

United Nations Study on Violence against Children

**Response to the questionnaire received from the
Government of Iceland**

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With reference to the Ministry's letter of 15 September in reply to the UN's enquiry regarding violence against children, we should like to apologise for the length of time it has taken to reply to this extensive questionnaire.

It is stated in the UN's enquiry that if replies to its questions have already been given by the government, e.g. in its reports under the UN Convention on the Rights of the Child, then they should not be repeated here but reference should be made to the appropriate materials.

Iceland's First Report on the implementation of the UN Convention on the Rights of the Child was submitted in 1994 (CRC/C/11/Add.6), and additional comments (CRC/C.11/WP.8) were submitted before the report was discussed. The Committee on the Rights of the Child, established under Article 43 of the Convention, discussed the report at its meetings of 16 and 17 January 1996, and passed its final comments at its meeting of 26 January 1996 (CRC/C/15/Add.50).

Iceland's Second Report on the implementation of the UN Convention on the Rights of the Child was submitted in 2000 (CRC/C/83/Add.5). The Committee on the Rights of the Child discussed the report at its meeting of 28 January 2003 (see CRC/C/SR. 858 and 857) and passed its final comments at its meeting of 31 January 2003 (CRC/C/15/Add.203).

The Government Agency for Child Protection considers that these reports contain a great deal of information about Icelandic legislation on child protection and the various measures that have been taken specifically to protect children against violence. The agency draws attention to this information as the primary material in this matter; in what follows below, an attempt will be made to report on the most significant developments that have taken place since the above-mentioned reports were submitted. The agency notes the statement in the UN's enquiry that it is not obliged to answer all questions, but should rather seek to present the most significant material on each point. Furthermore, the agency assumes that the ministry will append the legislation to which reference is made.

I. Legal Framework

International human rights instruments

The UN Convention on the Rights of the Child became binding for Iceland on 27 November 1992, and in 2000, at the 55th General Assembly of the UN, Iceland signed two optional protocols to the Convention: the Optional Protocol on the Involvement of Children in Armed Conflict and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

Domestic legislation in this field that has been subsequently enacted in Iceland, i.e. the Child Protection Act, No. 80/2002 and the Child Welfare Act, No. 76/2003, is compatible with the principles stated in the international agreements to which Iceland is a party, in particular the Convention on the Rights of the Child.

Legal provisions on violence against children

The texts of the relevant statutes, or individual provisions cited, are appended in order to give a fuller picture of the situation described below.

Violence against children – general

Amendments were made to the human rights provisions of the Constitution of Iceland (No. 33/1944) in 1995, the aim being to focus, integrate and harmonise these provisions and bring them into line with international undertakings in this field. Under the third paragraph of Article 76 of the Constitution, children are to be guaranteed the protection and care that is necessary for their well-being. This provision constitutes a policy statement, and is based partly on Article 3 of the Convention on the Rights of the Child. One of the main aims of this provision is to oblige the legislature to enact legislation granting children this guarantee; the provision may also be invoked to support exemptions from other human rights provisions if such exemptions are necessary in order to protect children (see Section 4 in CRC/C/83/Add.5). Under Article 65 of the Constitution, all persons are equal before the law and enjoy human rights irrespective of their gender, religious belief, opinions, national origin, race, colour, economic status, ancestry or status in other respects. This provision is seen as prohibiting discrimination on grounds of sexual proclivity. Furthermore, it is specifically stated that women and men are to enjoy equal rights in all respects.

