

---

# Iceland

## Civil Society Report on the Implementation of the ICCPR (Prior to the List of Issues CCPR/C/ISL/5)

The Icelandic Human Rights Centre



MANNRÉTTINDASKRIFSTOFA ÍSLANDS  
ICELANDIC HUMAN RIGHTS CENTRE

With comments from The Icelandic Red Cross and Siðmennt  
and

With the support:

*Geneva & Reykjavík, 20 April 2011*

# Contents

Introduction	3
Equality and Non-Discrimination	3
Persons with Disabilities	4
LGBT Rights	4
Representation of Women in Society	5
Domestic Violence	6 – 7
Sexual Violence	7 – 8
Use of Torture	9
Prison Conditions	9 – 10
Refugees and Asylum seekers	11
Religion	12
Marriage	13
Child Rights	13 – 14
Minorities Rights	14 – 15

---

## Notes on Iceland's fifth periodic report on implementation of the International Covenant on Civil and political rights pursuant to Article 40 of the Covenant

### **Introduction**

In light of the Human Rights Committee's review of Iceland's fifth Periodic Report on Implementation of the International Covenant on Civil and Political Rights (ICCPR), which will be considered at the 104<sup>th</sup> Session in New York, in March 2012. The Icelandic Human Rights Centre has taken the opportunity to provide the following insights regarding Iceland's implementation of the Covenant.

The Government's report provides an extensive overview of national legislative measures that are significant to the implementation of the Covenant. Several issues identified in the report call for improvement.

The Icelandic Human Rights Centre (ICEHR) has assumed the functions of a national human rights institution as set out in the UN Paris principles, though its powers, independence and financing are not established by statute. Since 2008, although no contribution is earmarked for the Centre in the National Budget, the Centre has been allotted 10 million IKR annually from the Ministry of the Interior (former Ministry of Justice and Human Rights) and 4 million IKR through a service agreement with the Ministry for Foreign Affairs. The Centre is very appreciative of the Government support but these contributions do not satisfactorily sustain the Centre's operations and functions. Therefore the Centre has had to seek monetary support from other sources as well, mostly for specific projects, resulting in those projects and quests for funding taking up valuable time that should be directed at the Centre's primary functions in line with the Paris principles. Also, not being specifically included in the National Budget, the Centre cannot really rely on monetary support from the Government and it is therefore difficult to plan ahead.

The ICEHR believes that although provisions of the Covenant have been considered both by the courts and in the review of legislation; it is necessary to incorporate the Covenant into Icelandic legislation so that the individual rights and freedoms the Covenant entails are guaranteed for all Icelandic citizens equally.

### **Equality and Non-Discrimination**

#### **Article 2, paragraph 1, and Article 26**

There are only minimal provisions in Icelandic legislation for combating discrimination. Article 65 of the Icelandic Constitution sets out the principle of equality, including protection against ethnic or racial discrimination. The principle of equality is implemented through a handful of national acts of law such as the Administrative Procedure Act, no. 37/1993, the General Penal Code, no. 19/1940 and the Act on Patient Rights, no. 74/1997 and the Data Protection Act, no. 77/2000. However, Icelandic legislation mostly covers discrimination on gender based grounds. A conference organised by ICEHR and the Ministry for Social Affairs and Social Security in January 2009 illustrated this fact and its

participants concluded that comprehensive equality legislation is sorely needed in Iceland. Work is under way in the Ministry of Welfare to present a parliamentary bill for such legislation.

### **Persons with Disabilities**

Considerable progress has been made towards ensuring equal opportunities for disabled people, especially in the past two decades. Although the situation has improved vastly, disabled persons in Iceland habitually suffer discrimination with respect to, for instance, the right to education, housing and participation in public life.

#### **Article 10 - Conditions in detention**

The ICEHR is concerned that legislation and information on constraining measures applied in psychiatric hospitals and institutions for people with disabilities are very limited.

1. What measures has the State put in place to ensure that individuals in psychiatric hospitals and institutions are treated in accordance with article 10 of the ICCPR and other standards on the treatment of all individuals deprived of their liberty?

