in dispute over living arrangements or visitation rights. Half of the children who were subjected to child abuse were also victims of bullying. In addition, children placed in a foster home or residential care home ("HVB"), children who are not allowed to take control over their own lives, and children living with an adult who abuses alcohol or drugs or has a mental illness are particularly vulnerable.

Violence in the home

The Inquiry on the rights of the child⁴ showed that children who had been subjected to violence by their parents had difficulty obtaining legal redress from the courts. The children often had difficulty describing and showing proof of their pain, which is necessary for sentencing someone for abuse. The courts sometimes looked apologetically upon the parents' situation, such as stress or provocation by the child, and could also excuse the violence as being carried out in the name of discipline.

Children who have experienced domestic violence are defined as victims of crime under the Social Services Act and may claim compensation for criminal injury. However, children are not considered as injured parties in criminal proceedings. As an injured party, the child would be entitled to get a designated representative and be heard without the consent of their legal guardian. The child could also be entitled to plaintiff assistance, to damages and could claim compensation for criminal injury without the consent of their legal guardian. The child's legal status would thus be strengthened.

Recommendations

The Ombudsman for Children makes the following recommendations for Sweden:

- Introduce a special penal provision for the abuse of children when the perpetrator is a parent or person who is responsible for the child's up-bringing, care or supervision.
- Give children who experience domestic violence a position as an aggrieved party in the criminal justice process.

Violence in the community

In several reviews conducted by the Ombudsman for Children⁵, the children we met told us about the presence of violence in their everyday lives in their communities. They talked about how they experienced shootings, stone throwing, intimidation, harassment, assault and more. Violence becomes normalised and can lead to lower thresholds for children themselves to turn to violence. In some cases, it leads to children being recruited to violent extremist groups, and in other cases to criminal gangs.

Unaccompanied children who go missing from their assigned housing and find themselves in a street environment also tell of much violence, and many are subjected to sexual abuse and trafficking.⁶

Violence in the community can, for some children, be as close to them as in their own home – the place that should be the safest for a child. Some children in Sweden – especially children seeking asylum or living in homelessness with their parents – get assigned housing by the state or the municipality. These are large asylum accommodations, converted hotels or hostels for homeless people. The children that we met at these properties tell of a disorderly, precarious existence. Asylum-seeking families with children are placed in the same accommodations as single adults, where they encounter alcohol abuse and violence among the residents. Children express a great feeling of insecurity in these accommodations. In the hotels or hostels for the homeless, families with children are placed together with addicts and mentally ill adults. Here, too, the children talk about insecurity and they witness drug trafficking (the children themselves have been offered drugs), intoxicated adults and even suicide attempts.⁷

Recommendations

The Ombudsman for Children makes the following recommendations for Sweden:

- Establish structures to ensure that children are involved when measures are developed to create safe environments and during violence prevention efforts in vulnerable areas.
- Clarify who has the main responsibility for reporting that an unaccompanied child has gone missing from his or her assigned housing.

- Ensure coordination between government authorities in order to quickly find unaccompanied children who have gone missing from their assigned housing.
- Ensure that families with children who are offered accommodation from the state or municipality are not placed in housing with single adults, addicts or mentally ill adults.

Violence at school

Harassment, discrimination, abusive treatment and violence are everyday occurrences for many children and students in Swedish schools.⁸ According to a recent study, between 6 and 10% of students surveyed reported that they have been victims of bullying. The study also showed that bullying has increased in recent years.⁹ The students are subjected to violence, harassment and abuse by other pupils as well as teachers or other adults at the school. In 2018, the Child and Student Representative unit at the Swedish Schools Inspectorate received 780 reports of harassment from adults (41% of the total number of harassment reports).¹⁰ According to the Education Act, adults may use justified measures in school, including a certain degree of violence, against pupils in order to address issues such as a pupil's disruptive behaviour, violence that goes beyond the rights of necessity and self-defence. The measure must be proportionate to the purpose and circumstances.¹¹ This is not in line with the UNCRC's call for an absolute ban on all forms of violence. There is also a risk that this right can be abused and used when it is not permitted, as has been shown in certain court cases. Neither does the Act contain any explicit ban on violence used for the purposes of punishment (corporal punishment), which is regulated in the Parental Code.

