Report from The Hela Barn in Sweden network, regarding the UN Convention on the Rights of the Child

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Introduction
Many children suffering from sickness or impaired health in the world have benefited from alternative/complementary medical (CAM) treatment to achieve a rapid and sustained healing in harmony with the body's natural desire for good health. Sweden is the only country in Europe which prohibits CAM examination, treatment and care of children under eight years. This report argues that the Swedish law contradicts a number of articles in the UN Convention on the Rights of the Child (CRC).

The Hela Barn in Sweden network
We are a nonprofit, national network that is religiously and politically unaffiliated. The Hela Barn in Sweden network (‘Hela’ has a double meaning in Swedish, meaning whole as well as heal; ‘barn’ =child) started up in spring 2008. The network consists of parents and other adults who want to commit themselves to the best interests of the child and the child's and parent/carer’s right to freedom of choice regarding CAM examination, treatment and care. The network works for a change in the constitutional law, which will give children under eight years the right to CAM examination, treatment and care.

Our priority issue
We focus this report on a new area of concern. As far as we understand this area has not previously been picked up by the UN CRC. This priority issue is the Swedish legislation that prohibits the use of CAM treatments for children under eight years. Sweden is the only country in Europe which prohibits CAM examination, treatment and care of children under eight years. Evidence suggests that many children who receive CAM treatments reach a quick and lasting healing in harmony with the body's natural desire for good health. We therefore consider that the Swedish law that deprives children under eight years the right to receive CAM treatment, contradicts the CRC.

Specifically, the Swedish law violate the following CRC articles:
Article 2 on non-discrimination
Article 3 on the child's best interest
Article 6 on the child's right to life and development
Article 18 on the upbringing and development of the child
Article 24 on the child's health and health care.
Our arguments for a change of the constitutional law

The law discriminates against children under eight years by denying them the CAM examination, treatment and care that children over eight years have access to.

- Thus, rather than observing the CRC and taking all appropriate legislative and administrative measures for the child’s best interests, Swedish law limits and counteracts the best interest of children under eight by denying them access to CAM treatments.

- The child’s development in many cases could benefit from CAM treatment, the law that denies children under eight such treatments does not ensure to the maximum extent possible the survival and development of the child.

- The law denies parents and guardians their full legal right to put the child’s interest first. In cases where a CAM treatment would be the best for the child, the law prohibits this type of treatment. The government thus fails in its duty to provide appropriate assistance to parents and guardians as responsible of the upbringing and development of the child.

- The State both deprives and refuses to secure the child’s right to the highest attainable standard of health by the prohibition of CAM treatment for children under eight years.

We advocate

- A change in the constitutional law, giving every child in Sweden, regardless of age, the right to receive CAM treatment.

- Establishment of standards on safety and qualifications, as well as competent supervision for the CAM care of children in Sweden.

- That the relevant authorities ensure that the institutions, facilities and services in charge of CAM care of children, comply with established standards, in accordance with Article 3 of the CRC.

To determine and ensure the standards of CAM care of children, it is desirable that Sweden in accordance with Article 24, paragraph 4, promotes and encourages international cooperation with the view of progressively achieving the full realization of the articles. This is also in the interest of the Council of Europe, when they ask member countries to follow their neighbors’ experiences in terms of regulation of CAM and, if possible, coordinate their attitudes to these treatments.

- Increased research on CAM for children in Sweden.

We do not claim in this report, to show an exhaustive, comprehensive picture of CAM in the world. The statistics and examples we use, only aims to illustrate the Swedish situation.
General principles (Articles 2, 3, 6, 12)

Articles 2, 3 and 6 of the CRC, under this heading, relate to our area of concern. First is the description of the relevant Swedish law, definition of CAM, the articles, review of the situation in other countries and finally we refer to the resolution from the Council of Europe.

The Swedish law in question says:

Act (1998:531) on Professional Activity In the Field of Health and Medical Care. (1)
Chapter 4. Restrictions on the right to take certain health and medical measures.

1 § - The provisions of this chapter apply to a person whom, in his profession, examines another’s health or provides treatment against illness or other comparable state, by taking action or prescribing treatment in preventive, curative or palliative purpose. The rules do not apply to those in 1 chap. 4§ defined as healthcare professionals.