### **LGBT Rights**

In 1978 The National Organization of Lesbians and Gay Men in Iceland (now National Queer Organization) was founded, resulting in many people speaking openly about their homosexual orientation. Non-heterosexual people are now quite well accepted in Icelandic society.

The ICEHR, National Queer Organization and Trans-Iceland have in recent years emphasized the rights of transgender people in Iceland, as there have been lapses in the legal framework. The definition of “transgender” is not available under Icelandic law and legal provisions relating to transgender issues are practically non-existent. There is no case law on the issue. A recent Opinion of the Parliamentary Ombudsman has highlighted the lack of legal framework and called for legislation in order to protect the rights of transgender people. There are no legal rules on medical treatment, but a code of practice is followed, similar to that applied in other Nordic countries. Practice relating to name-change has recently been modified, following investigation by the Parliamentary Ombudsman. An individual can now have his or her name and sex changed in the National Register for Persons (NRP), and the permission to do so is given by the director of health upon request from the treating physician. The treating physician evaluates the process and when the individual undergoing the treatment has reached a certain stage in the treatment the doctor can send the above mentioned request. This procedure is different from when a person only wants to change their name in the NRP which is only an application form that has to be filled out and processed.

#### **Article 23 – Protection of family life and the right to marry**

The adoption rights and a legal right to clinical fertilization of lesbians were established in 2006 and a new and universal Act on Marriage, applying equally to hetero- and homosexual couples was passed through Parliament on 11 June 2010. This legislation is one of the worlds’ most progressive.

1. What actions is the State Party taking to protect the rights of transgender persons and allow their new gender to be recognised? Has an official definition of “transgender” been introduced in Icelandic law? What legal provisions relating to transgender issues are currently in place?

## Representation of Women in Society

### Article 3 – The equal right of men and women to the enjoyment of all civil and political rights

Although full equality under law has been achieved for men and women with regards to the civil and political rights outlined in the Covenant, and legally with the current Gender Equality Act no. 10/2008, Article 3 is in full effect, equality in fact has not been achieved and tradition prevails.

Iceland claimed the top spot of the World Economic Forum's Global Gender Gap Index 2009. The Icelandic Parliament has passed a law on gender quotas on corporate boards. Companies with more than 50 employees must have at least 40% of both genders represented on their boards by September 2013. Yet, the gender pay gap is still considerable. A survey conducted in 2008 on behalf of the Ministry of Social Affairs and Social Security showed an overall gender pay gap of 16.3%.

Women are a minority when it comes to power and influence. They are around 43% of elected members to the Althingi and of elected representatives on local government councils, 40% of government ministers and 29% of municipal managers (mayors). Women are 40% of members in public committees, boards and councils and 30% of managers of state institutions. Very few women are on boards of employers associations and among senior managers of large enterprises, 8 % in 2007. The boards of employee associations do not reflect the gender division of their members.

The Complaints Committee on Gender Equality operates on the basis of the Gender equality Act. The Committee considers cases brought before it concerning alleged violations of the Gender Equality Act. This means that the Committee plays the same role as before, but under the new law it delivers a binding decision on whether or not the Gender Equality Act has been violated. Previously, the Committee could only deliver a non-binding opinion. These measures seek to give the Committee's decisions more weight than before. The Committee is an independent administrative committee – neither the Minister nor any other authority can give the Committee binding instructions regarding the outcome of a case. The Committee's decisions are final, and they cannot be referred to any other administrative authority. However, the parties may refer the Committee's decision to a court of law. In this case the Committee can decide to postpone the legal effects of the decision on the request of either party, on the fulfilment of the particular provisions of the Act.

It is however debatable how much weight and influence the decisions of the Committee has in fact. Recent practice has shown that although the Committee finds that a governmental authority has violated the Gender Equality Act the courts do not always agree and it is most often the case that the governmental authority refers the Committee's decision to a court rather than accepting it as it is and pay the plaintiff a settlement.