Under the General Penal Code, No. 19/1940, it is a punishable offence to use violence; this provision applies to all people, both adults and children. Section XXIII of the code covers homicide and physical injury. A special provision makes it punishable for a mother to kill her child as it is being born or immediately after the birth, if it can be assumed that she did so due to distress, fear of scandal or due to a debilitated or confused frame of mind which she has developed at the time of the birth. In cases involving only an attempt to kill the child, in which the child suffers no injury, punishment may be waived. Section XXII of the code covers sexual offences against children. Under Article 191, it is a punishable offence to affront, by gross neglect or insults, one's own child or another child under the age of 18 that the person concerned has under his care or upbringing. Reference is made to the provisions of the code regarding the punishability of these offences with regard to the age of the victims and the framework for punishment. Under Article 69 of the Constitution, No. 33/1944, the death penalty may never be prescribed in Icelandic law.

The Criminal Code does not contain specific provisions for offences such as female circumcision or "crimes of honour".

Any person who commits an offence against a child is liable to pay compensation for the injury or loss that the child suffers. Under the Act No. 69/1995, the State Treasury pays compensation, up to certain sums, for injury and damage resulting from violations of the General Penal Code.

Violence against children, in and outside the home

Under the second paragraph of Article 28 of the Act in Respect of Children, No. 76/2003, custody of a child involves the parental duty to protect it against mental cruelty, physical

violence and other degrading conduct. One of the implications of this provision is that parents are not permitted to use physical force against their children.

The protection of children is covered in detail in the Child Protection Act, No. 80/2002. Under the Act, children have the right to protection and care, and are to enjoy these rights in accordance with their age and maturity. The aim of the Act is to ensure that children who live in unsatisfactory circumstances, or children who pose a threat to their own health and development will receive the necessary assistance. A child welfare committee is appointed in every local government area in the country, its roles being as follows:

Monitoring and inspection. Child welfare committees are to inspect children's material living conditions, behaviour and upbringing environment and assess at the first opportunity the needs of those who may be suspected as having unsatisfactory conditions for growing up, suffering ill-treatment or being in serious social difficulties.

Remedies. Child welfare committees are to apply the remedies provided for under the Child Welfare Act that best suit each individual case and are considered most appropriate to secure children's best interests and well-being.

Under Articles 16 and 17 of the Act, any person who has reason to believe that a child is living in unsatisfactory conditions for its upbringing, or is exposed to harassment or violence that may seriously endanger its health and development, is obliged to notify a child welfare committee. Under Article 18, the police are also obliged to notify a child welfare committee when there is a suspicion that an offence has been committed against a child. The child welfare committee takes a decision on the investigation of the case and makes proposals on suitable remedies when the results of the investigation are available. The child welfare committees may apply a variety of remedies in order to meet the needs of children who have been exposed to violence, based at all times on the interests and needs of the individual child.

If a child welfare committee considers that a child is at risk due to an individual's conduct or intentions, e.g. in the form of violence, threatening behaviour or threats, or due to alcohol or drug abuse or other types of behaviour, the committee may submit a demand to a court to have the person concerned prohibited from going to a certain place or general locality and following, visiting or contacting the child in another manner. It is also possible for the committee to demand that the person be prohibited from staying in the child's home if it considers this is necessary in the interests of the child.

The Child Protection Act contains special provisions for the punishment of offences against children. Under Article 98 of the Act, it is punishable for any person who has a child in his care to abuse the child mentally or physically, to offend it sexually or in another manner or to neglect it mentally or physically so as to pose a threat to its life or health. Under Article 99, it is a punishable offence to inflict punishment on a child, use threatening behaviour or threats against it that may be regarded as causing it mental or physical injury, and it is also a punishable offence to exhibit overbearing, gross or immoral conduct towards a child, or to offend or insult it. Reference is made to the text of the Act regarding the punishment provisions.

Violence against children in schools, institutions, etc.

Under the Junior Schools Act, No. 66/1995, junior schools are to seek to structure their functioning as closely as possible in conformity with the nature and needs of the pupils and to promote the general development, health and education of each and every one of them. Amongst other things, they are to emphasise methods of promoting the physical and mental well-being and healthy lifestyle of the pupils. Regulations on school rules have been issued under the act, according to which physical punishment is not permitted. It is stated that employees of the schools are forbidden to make use of their superior physical strength except where it is necessary to do so in order to put an end to violence or prevent a pupil harming himself or others, or causing damage to property.