2 § - The person who carries out activities referred to in 1 § may not

- 1. treat notifiable infectious diseases such as disease which are controlled by the Swedish Communicable Disease Act 2004:168;
- 2. treat cancer and other malignant growth, diabetes, epilepsy or pathological conditions related to pregnancy or childbirth;
- 3. examine or treat other person under general anesthesia or under local anesthesia by injection of anesthetic or under hypnosis,
- 4. treat others using radiological methods,
- 5. without an individual examination of the person that consulates him, give written advice or instructions for treatment, or
- 6. try out or provide contact lenses. Act (2004:186).

3 § - The person who carries out activities referred to in 1 § may not examine or treat children under eight years of age.

According to the Act (1998:531) on Professional Activity In the Field of Health and Medical Care, chapter 2, 1 § - "All legislated healthcare professionals shall carry out their duties in conformity with science and proven experience." In practice this means that a licensed health care professional may not provide alternative medical treatment.

A definition of CAM

The term alternative medicine, as used in the modern western world, encompasses any healing practice that does not fall within the realm of conventional medicine. Commonly cited examples include naturopathy, chiropractic, herbalism, traditional Chinese medicine, Ayurveda, meditation, yoga, biofeedback, hypnosis, homeopathy, acupuncture, and diet-based therapies, in addition to a range of other practices. It is frequently grouped with complementary medicine, which generally refers to the same interventions when used in conjunction with mainstream techniques, under the umbrella term complementary and alternative medicine, or CAM.
**Article 2**

*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind.*

The Swedish law that denies children under eight years the right to CAM treatment, contradicts Article 2 in CRC on non-discrimination. The law discriminates against children under eight years by denying them the CAM examination, treatment and care that children over eight years have access to.

**Article 3**

*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

The Swedish law that denies children under eight years the right to CAM treatment contradicts Article 3 in the CRC. If there is a safe treatment and care of children which can mitigate and treat the child’s symptoms of illness, or strengthen the immune system and thereby be beneficial to the body’s own healing process, it is in the best interests of the child to have access to such examination and/or treatment.

Thus, rather than observing the CRC and taking all appropriate legislative and administrative measures for the child’s best interests, Swedish law limits and counteracts the best interest of children under eight by denying them access to CAM treatments.

**Article 6**

*States Parties shall ensure to the maximum extent possible the survival and development of the child.*

The Swedish law that denies children under eight years the right to receive CAM treatment contradicts Article 6 in the CRC to life and development. Because the child’s development in many cases could benefit from a CAM treatment, the law that denies children under eight such treatments does not ensure to the maximum extent possible the survival and development of the child.

The Swedish government states in Bill 1997/98: 109 (2) that the selected age of eight years was chosen "because the child then has begun school and by that come under regular medical examination and control. Education Act (1985:1100) (3) declares that the school system should provide health care for children."

In this statement, the government fails to mention that Swedish children, before they start school, are called for continuous checks at the Child Welfare Centre. This starts shortly after the baby is born and continues until the child begins school. We believe that this fact renders the government’s argument for selecting the eight year limit invalid.
Sweden has the most restrictive legislation in Europe

Sweden has the most restrictive legislation on alternative medicine in Europe. Sweden is the only country in Europe where children under eight years cannot obtain CAM treatment (4).

According to the Act (1998:531) on Professional Activity In the Field of Health and Medical Care, chapter 2, 1 § - “All legislated healthcare professionals shall carry out their duties in conformity with science and proven experience." (1)

In practice this means that a licensed health care professional may not provide alternative medical treatment.

As a consequence, children under eight years cannot under any circumstances legally receive CAM examination, treatment and care in Sweden, even if doing so had been in the child’s best interest.

Example of judicial decision

On September 18, 2008, a Swedish acupuncturist was convicted by Sundsvall District Court for having given acupuncture to a baby suffering from colic at six or seven occasions. The child’s condition is alleged to have improved from the treatment. The verdict shows that the law that denies children under eight years the right to alternative care does not promote the child’s best interests – as in this case the verdict was passed even though evidence suggested that the child benefited from the treatment.(5)

The Swedish law contradicts the Council of Europe resolution

Swedish law contradicts the European Council resolution on non-conventional medicine (6), even though Sweden is a member of the Council of Europe.