1. Why is the gender pay gap still considerable? Why does the State Party refer the Complaints Committee's decision to a court rather than accepting its decision as it is?
---

## **Domestic Violence**

### **Articles 3 (Equality of Men and Women) and 7 (Prohibition of Torture, Cruel, Inhuman or Degrading Treatment or Punishment)**

Domestic violence is an all too common problem in Iceland. Women and children are especially vulnerable, as they are most commonly the victims of abuse by fathers/husbands/male partners. The ICEHR emphasizes that domestic violence is a major concern to any community and requires a vigilant focus to effectively combat the issue. The ICEHR urges Icelandic authorities to maintain a high focus on domestic violence and to work towards more effective remedies for victims thereof.

More women seek assistance at the Women's Shelter, from the Police and other assistance organizations. Authorities on the subject also claim that women hesitate to leave their abusive husbands for fear of not being able to sustain themselves financially. A new Act on Restraining Orders, designed to make it easier to obtain such measures against violent partners/stalkers, seems to be working well. One major improvement leading from the Act is that the police now have to reach a decision on a restraining order request within three days. However, there still are complaints that protective measures against perpetrators are few and ineffectual, for example that women have to flee their homes, while the abusers remain at home.

### **The situation of minority women (Article 27)**

Last year over 36 % of all women seeking counselling and assistance from the Women's Shelter in Reykjavík and 64 % of all women staying at the shelter were immigrant women. The plight of immigrant women subject to violence is often more serious than that of Icelandic women in the sense that they often lack support systems and do not know their rights, they are misinformed and lied to by the abusers, etc. Their isolation leads to unawareness of their rights and status under Icelandic law, leaving them vulnerable to abuse on the part of their spouses and employers. Therefore these women are subject to multiple forms of discrimination based on their gender and origin. Some also fear being sent back to their home country, if they have not obtained a permanent residence permit in Iceland. However, there's now a stipulation in the Act on Immigrants, saying that should a marriage/cohabitation/registered partnership end due to violence, the family reunification permit may still be extended if the person violated against has not already obtained permanent residence permit. The proposed Government Action Plan on Gender Equality issues 2010-2014 prescribes research to be done on the status of immigrant women in Iceland and it is important that it will be done as soon as possible.

### **Domestic violence against the child (Article 24)**

Domestic violence is a serious concern in Iceland and by nature not a very visible problem yet. There exists a culture of silencing and considering domestic violence as a private matter. In the case of children living in violent conditions, the police protocol concerning reporting only applies to those who are being physically abused and does not apply to the child witnessing the abuse. The interests of the adult are placed before the interests of the child, which not only goes against the Covenant but also against the general consensus among professionals that domestic violence does have an adverse affect on a child who witnesses it, regardless of whether they suffer any physical abuse. These findings are in accordance with *Save the Children Iceland research on children witnessing domestic violence* (Pub. Feb. 2011). The same study shows that in Iceland children in situations of domestic violence are not treated as individual victims if they themselves are not suffering physical

abuse. Their voices are rarely heard, the focus being on the adults. On this basis, it is of great importance that those working with children have sufficient knowledge to handle these situations. The ICEHR recommends that the Icelandic government secure adequate education and training for all professionals working with children that include compulsory curricula on dealing with children in crisis.

1. What measures are taken by the State Party to ensure that women and children who face domestic violence receive effective remedies? Additionally, what measures have been put in place to ensure that domestic violence is not treated as a private matter?

2. In what ways is the State Party taking consideration into the plight of immigrant women subject to domestic violence, especially in terms of educating these women about their rights and status under Icelandic law? Are there special provisions for providing support to these women in Women's Shelters throughout the country?

3. Are there any findings thus far, which can be obtained from the proposed 'Government Action Plan' that may indicate ways the State Party can begin to address the plight of immigrant women, in particular problems arising from domestic violence?

4. What solutions, if any, does the State Party offer to children living in violent conditions? Including crisis management services for children who witness domestic violence. Furthermore, what training is provided for all professionals working with children who have been directly/indirectly affected by domestic violence? Has the State introduced rules ensuring that the best interest of the child is taken into consideration in all decisions involving child victims and witnesses?