A prohibition against violence is considered as applying in kindergartens, even though it is not stated explicitly in the Kindergartens Act. In this Act, No. 78/1994, the main aim of educational care in kindergartens is defined as including the provision of care for children and giving them a healthy environment in which to develop and a safe environment in which to play, and also to attend to their mental and physical requirements so as to enable them to enjoy their childhood.

The Regulations on day care in private homes, No. 198/1992, contains a provision prohibiting the use of mental or physical punishment on children.

The Regulations on services for disabled children and the families of the disabled, No. 155/1995, contain a provision prohibiting the use of physical punishment on a child.

Under the Patients' Rights Act, No. 74/1997, it is obligatory to do everything possible so that a sick child can, as far as its condition permits, develop and enjoy quality of life despite its illness and undergoing treatment. The environment and equipment provided for sick children in health institutions is to be suited to their age, development and condition.

Under the Child Protection Act, No. 80/2002, homes and institutions are run for children who have to be housed outside their homes according to the act. Article 82 contains a provision on the rights of the child and the application of coercive measures in such homes or institutions, in which it is stated that physical or mental punishments may not be used on a child.

Under Article 36 of the Child Protection Act, the directors of schools, kindergartens, summer camps, sports and leisure centres and other such institutions where children congregate and stay for periods of time, have the right to obtain information from the Penal Registry on as to whether any particular person who has applied for employment, has been sentenced for a sexual offence against a child.

In addition, special reference is made to the following numbered sections in Iceland's Second Report on the implementation of the Convention on the Rights of the Child:

181.-192: Concerning the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

412.-420: Concerning sexual exploitation and abuse.

Attention is also drawn to the following extracts from the final comments by the Committee on the Rights of the Child following its discussion of Iceland's Second Report (see Section 28 in CRC/C/15/Add.203).

“Violence / abuse / neglect / ill-treatment. 28. The Committee welcomes the passing of the Child Protection Act of 2002, which contains comprehensive provisions to protect children against neglect and ill-treatment in the home. It also notes with interest the establishment of the Children's Centre (Barnahús) to offer treatment for child victims of sexual abuse.”

Children seeking asylum

Under the Regulations on foreign nationals, No. 53/2003, with subsequent amendments, cases involving children who are foreign nationals, are in Iceland without authorisation and not accompanied by parents or guardians are handled according to procedures laid down by the Directorate of Immigration concerning children without a fixed abode. The Ministry of Justice, the Directorate of Immigration, the police, the Child Protection Agency and the Icelandic Red Cross have prepared a report on the handling of cases involving children without a fixed abode in order to guarantee their interests in all respects.

Studies of violence against children have not resulted in any legislative amendments: such amendments have been made on the basis of general discussion and the results of court judgements, and other countries' legislation has also been taken into consideration.

Courts tasked with addressing violence against children

Regarding the Icelandic judicial system, reference is made to Sections 7-9 in Iceland's First Report on the UN Convention on the Rights of the Child (CRC/C/11/Add.6). The ordinary courts deal with cases involving children, but special rules, e.g. regarding *in camera* hearings, apply in certain types of case in order to protect the children's interests.

Minimum age for sexual activity

Reference is made to the enclosed provisions of Section XXII of the General Penal Code, No. 19/1940, on sexual offences against children. No distinction is drawn in this area between boys and girls, and no distinction is made between types of sexual orientation.

Under the Act in Respect of Marriage, No. 31/1993, the minimum age required for marriage is 18 years for both sexes.

Sexual exploitation of children

Reference is made to the enclosed provisions of Section XXII of the General Penal Code, No. 19/1940, on sexual offences against children and also to Section 396 in Iceland's First Report on the UN Convention on the Rights of the Child (CRC/C/11/Add.6).