The Council of Europe has seen the alternative and/or complementary care and treatment growing in both Europe and the rest of the world and because of that adopted in 1999 a resolution on non-conventional medicine (4).

Some of the key points in the resolution from the Council of Europe are:

- The most well-established treatment forms are acupuncture, homeopathy, osteopathy and chiropractic
- Various forms of treatment, conventional and non-conventional, should be able to exist side by side
- A common European approach to non-conventional medicine should be based on the principle of the patient’s choice of treatment
- The best guarantee for the patients’ well being lies in a skilled profession, which is aware of its limitations, has ethical guidelines, is self-regulating and is subject to external scrutiny
- In the future, it will be possible for alternative or complementary therapies to be practiced by doctors as well as well-educated alternative medical therapists. A patient can consult one or
the other, either by referral from their family doctor, or on their own initiative.

The Council of Europe are asking member countries to follow their neighbors' experiences in terms of regulation of alternative medicine and, if possible, to coordinate their attitudes to these treatments.

The situation in the Nordic region

The use of CAM in Norway

In Norway a public inquiry on CAM showed that about half of the residents are using alternative therapy as a complement to traditional medicine (7).

There have been several studies that have investigated the age distribution of these patients (8, 9, 10).

The situation in Norway is in distinct contrast to Swedish law. Of the patients who consult a Norwegian homeopath, 25% are children under ten years (8) and the proportion of young children being treated by homeopaths is growing. Today there are two and a half times as many children using these treatments than in 1985 (9).

A number of studies have shown that the main reasons that patients consult CAM health care providers are that (6):

- The doctor has not been able to help, or unable to help sufficiently
- The patient does not want to take conventional medicine
- The patient has previously been using alternative therapy
- The patient knows others who have been helped
- The patient feels taken seriously by the alternative therapist
- The patient will be seen with holistic eyes and the health care provider is aiming to find the cause of the disease

The situation in Europe

In Italy, a 2002 survey of 180 000 Italian citizens showed that over 9% of all children, received CAM treatment (11). The most common treatment was homeopathy, which represented 7.6% of all children. The main reason that parents gave for choosing CAM treatment for their child was the expectation of fewer side effects from CAM treatment than from conventional treatment (over 58% of cases). About 80% of patients using non-conventional treatment said that it cured the problem.

In the course of the past 20 years, interest in CAM treatments increases steadily in Britain. Surveys show that the market for alternative medical treatment in Britain is growing by 20% per year. In six years, the proportion of the members of the Consumer's Association in England who had been consulting CAM health providers in the past year increased from one in seven in 1985 to nearly one in four in 1991.
An example is osteopathy which is a flourishing healthcare profession in the UK, with around 30,000 people currently consulting osteopaths every working day. This equates to approximately seven and a quarter million consultations per year. In the UK, osteopathy is a primary care profession regulated by statute; by early 2008, there were 3,993 osteopaths on the UK Statutory Register of Osteopaths. Osteopathy is also an accepted treatment form for children in the UK. As an example, the OCC (Osteopathic center for children) in London gives 30,000 treatments yearly.

In France, homeopathy is the most widely used form of CAM treatment and the percentage of people who used homeopathy rose from 16% 1982 to 36% 1992 [6].

In the Netherlands, nearly 18% of the population had a doctor or therapist who practiced CAM in 1990 – an increase from around 6% in 1981[6].

In Germany, 75% of all residents had used CAM in 2000, compared with 52% in 1970. The number of doctors who prescribe homeopathy amounted in 2000 to 4,490, a doubling from 1994[12].

It is estimated that 50% of the population of Russia are using CAM treatment regularly. The five most common treatment forms are reflexology, chiropractic, massage, homeopathy and buteik (Russian respiratory therapy) [6].

In many countries in Europe, osteopathy has an academic standard. For example you can have a PhD in osteopathy or an MSc in paediatric osteopathy.

The situation in the U.S., Australia and Japan

In 1990, 33.8% of the population in the U.S. (60 million) had received at least one of 16 CAM treatments in the last year. In 1997, this proportion had risen to 42.1% (83 million people) [6]. The AOA in the USA is a member association representing more than 61,000 osteopathic physicians (D.O.s).