### **Sexual Violence**

With regards sexual violence still very few cases are being brought to court and of those few that are, a number ends in acquittal. Due to cut backs in the Health Care System the services of the Centre for Victims of Sexual Violence at the Emergency Department of the National University Hospital has been diminished substantially from what it was originally. Many women's organizations have criticized this and Stígamót, (the Counselling and Information Centre for Victims of Sexual Violence and on Sexual Violence), has proposed to take over the Emergency Department's operations (on the presumption that the Emergency Department maintain their level of expertise); so that victims of sexual violence may get all the assistance they need in one place. Stígamót will also be establishing a shelter for victims of trafficking and people in prostitution. This is a one year trial project, which will hopefully be continued.

In its concluding observation to the ICCPR in 2005, the Human Rights Committee noted with concern that the number of reported rapes in Iceland is high, in comparison to the number of cases prosecuted on these grounds. The Committee recalled that doubt is an obstacle to conviction, but not to prosecution, and that it is in the province of the courts to determine whether a charge is proven or not (articles 3, 7 and 26 of the Covenant).<sup>1</sup>

In the years 2006-2009 over 70% (105 of 155) of all rape cases reported to the office of the Director of Public Prosecutions were terminated. The percentage of dropped charges in rape cases is considerably higher than in other criminal offences, e.g. in the year 2006 only 40% of charges for other criminal offences were terminated compared to 69% of rape charges. In recent years there has been an increase in reported rapes but this has not led to more convictions. In 2010 the head of the Sexual Offence Division of the Reykjavik Metropolitan Police and the Director of Public Prosecutions both made inappropriate comments in the media regarding sexual offences. Their comments have been said to be a breach of confidentiality and show prejudice and lack of knowledge regarding the status of victims of sexual offences. Their comments did not result in any change of their status although the head of the Sexual Offence Division was temporarily replaced but reinstated three months later with no public explanations as to why.<sup>ii</sup>

### **Sexual violence against the child (Article 24)**

According to a child protection agency staff member there are about 200 cases annually where suspicion of a sexual abuse of children is reported to child protection services. The sexual abuse is confirmed in approximately half of the cases. This is a relatively higher number of cases than in neighbouring countries. It is not to be concluded from this figures that sexual abuse of children in Iceland is more common, but rather that Icelandic society is more aware of and sensitive about the problem.<sup>iii</sup> Of the 100 cases reported to child protection agencies very few lead to prosecution and even fewer to conviction.

The ICEHR is concerned that no preventive measures are coordinated by the Government regarding sexual abuse of children. The preventive measures are limited to non-governmental organizations usually with limited or no support from the Government. While there is precedence when it comes to drug, alcohol and smoking prevention education and campaigns, this is not the case with sexual abuse prevention.

1. Are there any plans to strengthen the Centre for Victims of Sexual Violence at the Emergency Department of the National University Hospital or to establish other remedies?

2. What steps has the State taken to implement the Human Rights Committee's Concluding Observations from 2005 on the reporting and convictions for rape. The Committee recalled that doubt is an obstacle to conviction, but not to prosecution. Therefore, could the State Party explain why in the years 2006-2009 over 70% (105 of 155) of all rape cases reported to the office of the Director of Public Prosecutions were terminated?

3. What preventive measures has the Government coordinated in order to deal with the sexual abuse of children? Has the Government tried to introduce public awareness campaigns with regards to this issue?

## **Use of Torture**

**Article 7 - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment**



The prohibition of torture is not expressly set out in Icelandic law and CAT has not been implemented into Icelandic legislation and OPCAT has only been signed but not ratified. Although some provisions of the General Penal Code, no. 19/1940, penalize violence against individuals that amount to torture, the ICEHR does not believe that is in conformity with the Covenant and urges the Icelandic government to add such a provisions into the General Penal Code.

In the Act on Foreign Nationals, no. 96/2002, Article 45 excludes foreigners who present a danger to national security from protection against being returned to countries where they would face the risk of serious human rights violations. The ICEHR believes that this provision is in violation of Iceland's human rights obligations under; inter alia, the ECHR. According to the European Court of Human Rights ruling in the Saadi-case a person at a real risk of torture in the receiving state cannot be returned, no matter how "undesirable or dangerous" he or she is.