Recommendation

The Ombudsman for Children makes the following recommendation for Sweden:

- Amend the Education Act to indicate that all forms of violence by adults towards children and students are forbidden.

Violence in institutions and other locations

In 2018, the Ombudsman for Children met children who had been under the care of child welfare services and in out-of-home placements without their biological parents.¹² The children lived in foster homes, at residential care homes ("HVBs"), or at special homes providing compulsory care for youth with psychosocial problems, Special residential homes for young people (SiS homes), run by the National Board of Institutional Care. In a survey of 260 children at the SiS homes, one in four girls and one in six boys responded that they seldom or never feel safe. This insecurity is linked both to other children in the home and to staff treatment, which is perceived as confrontational, unfair and sometimes threatening. Almost 40% of the girls and just over 20% of the boys had experienced violence at the institution. Half stated that an adult was involved in the violence, either alone or, most frequently, in a situation that involved other children. The perpetration of violence by staff members often veers between the permissible and the forbidden in institutional care. The children at these homes have also experienced sexual harassment from adults at the home.

Even children placed in a residential care home or a foster home tell of violence and abuse, from both children and adults. This includes sexual harassment and abuse. Some children said that they had been subjected to violence for several years in a foster home and nothing was done, despite the fact that they told social services about the violence.

Recommendations

The Ombudsman for Children makes the following recommendations for Sweden:

- Amend the legislation on both voluntary and compulsory care of children so that it clearly reflects a child rights perspective.

Children in police cells and remand prisons

During the last review, Sweden received a number of recommendations concerning children and young people who are held in police cells and remand prisons (recommendations 146.37, 146.38, 146.39 and 146.42). These recommendations were noted by Sweden. Sweden has received similar recommendations from both the UN Committee Against Torture and the UN Committee on the Rights of the Child.

In 2015, a government inquiry was established that would place a special focus on measures to limit the use of detention and restrictions on children and other juvenile offenders. Among other actions, the inquiry proposed measures to counteract isolation, time limits for detention, restrictions on placing children in police custody, individualised restrictions and access to lawyers.¹³ The Ombudsman for Children believes that the proposals would improve the situation of children and young people held in police cells and remand prisons. However, the proposals have not been implemented but are instead being prepared by the government, which is working actively on the issue and intends to take decisions as soon as possible. For Sweden to live up to its commitments under the UNCRC, the Ombudsman for Children considers that the proposals must be implemented.

Children in police cells

Children are still being held in custody in police cells when they are detained under suspicion of having committed a crime. This is despite the fact that such facilities are not suitable for children. There are still major shortcomings in police statistics about how many children are being held in custody and for how long. Despite recognition of the statistics problem in 2013, nothing has yet been done about standardizing data collection. For this reason, the Ombudsman for Children has not been able to obtain information on how many children were placed in police cells in 2018. The latest figures we have are from 2015/2016, when 2,865 children were placed in police cells.¹⁴ Neither has there been a change in the length of time a child may be held in custody before they are to be released or detained. The length of time is still four days, the same as for adults.

Recommendations

The Ombudsman for Children makes the following recommendations for Sweden:

- Develop alternatives to police cells for detaining children who have been suspected of committing a crime.
- Ensure that the police authority introduce a uniform system for collecting data on children in custody.
- Introduce a time limit of 24 hours for how long a child may be held in custody.

Children in remand prison

The increase in the pre-trial detention of children has continued since the last review. In 2018, 150 children were held in remand prison upon suspicion of having committed a crime.¹⁵ In 2018, 47 children were detained for longer than 30 days, a decline compared with 66 people in 2017.

Of the 47 children detained for longer than 30 days, 38 had restrictions for more than 30 days. A few children were detained for as long as 180 days with full restrictions.¹⁶ Restrictions include no visits from parents and isolation from other prisoners. There is no time limit for how long a person may be held in remand prison in Sweden, and this also applies to children. This means that some children are detained for a very long time, with severe restrictions.

