

## Submission to the Universal Periodic review of Iceland

### 12th UPR Session October 2011

#### **The Icelandic Human Rights Centre, Stígamót, the Women's Counselling, the Women's Rights Association and WOMEN in Iceland.**

#### **Background and framework**

##### **I. Scope of international obligations**

Iceland is a party to many international Human Rights Conventions. However, many of these Conventions have only been signed by Iceland and not ratified. The reporting group recommends that the Government ratify these conventions as soon as possible.

##### *Ratification of CAT and OPCAT*

The Convention against Torture (CAT) has not been implemented into national law and torture is still not considered as a specific crime in the General Penal Code, no. 19/1940. The reporting group does not believe that prohibition against torture in the Icelandic constitution no. 33/1944 offers sufficient protection.

On 24 September 2003, Iceland signed the Optional Protocol to the UN Convention against Torture (OPCAT), but has not yet ratified it. The reporting group recommends that Iceland ratify OPCAT as soon as possible.

##### *Ratification of CRPD and the optional Protocol*

On 30 March 2007, Iceland signed the UN Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol thereto; however it has not yet been ratified. According to the Ministry of Welfare, the Government plans a holistic review of the Icelandic legislation regarding people with disabilities over the next years and the review is expected to be finished in 2014. Such a review is an absolute prerequisite and an important first step for Iceland to ratify the CRPD and its OP.<sup>1</sup> The reporting group recommends that required measures be put in place and that Iceland ratify CRPD and its OP as soon as possible.

##### *Ratification of ICPPED*

On October 1<sup>st</sup> 2008 Iceland signed the UN Convention for the Protection of all Persons from Enforced Disappearance. It has not been ratified. Enforced Disappearances are grave human rights violations which must be stopped; therefore the reporting group encourages the Icelandic Government to ratify the Convention and to encourage other states to do the same.

##### *Ratification of UNTOC and its Palermo Protocol*

The Palermo Protocol to the UN Convention on Organized Crime and the Council of Europe Convention on Action against Trafficking were signed by Iceland in 2000 but have not been ratified yet.

### *Ratification of Protocol no. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms.*

The Protocol has been signed but not ratified.

#### *Ratification of other Human Rights conventions*

The reporting group urges the Icelandic Government to sign and ratify the following conventions as soon as possible. By doing so the Government will be taking important steps towards promoting and protecting human rights in Iceland:

-The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The OP provides individuals or groups of individuals with the possibility of submitting communications to the Committee on Economic, Social and Cultural Rights, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party.

-International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. Only a few states have become party to this important Convention and Iceland is not among them. Migrant workers often find themselves in situations comparable to human trafficking and forced labour and therefore it is important that all states sign and ratify the Convention to ensure appropriate protection to all migrant workers.

The only human rights convention incorporated into domestic law is the European Convention on Human Rights which was incorporated in 1994 with Act no. 62/1994. The Act has the same status as other national legislation but it is debatable whether younger legislation can go against it (Iceland's constitutional structure is based on the dualistic doctrine).<sup>ii</sup>

## **II. Constitutional and legislative framework**

Due to an ongoing public demand the Icelandic constitution is up for review. A Constitutional Assembly was meant to start its work on February 15th but the Supreme Court of Iceland declared the election for the Assembly null and void due to irregularities in the election process. The Government has now decided to form a Constitutional council which shall prepare a proposal for a revised Constitution of the Republic and send to Althingi for processing. Those elected for the Constitutional Assembly will be offered a seat in the council.<sup>iii</sup>

## **III. Policy measures**

### **Promotion and protection of human rights on the ground**

There is no national policy on human rights in Iceland and no national human rights institution. The Ministry of the Interior oversees legislative amendments necessary for the fulfilment of international obligations and is in charge of reporting to committees in relations to all the human rights Conventions Iceland is party to.

The 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 IKR 10 million annually from the Ministry of the Interior (former Ministry of Justice and Human Rights) and IKR 4 million 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.

#### **IV. Implementation of international human rights obligations**

##### **a. Equality and non-discrimination**

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, 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.

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. Persons with disabilities also make up a large part of those running a risk of living in poverty as disability pensions have not followed the cost of living. More residential services for people with mental and intellectual disabilities are needed as well as increased vocational training support. The Supreme Court has held, in a small number of cases, that the level of social assistance or lack of assistance provided to disabled persons is incompatible with the equality provision of Article 65 of the Constitution.

In 1978 The National Organization of Lesbian 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 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.

The National Queer Organization has 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, 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.

#### **b. Civil and political rights and fundamental freedoms**

The reporting group 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 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. An investigation should only take place if there is reason to believe that marriage has not been entered into willingly by both partners.

##### State and church

The Evangelical Lutheran Church of Iceland is the nation's state church and thereby the one religious 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 like Siðmennt (Humanists) are not supported financially and do not have equal legal status to religious life stance organizations despite being in existence for 20 years and offering similar services as those offered by religious denominations.