1. Does the State Party plan to amend the 'Act on Foreign Nationals, no. 96/2002, Article 45,' which allows it to return foreigners judged to present a danger to national security from protection to countries where they would face the risk of serious human rights violations? What bodies assess the threat posed by such foreigners and authorizes their return? Are there provisions allowing individuals to appeal these decisions?

## **Prison Conditions**

### **Article 10 – All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person**

The separation of juvenile prisoners from adult prisoners is still not obligatory under Icelandic law. Although the law on prisons and imprisonment states that decisions regarding the penal institution in which prisoners are to be placed should take account of, *inter alia*, the age of the prisoner (cf. Article 14 of the Execution of Sentences Act, no. 49/2005) and that an agreement exists between the State Prison and Probation Administration (hereafter SPPA) and the Governmental Agency for Child Protection (hereafter GCPA) on the imprisonment of persons under 18 years of age, the ICEHR is concerned that these measures are not enough to serve the best interests of these children. The children themselves will have to agree to this arrangement because they are situated in the regular supervisory facilities for children administered by the GCPA and need to participate in the program there. If they do not participate or misbehave in any way the only solution is to send them to prison. These matters are currently being reviewed by the ministry of interior and hopefully there will be some change in the near future.

The prison system in Iceland has been deprived of adequate resources over the years resulting in an increasing number of sentenced criminals walking the streets, waiting for vacancy in the prisons after being sent away when their time has come to start serving their sentence because there is no room for them in the prisons. The SPPA has started prioritizing the cases according to the severity of sentences and the nature of the crime. The situation has gone so far that sentences for minor offences have expired before the offender can even start his sentencing. Because of the lack of resources the prisons in Iceland are very few and a substandard jail, Hegningarhúsið in the city centre of Reykjavik, which was built in 1874, is still in use, there the 16 individual cells lack toilets and sinks and other furniture is minimal. Furthermore detention prisoners have been kept in jail cells at the

local police stations for days and even weeks. The ICEHR believes that the accommodation there does not meet with the requirements of the ICCPR, Article 10, and other relevant human rights instruments, e.g. the cells are very small with no furniture and there is no place for daily exercise.

Currently there are only three prisons in Iceland that fulfil the Standard Minimum Rules for the Treatment of Prisoners adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, especially article 8 regarding the separation of juvenile and adult prisoners and regarding the separation of untried prisoners from convicted prisoners and accommodation. The lack of resources however cannot be used as an excuse for the maltreatment of prisoners or to take away the rights accorded to them by national and international legislation.

The ICEHR believes that although no judgements have been rendered in Iceland on questions relating to the treatment of prisoners or other individuals, where article 68 (1) of the Constitution or provisions of the Penal Code have been at issue; nor have any complaints related thereto been investigated by international human rights monitoring bodies there is always room for improvement and the Parliamentary Ombudsman has investigated both by his own initiative and by individual complaint whether treatment of prisoners and individuals in custody have been in breach of the constitution or other legislation. In at least one case the Ombudsman found that the treatment of the individual in custody had been too harsh and that the principle of proportionality had not been honoured and milder measures should have been used.

The ICEHR applauds the new Act on Execution of Sentences, No. 49/2005 that came into force on 1 July 2005. We believe it aims of setting clearer rules regarding prisoners' rights and promote better conditions for them during imprisonment can greatly improve the rights of the prisoners. The ICEHR is concerned that similar rules do not exist regarding other people deprived of their liberty and urges Icelandic government to examine and make changes in those areas.

1. Why is the separation of juvenile prisoners from adult prisoners still not obligatory under Icelandic law? And what measures have been taken by the State Party to ensure the security and safety of young offenders in prisons? Are the **United Nations Standard Minimum Rules for the Administration of Juvenile Justice** (the Beijing Rules) fully applied?