Pornography and harmful information

Reference is made to Section 394 in Iceland's First Report on the UN Convention on the Rights of the Child (CRC/C/11/Add.6) and to Section 412 in Iceland's Second Report (CRC/C/15/Add.203).

Under Article 94 of the Child Protection Act, parents are obliged, to the extent that they have the power, to protect their children against violent and pornographic material, and other similar material, e.g. by preventing their access to it. Article 95 of the Act states that if a child welfare committee sees reason to believe that undesirable environmental factors, such as offers of questionable entertainment or unrestricted access to violent material, have a damaging influence on children's environment, it is to bring its observations to the notice of those concerned and take steps of its own, as appropriate, towards effecting a change.

Article 14 of the Broadcasting Act, No. 53/2000, covers the protection of children against prohibited material. Thus, television stations are forbidden to broadcast programme material, including advertisements, that could have a damaging effect on children's physical, mental or moral development, and particularly material that includes pornography or gratuitous violence, during programme times when there is a risk that such material will be seen by children. Programme material that is considered unsuitable for children in terms of the foregoing definition is normally only to be shown in such a way as to ensure, by technical means, that children in the reception area will not normally hear or see such broadcasts. When programme material of this type is broadcast, it is to be prefaced by an oral warning, or marked with a visible marking throughout the time that the broadcast lasts.

On the viewing of films, reference is made to Section 159 in Iceland's Second Report on the UN Convention on the Rights of the Child (CRC/C/15/Add.203). Please refer also to Section 161 regarding computer programs that include interactive games.

Reporting obligations relating to violence

The reporting obligations of the *general public* are covered by Article 16 of the Child Protection Act.

This states:

“Any person who has reason to believe that a child is living in unacceptable circumstances of upbringing, is subject to harassment or violence or is placing his/her health and development at risk, is under an obligation to notify the child protection committee.

In addition, any person should notify the child protection committee of any incident which may be regarded as falling within the committee's ambit.”

The reporting obligations of *persons who deal with children* are covered by Article 17 of the Act.

This states:

“Any person who, due to his/her position and work, is involved in matters concerning children, and in his/her work becomes aware that a child is living in unacceptable

conditions of upbringing, is subject to harassment or violence, or is endangering his/her health and development, has a duty to notify the child protection committee.

Pre-school heads and teachers, child-minders, school heads, teachers, clergy, physicians, dentists, midwives, nurses, psychologists, social workers, developmental therapists and those providing social services or counselling are under an especial obligation to monitor the behaviour, upbringing and conditions of children as far as possible, and to inform the child protection committee if the child's circumstances appear to be of the nature described in the first paragraph of this Article.

The duty of notification provided in this article takes precedence over provisions in law or codes of ethics on confidentiality within the relevant professions.”

The reporting duties of *the police, and the questioning of children*, are covered by Article 18 of the Act. This states:

“If the police become aware that a child is living in unacceptable conditions of upbringing, is subject to harassment or violence, or that the child is placing his/her health and development at risk, they shall inform the child protection committee of this. When it is suspected that a criminal offence has been committed by or against a child, the police, when it comes to deal with such a case, shall notify the child protection committee and offer the committee the opportunity to monitor the investigation of the case. The child protection committee shall notify the parents of the child in such a case, unless the interests of the child make this inadvisable.

With regard to questioning of children as victims, suspects or witnesses in criminal cases, whether at the investigative stage or in legal proceedings in court, the provisions of the Act on Procedures in Criminal Cases, and regulations issued on the basis of that Act, shall apply.”

Article 96 of the Act covers *violations of reporting obligations*. Under the article, deliberately providing wrong or misleading information to a child protection committee on matters covered by the Act is punishable by fines or imprisonment for up to two years, and if a person neglects to notify a child protection committee of a child being subject to such ill-treatment or poor conditions that its life or health is at risk, this is punishable by fines or imprisonment for up to two years.