Recommendations

The Ombudsman for Children makes the following recommendations for Sweden:

- Introduce alternatives to remand prison for children suspected of committing a crime.
- Introduce a total ban on solitary confinement for children who are being held in remand prison during an investigation.
- Ensure that restrictions imposed on children who are in remand prison are made on an individual basis and adapted to each individual case.
- Introduce a time limit of 30 days for how long a child may be held in remand prison during an investigation.

Ensure the child's right to legal redress

Children whose rights are violated must be given the opportunity to seek redress. This is not entirely possible today in Sweden. The Ombudsman for Children is currently the only ombudsman function that cannot receive and investigate individual complaints. The UN Committee on the Rights of the Child has repeatedly recommended that Sweden give the Ombudsman for Children the opportunity to receive and pursue individual cases.¹⁷

In contrast to 26 other countries in Europe, and 44 overall in the world, Sweden has not yet ratified the third Optional Protocol to the UNCRC on a complaints mechanism. This was recommended to Sweden in the last UPR session (number 145.1, 145.24, 146.3, 146.4 and 146.5)

Recommendations

The Ombudsman for Children makes the following recommendations for Sweden:

- Ratify the third Optional Protocol to the UNCRC.
- Investigate the possibilities for the Ombudsman for Children to receive, investigate and address individual cases from children or on behalf of children and to represent children in court.

¹ Term of Reference 2018:20. *Kartläggning av hur svensk lagstiftning och praxis överensstämmer med barnkonventionen*. (Survey of how Swedish legislation and practices align with the UNCRC).

² <https://www.regeringen.se/artiklar/2018/06/vagledning-for-hur-barnkonventionen-kan-tolkas-och-tillampas/> (retrieved 15 May 2019).

³ Jernbro, C. and Jansson, S., 2016. *Våld mot barn 2016 – en nationell kartläggning* (Violence against children. A national survey). Children's Welfare Foundation Sweden.

⁴ SOU 2016:19, The UNCRC is becoming Swedish law.

⁵ See, e.g., Ombudsman for Children, 2018, *Children and Young People's Experiences of Violent Islamic Extremism*, and Ombudsman for Children, 2018, *Utanförskap, våld och kärlek till orten* (Exclusion, violence and love for community).

⁶ Ombudsman for Children, 2017. *Unaccompanied Minors Who Go Missing*.

⁷ Ombudsman for Children, 2017, *"We left everything behind"*, and Ombudsman for Children, 2016, *Inget rum för trygghet – barn och unga om vräkningar och hemlöshet* (No room for security – children and youth on evictions and homelessness).

⁸ Ombudsman for Children, 2015. *Welcome to reality*.

⁹ Public Health Agency, 2018. *Health Behaviour in School-aged Children in Sweden 2017/18*. In the study, students aged 11, 13 and 15 were surveyed.

¹⁰ Swedish Schools Inspectorate, 2019. *Tillsyn utifrån individärenden – statistik över anmälningar och beslut 2018*. (Supervision based on individual cases – statistics on number of reports and decisions, 2018).

¹¹ Education Act. Chapter 5, Section 6.

¹² Ombudsman for Children, 2019. *Vem bryr sig – när samhället blir förälder* (Who cares – When society becomes a parent).

¹³ SOU 2016:52, *Färre i häkte och minskad isolering* (Fewer in detention and reduced isolation).

¹⁴ The request from the Ombudsman for Children for the number of children and youth held in 2016 shows that between 1 July 2015 and 30 June 2016, at least 2,685 child detentions took place.

¹⁵ Swedish Prosecution Authority, 2019. 2018 Annual Report, p. 37.

¹⁶ Swedish Prosecution Authority, 2019. 2018 Annual Report, p. 39.

¹⁷ UN Committee on the Rights of the Child, *Concluding Observations: Sweden, 2005, 2009 and 2015*.