In Australia, 1/3 of the population regularly uses CAM treatment, according to a survey from 1996. The most popular forms were chiropractic, acupuncture, naturopathy, massage, herbal medicine and homeopathy.

In Japan, 60% of the population uses CAM regularly [6].

The Hela Barn in Sweden network advocates:

- A change in the constitutional law giving each child in Sweden, regardless of age, the right to receive CAM examination, treatment and care.

- That the relevant authorities ensure that the institutions, facilities and services in charge of CAM care of children, comply with established standards, in accordance with Article 3 of the CRC. To determine and ensure the standards of CAM care of children, it is desirable that Sweden in accordance with Article 24, paragraph 4, promotes and encourages international
cooperation with the view of progressively achieving the full realization of the articles. This is also in the interest of the Council of Europe, when they ask member countries to follow their neighbors’ experiences in terms of regulation of alternative medicine and, if possible, coordinate their attitudes to these treatments.

Basic health and welfare (Articles 18, 23, 24, 26, 27)

Articles 18 and 24 of the CRC, under this heading, relate to our area of concern. After the articles follows the description of the importance of securing quality and then a description of the need for research on CAM concerning children.

**Article 18**

*States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.*

Parents and/or guardians are responsible for their children and make a series of choices for the child that society does not place any restrictions on. Many of these choices have an impact on child health, such as what food the child eats. Parents and/or guardians have the primary responsibility for their children and have their best interest in mind.

We believe that Swedish law, by denying children under eight the right to CAM treatments, thus denies parents and guardians their full legal right to put the child’s interest first. In cases where an CAM treatment would be the best for the child, the law prohibits this type of treatment. The government thus fails in its duty to provide appropriate assistance to parents and guardians as responsible of the upbringing and development of the child.

It is our clear view that parents should be able to make choices about CAM treatment for their children. This is not a question of replacing necessary conventional treatment of seriously ill children. Rather, we advocate that parents should have the right to complement (not replace) conventional treatment with CAM treatments. This is consistent with the Norwegian government's law on CAM treatment of disease.

"7 §. Treatment of serious disease and problems." (Norwegian Government Act) (13)

Treatment of other serious disease and problems than those covered by 6 §, should not be pursued by anyone other than licensed healthcare professionals.

Those who are not healthcare professionals can still perform a treatment that solely aim to alleviate or diminish symptoms of the disease or problems following the same, or suffering or side effects of the given treatment, or which seeks to strengthen the body's immunity or the ability of self-healing.

Another important reason why parents want alternatives in medical care for their children is that they want to avoid the use of conventional medicines such as antibiotics and steroids, with the risk of side effects.
Article 24

*States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.*

In Sweden children under eight years are denied the right to CAM care, which in many cases may help the child to enjoy the best attainable standard of health. The Swedish State both deprives and refuses to secure the child's right to the highest attainable standard of health by the prohibition of CAM treatment for children under eight years.

There is research that shows positive experiences of treating children with CAM. Repeated infections, respiratory infections and skin diseases are among the most common diseases that homeopaths are consulted for (14, 15). Children with recurrent otitis media are among the largest patient groups who consult homeopaths (6).

In a study published in the International Journal of Clinical Pharmacology, homeopathy was compared with conventional treatment in acute otitis media in children between the ages of 6 months and 11 years (16). The results showed that in the group receiving homeopathic treatment, only 5 of 103 children needed antibiotics and over 70% did not have a relapse in the following year. In comparison, among children who received conventional treatment, the percentage who did not get a relapse was 56%. In the homeopathy group, 30% had no more than three occurrences of otitis media within a year, while in the conventional medicine group as much as 43% had six otitis media in a year.

A comparative study found 71% improvement in children with glue ear treated with homeopathy compared with 31% of those treated with conventional medicine (16). Research shows that homeopathy leads to fewer infections and that when the condition is treated with homeopathy it often develops into a common cold rather than otitis media (17).

Swedish doctors/medical care managers and politicians should be particularly interested in these results, because of the development of antibiotic resistance is becoming a global health problem (18, 19, 20, 21, 22, 23, 24, 25, 26).