Complaints procedure

Reference is made to the foregoing discussion regarding the duty to report matters to the child welfare committees and the measures taken subsequently by the committees. Children aged 15 years and older are regarded as legal parties in child protection cases and may apply for legal aid in order to pay for the assistance of a lawyer. In other cases, the child welfare committee assesses the need to appoint a child a special spokesman to help the child express its position. Special efforts have been made to publicise the duty of notification, and steps have been taken to make it easier for individuals to do this, including the establishment of a single emergency telephone number applying in all parts of the country.

Under the Code of Criminal Procedure, No. 19/1991, the police are to initiate investigations whenever necessary on the basis of information, or a suspicion, that a

criminal offence has been committed. The aim of such investigations is to gather all the necessary evidence for the prosecution to be able to decide, following the investigation, whether a criminal charge is to be laid against an individual, and also to collect evidence for the preparation of the hearing of the case. If the police decide to drop the investigation, they are obliged to inform the party who has made the complaint, if he has interests to defend, and that party may refer the decision to the Director of Public Prosecutions. Otherwise, the police send the findings of their investigation to the Director of Public Prosecutions, who decides on whether to bring a criminal case or not. Regarding the appointment of the judiciary, reference is made to Sections 7 and 8 of Iceland's First Report on the UN Convention on the Rights of the Child (CRC/C/11/Add.6). Regarding the legal status of children as the victims of sexual offences, including their right to have a legal advisor appointed, reference is made to Sections 416-420 of Iceland's Second Report on the UN Convention on the Rights of the Child (CRC/C/15/Add.203).

The outcome of cases involving sexual offences against children vary according to the case. In the case of criminal actions, and where an individual is convicted of acts of violence towards a child, then the individual is punished. In such cases it is also common for a demand to be made to award the child compensation. In all cases in which it is considered that a child is the victim of violence, the child welfare authorities assess the child's need for support and take the necessary measures in order to ensure the child's safety and give it assistance.

Under the Child Protection Act, the police are obliged to inform the child welfare committees when there is a suspicion that a child has committed a criminal act. The age of criminal responsibility in Iceland is 15 years. If criminal judicial proceedings are instituted against the child, the child welfare committee equilateral investigates the child's case and assesses the need for remedial measures. These may include giving the child support of various types or even taking it from its home and placing it in a special treatment centre. Further information on this point is to be found in Sections 368-393 of Iceland's Second Report on the UN Convention on the Rights of the Child (CRC/C/15/Add.203).

II. Institutional framework and resources to address violence against children

Under the Child Protection Act, child protection is under the aegis of the Ministry of Social Affairs. The Government Agency for Child Protection is an independent institution under the ministry that deals with administration in the field covered by the Act. The agency's functions include among other things:

- to work at co-ordination and development of child protection measures in Iceland and take steps to have development and research work carried out in the field of child protection, and
- to give directions on the interpretation and implementation of the Child Protection Act and educational and advisory functions for the child welfare committees. Furthermore, the Government Agency for Child Protection is responsible for monitoring the work of the child welfare committees.

The Children's Ombudsman plays an important role in connection with monitoring to ensure compliance in Iceland with the provisions of the UN Convention on the Rights of the Child. Concerning the functions and work of the Children's Ombudsman, reference is made to Sections 64-72 of Iceland's Second Report on the UN Convention on the Rights of the Child (CRC/C/15/Add.203). The Children's Ombudsman has repeatedly drawn the attention of the Minister of Justice to the need for studies of the nature and extent of domestic violence towards children. In 2003 the Children's Ombudsman held meetings with a variety of persons, including paediatricians, social workers, police officers, etc., on violence against children. Following on from this, the ombudsman and the Reykjavík Child Health Protection Centre organised a study of domestic violence, the findings of which were publicised in autumn 2004.