2. In what manner, if any, is the State Party dealing with issues arising from the overcrowding of prisons, in particular the issue of prisoners not being able to serve their sentence? Has the State considered the use of non-custodial sentences and other alternatives to imprisonment in order to address the lack of prison places and improve the functioning of the justice system? What is being done to improve prison conditions, in particular jail cell conditions and to ensure that the UN Standard Minimum Rules for the Treatment of Prisoners and the UN rules for the treatment of women prisoners and non-custodial measures for women offenders -"Bangkok rules"?

## Refugees and Asylum seekers

### Article 13 - The legal status of aliens in case of denial of entry or expulsion

Many European governments including Iceland have in recent years developed a common policy in

the matters of refugees and made various measures to limit the access of refugees to their territories. With this European cooperation, including the Dublin Regulation, the procedural standards of the UNHCR have not been honoured. In the fall 2010 some amendments were made to the Act on Foreigners regarding refugees and asylum seekers. These amendments added more to the definition of humanitarian grounds in article 12 (f) and added extra protection for victims of trafficking.

Iceland has since 1956 received a total of 451 quota refugees. Those refugees have been chosen to come to Iceland in 15 groups from 6 countries in a 47 year period. Every year individuals come to Iceland to seek “independent”. Many of them leave the country before their application has been processed and many are deported on the grounds of the Dublin Regulation. From 1991 only 13 (one before 2008 and 12 after that) asylum seekers have had their status acknowledged as refugees and been granted asylum in Iceland.

A few individuals have been granted asylum on humanitarian grounds, i.e. persons alleging that their lives or liberty are in danger if expelled. It should be noted, however, that although the law provides for granting asylum on this basis, it is not clear enough what rights and duties this type of permit entails and on what grounds it can be granted, resulting in the Directorate of Immigration having a very wide margin of appreciation in relation to the granting and revocation of permits of this nature. Normally a permit to stay on humanitarian grounds is granted for one year but the law is not clear on the maximum time or minimum time foreigners can stay in Iceland with this permit.

It is also suggested that the issue of detention of migrants and asylum seekers should be raised with the government of Iceland. It is not clear if, and then how long, asylum seekers are being detained upon arrival in Iceland before being informed of their rights, and allowed, to meet representatives of human rights or humanitarian organizations in accordance with article 25(1) on the Act on Foreigners.

It has also be noted that asylum seekers have repeatedly been charged for the use of forged and falsified passports and sentenced to 30-45 days in prison before their asylum application has been processed by the Directorate of Immigration in Iceland. It is also known that after being released from prison, asylum seekers have been granted refugee status or other form of protection by Icelandic authorities

The Icelandic Red Cross has pointed out to the Ministry of Justice and Human Rights and the Police authorities at Keflavik airport that in addition to Article 57 (h) on the Act on Foreigners, No. 96 from 2002, Article 31(1) of the U.N. Convention Relating to the Status of Refugees stipulates that contracting States “shall not impose penalties” on asylum seekers because of their illegal entry of presence.

1. Could the State Party explain why from 1991 only 13 asylum seekers have had their status acknowledged as refugees and been granted asylum in Iceland?

2. Could the government clarify the ambiguity surrounding permits to stay on humanitarian grounds? It is apparent that the permit is granted for one year but the law is not clear on the maximum time or minimum time foreigners can stay in Iceland with this permit?

3. Could the State Party clarify under what circumstances migrants and asylum seekers are detained upon arrival in Iceland? Can vulnerable persons, e.g. minors, victims of torture and pregnant women, also been detained upon arrival?

4. Could the State Party explain why asylum seekers are charged for the use of forged and falsified passports before their asylum application has been submitted to and processed by the Directorate of Immigration in Iceland?

## Religion

### **Article 18 – Everyone shall have the right to freedom of thought, conscience and religion.**

The Evangelical Lutheran Church of Iceland is the nation's state church and thereby the one religion denomination to which the Icelandic constitution awards special privileges and protection (art. 62 of the Icelandic constitution). The freedom to choose and exercise a belief is guaranteed by article 63 of the constitution and there are currently 37 other registered religious organizations in Iceland and one secular life stance organization. The Icelandic government collects church taxes and distributes funds to registered religious organizations according to the number of individuals (a fixed amount per person) belonging to each organization. Non-religious life stance organizations do not receive similar payments for the persons belonging to the organization and do not have equal legal status to religious life stance organizations despite offering similar services as those offered by religious denominations.