European Commission has expressed strong concern about the overuse and misuse of antibiotics, especially in children with respiratory infections. The EU has also developed a specific strategy to reduce the development of antibiotic-resistant microorganisms (27). Both the World Health Organization (WHO) and EU have recommended that research on new medicines and vaccines should be intensified (28, 29, 30).

Safety and Quality

In order to ensure the child’s safety, it is critical that CAM care is practiced in a competent and safe
The Hela Barn in Sweden network advocates that Sweden sets standards of safety and suitability, as well as competent supervision for the CAM care of children in Sweden. The competent authorities ensure that the institutions, facilities and services in charge of CAM care of children comply with established standards, in accordance with CRC Article 3.

To establish and ensure the standards of CAM care of children, it is desirable that Sweden in accordance with CRC Article 24, paragraph 4, promotes and encourages international cooperation with a view to progressively achieve the full realization of the articles.

Research is needed on CAM for children in Sweden

A group of researchers at the Karolinska Institutet, on behalf of FAS (Swedish Council for Working Life and Social Research), has released a report [31], which mapped the Swedish scientific research on CAM treatment, (KAM in Swedish). The report shows a need for more high-quality research on CAM treatments in Sweden, including the methods used and for what symptoms.

Surveys in Stockholm, Sweden, show that the proportion of people who received treatment with CAM had increased from 22 percent in 1980 to 49 percent in 2001. The most common forms are massage, acupuncture and naprapathy. How extensive the use of CAM is in Sweden as a whole is still unknown. Research in this field is conducted mainly at Gothenburg and Linköping University and at the Karolinska Institutet in Stockholm.

The allocation for CAM research represented a total of 2.1 per cent of Sweden’s allocation for medical research in 2006. The funding comes primarily from private foundations and Regional Research Councils rather than the state. Scientists in the group highlight the need for more national research which exposes alternative medicines and treatments for the rigorous scientific review. In addition, they see a need for a health economic evaluation of CAM treatments, compared with conventional treatments.

The Hela Barn in Sweden network advocates:

- more research on complementary and alternative medicine for children in Sweden.
Closing

We have in this report showed that Swedish law is contradictory to five of the articles in the UN Convention on the Rights of the Child, which among other things, affect the child’s best interests and its right to life and development!

Our arguments for a change in the constitutional law

- The law discriminates against children under eight years by denying them the CAM examination, treatment and care that children over eight years have access to.

- Thus, rather than observing the CRC and taking all appropriate legislative and administrative measures for the child’s best interests, Swedish law limits and counteracts the best interest of children under eight by denying them access to CAM treatments.

- The child’s development in many cases could benefit from CAM treatment, the law that denies children under eight such treatments does not ensure to the maximum extent possible the survival and development of the child.

- The law denies parents and guardians their full legal right to put the child’s interest first. In cases where a CAM treatment would be the best for the child, the law prohibits this type of treatment. The government thus fails in its duty to provide appropriate assistance to parents and guardians as responsible of the upbringing and development of the child.

- The State both deprives and refuses to secure the child’s right to the highest attainable standard of health by the prohibition of CAM treatment for children under eight years.

The Hela Barn in Sweden network advocate

- A change in the constitutional law giving every child in Sweden, regardless of age, the right to CAM treatment.

- Establishment of standards on safety and suitability, as well as competent supervision for the CAM care of children in Sweden.

- That the relevant authorities shall ensure that the institutions, facilities and services in charge of CAM care of children comply with established standards (see above), in accordance with Article 3.

  To establish and ensure the standards of CAM care of children, it is desirable that Sweden in accordance with CRC Article 24, paragraph 4, promotes and encourages international
cooperation with a view to progressively achieve the full realization of the articles. This is also in line with the Council of Europe, which asks member countries to follow their neighbors' experiences in terms of regulation of alternative medicine and, if possible, coordinate their approaches to these treatments.

- Increased research in CAM for children in Sweden.

**The Hela Barn in Sweden network** wishes to participate with four representatives at the meeting of the pre-sessional group on February 4, 2009.

**The Hela Barn in Sweden network** are in favor of cooperation with the Swedish state in the process of legislative change, the establishment and upholding of standards on safety in CAM. Within our network there is knowledge, skills and international contacts concerning CAM.

**The Hela Barn in Sweden network**

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