

**STATEMENT - UPR Pre-session on Sweden  
Geneva, December 12th 2019**

***Delivered by: Ulrika Westerlund (RFSU) on behalf of the Swedish Association for Sexuality Education - RFSU, and the Swedish Federation for LGBTI rights – RFSL***

Thank you. Ms. Chair, fellow speakers, Permanent Missions attending today, in particular the Swedish Delegation and Ambassador Bard, UN agencies and colleagues from Civil Society around the world.

I am a senior policy advisor at RFSU, and I was previously the chairperson of RFSL. All the topics in my statement today deal with sexual and reproductive health and rights and LGBTI rights and they are all close to my heart.

RFSU, the Swedish Association for Sexuality Education, is a non-profit organisation working since 1933 on sexual and reproductive health and rights in Sweden and internationally, and is a founding member of IPPF. RFSU has actively engaged in all cycles of the UPR of Sweden, individually or, as in the present cycle, as part of broad or thematically focused coalitions. RFSL was founded in 1950 and is one of the oldest LGBTI organisations globally.

Sweden has not received UPR recommendations on the topics we will focus on during my presentation. Therefore, we consider this UPR as an opportunity to address some current challenges and work towards overcoming them.

First, I will address some topics concerning LGBTI rights and children's rights. Then, I will speak about Sexual and Reproductive Health and Rights.

## **1. LGBTI rights and the Right's of the Child**

### **Children's rights to their parents**

The Parental Code of Sweden (1949:381) has been reformed several times, in order to adapt its content to the needs and rights of various forms of families. For instance, for recognising cases of parents with the same legal gender. However, Sweden is yet to ensure all children in Sweden equal rights to their parents, as enshrined by art. 7 to 10 of the Convention on the Rights of the Child, which will also be incorporated as Swedish law on January 1st 2020. This legal gap becomes particularly evident in the case of children born abroad in cases of surrogacy arrangements; children born abroad into female same-sex families who later move to Sweden; and children born in Sweden in some female same-sex families, depending on how the child was conceived. In these cases, co-parenthood is not presumed by law and there is no automatic recognition of civic registration issued by third countries, which is why the non-biological parent is often required to adopt the child to be legally recognised as parent.

In June 2019, the Supreme Court of Sweden addressed the issue of legal motherhood in a case of surrogacy (case no Ö 3462-18), and recognised the legal motherhood of the de facto mother. The Supreme Court also urged the legislator to regulate the legal parenthood in other cases of surrogacy arrangements. We strongly believe that all children in Sweden should be granted equality, regardless of the gender of their parents and how they were conceived.

**Suggested recommendations:**

- Increase the equality in the legal status of different forms of families, by adopting the Draft Law SOU 2018:68 introducing gender neutral presumed parenthood.
- Ensure the rights of children by introducing legislation regulating the establishment of legal parenthood in all cases where children have been born abroad after surrogacy arrangements.

**Children born with intersex variations and transgender people**

Sweden has a strong commitment to protecting the human rights of LGBT people. However, challenges remain, particularly concerning trans rights, and children born with intersex variations.

Children born with intersex variations are still subjected to “normalizing surgeries” before they reach an age where they can consent. The absence of official data on this topic has been recognised by a report from the National Board of Health and Welfare from 2017, and is an additional hinder to effectively address this challenge.

Both Treaty bodies (CAT, CRC, CEDAW and CCPR) and Special Procedures consider non-vital procedures as a violent and harmful practice that is never consistent with the best interest of the child. As a recommending state, Sweden has raised the importance of the best interest of the child in relation to medical procedures on intersex infants.

**Suggested recommendation:**

- Protect children’s right to bodily integrity, autonomy and self-determination by ensuring, by legislation or otherwise, that non-vital surgical or other medical procedures on intersex infants and children are not performed before they are able to provide their informed consent, in line with the conventional interpretations by the Committee on the Rights of the child.

Since 1972, transgender people in Sweden have had the possibility to change legal gender. However, contrary to Yogyakarta Principles, domestic laws and practice by relevant authorities continue to require transgender persons to undergo lengthy medical evaluations in gender affirming health care clinics prior to legal recognition of their self-defined gender identity. In addition, because of the lack of a gender-neutral marker within Swedish law, there is no possibility for non-binary people in Sweden to have their self-defined gender identity legally recognized.

In 2014, a state public report (SOU 2014:91), proposed a new legislation detaching change of legal gender from requirements on mandatory medical assessments or procedures. However, the proposal is still pending to be put forward to Parliament by the Government.

**Suggested recommendations:**

- Adopt a new gender recognition law, as proposed in SOU 2014:91, ensuring a quick, transparent and accessible mechanism based on self-definition, detaching medical procedures from legal gender recognition, in line with the Yogyakarta Principles.
- Commission a State Public Report (SOU) with the mandate to investigate the legal possibility to introduce a third legal gender, towards increased recognition of self-defined gender identity of each person.

## 2. Sexual and Reproductive Health and Rights

### **Non-discriminatory access to contraception**

In Sweden, asylum seekers under 18 are entitled the right to health care on equal basis to any other children. Asylum seekers over 18 only have (according to Law 2008:344) the right to health care that “cannot wait”, including pregnancy related care, abortion care and contraception counselling. According to the legal interpretation by the Swedish Migration Board, subsidies to contraception only apply if prescribed by a doctor in relation to health care that cannot wait, excluding those prescribed by a midwife for preventive purposes.

According to current legal interpretation, undocumented individuals living in Sweden are entitled access to subsidized contraceptives, while vulnerable EU citizens living in Sweden, e.g. unemployed Roma, are excluded from it, which is contrary to the aim of the relevant law (2013:407) and leads to potential, unjustified discrimination.

### **Suggested recommendation:**

- Ensure everyone’s equal access to contraception, specially for asylum-seekers, undocumented people, vulnerable EU citizens and other persons belonging to vulnerable groups by, inter alia, reforming domestic laws as necessary and guaranteeing a non-discriminatory implementation of relevant regulations.

### **Universal access to maternity and abortion care**

Over the past 10 years, maternity wards have been closed down by Swedish regional Governments. As a direct consequence, pregnant people, especially those living in rural areas, are forced to travel long distances to access the nearest maternity ward, and there are repeated media reports of an increasing number of children that, against the will of their parents, are born out of medical facilities. Moreover, the absence of relevant official data hinders the assessment of the impact of such closures on the quality of pregnancy and obstetric health care in Sweden.

### **Suggested recommendations:**

- Collect and administer data on the impact that the reduction of the number of hospitals and health facilities has on the right to health, in particular data on the quality of available health care and on the number of children involuntarily born out of medical facilities.
- Ensure that the right to access to abortion care is not restricted as a result of the closure of maternity wards.

On behalf of RFSU and RFSL, I would like to thank UPR-Info for giving us the floor today. I would also like to thank all attending Delegations for your kind attention and interest in Sweden. I would like to invite you to take a copy of our Policy Briefs available at the entrance. I remain at your disposal for your questions and requests.