1. On what basis is funding provided to religious organisations? What provisions does the State make to ensure that the funding of religious organisations is equitable and to provide an equal status to non-religious organisations, which fulfil the same role in society?

## Marriage

### **Article 23 – Protection of family life and the right to marry**

The ICEHR welcomes the amendments adopted in 2008, which removed the 24 year old, requirement for residence permits based on marriage in Article 13 of the Act on Foreigners, No. 96/2002. However, the Centre finds the new paragraph stipulating an investigation of all married couples, falling under the Act on Foreigners, in which one of the individuals is 24 years of age or younger overly onerous, raising questions in relation to the prohibition of discrimination, the right to marriage and respect for private and family life. The provision also stipulates that if there is reason to believe that a marriage has been entered into for the sole purpose of attaining a permit to stay and it is not conclusively demonstrated that this is not the case, the marriage will not be a ground for granting a permit to stay. The same applies if there is reason to believe that the marriage has not been entered into with the consent of both spouses. The Act does not clarify what these 'reasons' could be or how it is 'conclusively demonstrated' that the marriage is not one of convenience. An investigation should

only take place if there is reason to believe that both partners have not entered into marriage willingly.

## **Child Rights**

### **Article 23 – Protection of family life and the right to marry**

The ICEHR is concerned that no special measures are guaranteed for disabled children that need to be removed from their parents based on the Child Protection Act. Today, these children are put in supported foster care, a resource for children with behaviour problems such as ADHD and ADD. The foster parents do not receive any special training to equip them with dealing with complex disabilities and it is clear that this is not an acceptable solution for these children since there is no guarantee that all their needs will be met. Supported foster care is also only a temporary solution and therefore no final solutions are available for children with disabilities who have to be removed from their family.

### **Article 24 – The rights of the child**

It is of concern that not enough resources have been allotted to the child welfare and protection services. Fewer employees with greater caseloads has been common practice in social services over the years and although service providers work in a responsible and conscientious manner, in the end they are only human. Therefore something is likely to go wrong and that is not acceptable when the welfare of children is at stake.

There has been a steady rise in the number of cases reported to the child welfare authorities since 2005 with an exception of 2008 when the numbers fell. Nothing indicates that the rise in 2009 was attributable to economic difficulties or the increase in unemployment following the economic crisis. This does not mean that the economic crisis will not have any effect in the future as was the case in Finland after the economic crisis there. In Finland the effects of the economic difficulties did not appear until 5-7 years after the crisis. The effects were in the form of an increase in the number of children needing assistance from child welfare authorities. This year, there has already been an increase in reported cases of neglect so it is evident that the government must be alert and ready with solutions and measures to assist these children and their parents. It is also the opinion of many child protection staff members that many cases are more complicated, serious and more difficult than before.

1. Could the State Party explain what services are available for children with disabilities who have to be removed from their families? And how effective are these services both for the child and their families?

### **Adoption (Including concerns about Trafficking (Article 8)**

The ICEHR is concerned that although Iceland has made recent changes to its adoption Act no. 130/1999 and is a party to The Hague Convention of 29 May 1993 on Inter-Country Adoption there is no provision that tackles the issue when a child is illegally sold for adoption or comes to the country under false pretences i.e. in cases of children brought to the country by relatives or friends of their parents without custodial rights, as well as children who have not been adopted through legal channels. In 2003 Iceland adopted in their General Penal Code a provision for trafficking (Article 227 a) It was amended to be more in conformity with the protocol to the Palermo Convention to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. In the provision

trafficking for the purpose of sexual exploitation, forced labour and organ removal is penalized. The ICEHR is of the opinion that this provision does not afford enough protection to children who are sold for illegal adoption.

2. Does the Government have any action plan or other plans for combating the sale of children for adoption, what measures have been taken to combat trafficking of children, particularly for adoption?