III. Role of civil society in addressing violence against children

A large number of non-governmental organisations have campaigned against violence against children. The common feature they share is that they are associations of persons interested in the problem, and they finance their operations with voluntary donations and grants from individuals, companies, the local authorities and the state.

The association "Stígamót", which campaigns against sexual violence, was founded on 8 March 1990. It concentrated mainly on sexual violence against women, but has also examined and drawn attention to sexual abuse of children and its consequences. The association's employees include both amateurs and professionals.

Barnaheill „Save the Children, Iceland“, is involved in projects including one entitled "End child pornography on the Internet". The Government of Iceland grants financial support for this, and the European Union also grants 50% of the costs.

The project is carried out in collaboration with INHOPE.

The Ministry of Education, Culture and Science has headed a project against bullying and ostracism in the schools. This is known as the "Olweus Project" and will last two years (ending in 2006). It is conducted in the schools and financed by the state.

Regnbogabörn „Rainbow Children“ is an organisation founded specifically to work against bullying and ostracism. It was founded in 2002.

Blátt Áfram „Straight Out“ is a project being carried out jointly by a number of individuals and the Icelandic Youth Association, and is aimed at preventing sexual violence towards children. It was started in 2004.

Various other non-governmental organisations have addressed the problem of violence against children and worked to prevent it. These include Heimili og skóli „Home and School“, which is an association of the parents of school pupils and Foreldrahúsið „The Parents' House“, which is an association of the parents of children who have problems

with alcohol and drug abuse. Individual local authorities and schools have also mounted preventive programmes against violence, bullying and ostracism.

Media coverage in Iceland has concentrated mainly on the problems of sexual violence against children and bullying and ostracism. A nation-wide fund-raising campaign to assist “Regnbogabörn” was organised with the assistance of the media in 2002.

IV. Children as actors in addressing violence

In several places, social centres operated by the local authorities have organised preventive educational programmes on alcohol and drug abuse and also on sexual abuse, in which children have discussed these matters and presented these issues to their peers.

V. Policies and programmes to address violence against children

The third paragraph of Article 5 of the Child Protection Act, No. 80/2002, states that the Minister of Social Affairs is to present a plan of action on child protection issues for four years at a time to the Althingi. Article 9 of the same Act also states that the local authorities are to set themselves policies and draw up plans of action on child protection issues within their areas for each electoral period.

Child welfare committees working for the local authorities give support to individual child victims of violence. The local authorities and the state also give grants to certain non-governmental organisations in order to carry out their functions (*cf.* what is stated above under Section III above. The Child Protection Agency ensures, on behalf of the state, that treatment homes are operated for children, the functions of which include discussing violence and dealing with the consequences of violence that the children have suffered. Furthermore, the Child Protection Agency runs the Children’s Centre (Barnahús), the functions of which include offering treatment for children who have been sexually abused.

The Child Protection Agency has participated on Iceland’s behalf in a joint child-protection programme action organised by the Baltic Council under the name “Children at Risk”. One of the main parts of this programme has consisted of collaboration on many levels on methods of responding to sexual violence against children.

VI. Data collection, analysis and research

No systematic studies have been made in Iceland in order to establish a comprehensive view of the extent or nature of violence against children.

Here follow some statistics on the cases investigated by the child welfare committees where it has been established that children have been the victims of neglect or violence. As is stated above, there is a general obligation to report such matters to the child welfare committees, so most of the known instances should be represented by these figures. No figures are available for 2003.

	2000	2001	2002
<i>Neglect</i>	507	555	342
<i>Physical violence</i>	31	48	42
<i>Mental cruelty</i>	35	50	42
<i>Sexual abuse</i>	83	107	77

VII. Awareness, advocacy and training

The Government Agency for Child Protection has held a large number of conferences on sexual and physical abuse of children. These have been aimed primarily at raising the awareness of professional workers regarding these matters and teaching methods of responding to them. The Children's Ombudsman has also organised educational programmes and conferences for children themselves, the general public and professional workers.