## **Minorities Rights**

### **Article 27 – The rights of minorities**

The Icelandic population has changed from a largely homogeneous and mono-cultural one to a multicultural one just over a decade. In January 2010, there were 21.701 foreign nationals residing in the country, representing about 6.8% of the total population of 317.630. By comparison, the proportions in 1996 and 2000 were 1.9% and 3.1%, respectively. However, it was only in January 2007 that the government adopted a policy on the integration of immigrants and a parliamentary resolution on a plan of action was adopted in May 2008. Most immigrants in Iceland are still active in the labour force. They commonly hold low paid and gender-segregated jobs and often work only with other foreigners. Thus social inequalities, based on ethnic differences and gender, are maintained. Lack of interaction with Icelanders makes it difficult to learn the language and get familiar with local habits and social structures. This is of concern as there are indications of growing racism and xenophobia. A typical form of indirect discrimination is when perfect skills in the Icelandic language are demanded from a jobholder, while possibilities to learn the language remain somewhat problematic. The supply of language classes is however greatly improving. There are indications of growing racism and xenophobia.

### **Icelandic language test for applicants for Icelandic citizenship**

Applicants for Icelandic citizenship have to take an Icelandic test and those who fail to meet the requirements established by law are not granted citizenship unless the Parliament grants them an exception. The purpose of the legislation is to integrate foreigners into the Icelandic society.

The individuals who are most likely to fail the test are immigrants from South Asia. Information on the gender of those who have failed the test is yet to be published. There seems to be case of double or triple discrimination i.e. origin, gender and little or no education. The ICEHR believes that immigrants with little or no formal education have to be taken into special consideration. Courses for illiterate people are few, nearly always in the Reykjavík area and not held on a regular basis. It has been reported to the centre, that an illiterate woman has failed the Icelandic test for citizenship twice. Two valid doctor certificates stating that due to legitimate reasons she should not take part in the exam for the third time have been presented to the Ministry of the Interior. They were not accepted.

In the regulation on how the Icelandic language exam should be conducted and on what grounds exceptions are to be made, it is clearly stated; that a specialist can confirm that an applicant cannot pass an exam because of physical or mental reasons. It is also stated that special assistance will not be provided for those who cannot read or write the Latin alphabet if it is possible or likely that they

could acquire those skills through traditional reading and writing lessons. This clearly does not apply in this instance, as the woman is illiterate in her own native language and could therefore not possibly acquire the required Icelandic skills within the traditional environment of secondary education. This may clearly be regarded as an example of multifaceted discrimination. There are many women from South East Asia in Iceland and it is necessary to develop new teaching methods aimed at the heart of this group, that is the illiterate or semi-illiterate who are unable to acquire reading and language skills in a manner that allows them to maintain their full human dignity. The children of these women are especially vulnerable as they enter the Icelandic educational system fluent in neither their parents' mother tongue nor Icelandic, and studies clearly show their disadvantage from an early start.

Recently, the Centre for Gender Equality issued a pamphlet aimed at immigrant women in abusive relationships, informing them of their rights as well as those working with these women, social workers etc. Little else has been done to inform immigrant women of their rights (useful information can however be found on the Multicultural and Information Centre's website). More has been done to provide them with opportunities to learn the Icelandic language, though many women are hard to reach in order to provide them with information about such courses. NGO's have made efforts to reach immigrant women and to further their participation in society, although more must certainly be done.

1. Are there any measures in place to promote the integration of immigrants into Icelandic society? How are language barrier issues tackled by the State Party? How does the Government plan to overcome growing racism and xenophobia in Iceland?

2. What appropriate measures are been taken by the State Party to better facilitate and assist those with illiterate backgrounds in preparing for the Icelandic citizenship test?

The Parliamentary Ombudsman case 5098/2007

Human Rights Committee. *Concluding observations of the Human Rights Committee. Iceland. 04/25/2005. CCPR/CO/83/ISL. (Concluding Observations/Comments)*

The Child and Family Welfare Research Centre. *Research made for the Ministry of Social Affairs and Social Security. Page: 5*

Icelandic Red Cross, (2010). *The most Vulnerable Group in Iceland*, report