State church priests and deacons occasionally visit public nursery and primary school classrooms and introduce Christian beliefs to children. School children are taken to churches and participate in religious ceremonies. The representatives of the Gideon Association visit classrooms and distribute the New Testament to all children, whether they are Christian or not and in some instances conduct public prayers. Children often participate in religious plays.

For 32 years, from 1974 till 2006 the law on nursery and primary schools included a phrase requiring that the curriculum be founded on Christian ethics. In 2006, the Minister of Education introduced a bill in Parliament to replace that phrase with a list of specific universal human values. After discussion in the Parliament a compromise was reached that the phrase "Christian ethics" was replaced with the list of universal values and the phrase "Christian heritage" was added. In addition, the curriculum states that the moral values of Icelandic society originate in Christianity. There has been some recent public debate in Iceland regarding this phrase in the school curricula but no change has been made.

#### **c. Personal liberties and security**

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 reporting group emphasises that domestic violence is a major concern to any community and requires a vigilant focus to effectively combat the issue. The reporting group urges Icelandic authorities to maintain a high focus on domestic violence and to work towards more effective remedies for victims thereof.

Children who live with domestic violence and abuse are especially vulnerable and must rely on adults for support. On this basis, it is of crucial importance that those working with children have the sufficient knowledge to deal with such cases. A recent study done by Save the Children - Iceland revealed that 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. The reporting group recommends that Icelandic authorities secure adequate education and training for all professionals working with children, emphasising dealing with children in crises.

#### **d. Torture, and other cruel, inhuman or degrading treatment or punishment**

##### **Protection from risk of serious human rights violations**

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 reporting group 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.

The reporting group is concerned that legislation and information on constraining measures applied in psychiatric hospitals and institutions for people with disabilities are very limited. The prison system is still using a substandard jail, Hegningarhúsið in the city centre of Reykjavik, which was built in 1874, where the 16 individual cells lack toilets and sinks.

##### **The Prison system.**

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 reporting group 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 facility 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 prioritising the cases according to the severity of sentences and the nature of the crime. The situation has gone so far that sentences for minor offenses have expired before the offender can even start his sentencing. Currently there are only three prisons in Iceland that fulfill 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 first has been discussed above but the latter has been tolerated because of the overflow of prisoners and the limited capacity of the prison system in Iceland. 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. Furthermore detention prisoners have been kept in jail cells at the local police stations for days and even weeks. The reporting group believes that the accommodation there does not meet with the requirements of the CCPR, 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.

### **Administration of justice**

In its concluding observation to the CCPR 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>iv</sup>

With that in mind the reporting group expresses great concern that the situation has not changed in any way and the same goes for the conviction rate in cases of sexual violence or abuse against children which is very low and relatively few cases are brought to court each year. 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 offenses. 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>v</sup>

#### **e. ESC rights (health, housing, education, work, social security...)**

##### **Right to work and to just and favourable conditions of work**

Over the next few years demographic changes are expected to be quite sharp in Iceland as a result of improvements in health care. Usually people work in public institutions and private enterprises until



the age of 67-70, unless choosing to terminate regular work earlier. Complaints have been made by the middle aged/elderly about encountering difficulties in obtaining employment past the age of 55-60. This issue did not seem to be a major problem in Iceland probably due to the very low unemployment rate in the country before the recession. This has changed somewhat and is likely to change even more in months to come. It is also of concern that unemployed people over 50 years of age will have a hard time re-entering the labour market. The old age pension has not kept up with the cost of living and due to the recession, many pension funds have had to lower monthly payments to pensioners by up to 20% and the amount that pensioners can earn by working without it affecting their pension has recently been lowered, both resulting in diminished living standards for the elderly.

It has been established that Iceland is a destination country for sex-trafficking. Those working with immigrants, the police, NGO's working with victims of violence, the Social Services and others have verified several encounters with victims of trafficking. The Penal Code has now been amended, so that the definition on trafficking mostly harmonizes with the Palermo Protocol to the UN Convention on Organized Crime and the Council of Europe Convention on Action against Trafficking. The Government has also approved an action Plan against Trafficking and the Parliament has already issued a resolution allowing the Government to ratify the Palermo Protocol to the UN Convention on Organized Crime.<sup>vi</sup> A law has been passed, banning the purchase of sexual services and strip clubs. The first case prosecuting sex buyers was brought before the courts, resulting in fines. However, the offenders were granted anonymity, which severely diminishes the preventive effect of the legislation.

Recently an amendment was made to the Act on Foreigners, granting victims of trafficking a reflection period for six months. Also, if special circumstances apply or due to cooperation with the police on a trafficking case investigation or prosecution, a renewable one-year permit may be granted to a victim of trafficking. This permit is however not the basis for a permanent residence permit.

### **Right to social security and to an adequate standard of living**

People needing social assistance have claimed that the social benefits system does not serve its purpose. Although most needy families with children truly get assistance of some sort, it does not meet essential living costs. Moreover the benefits do not help these people out of poverty, but rather maintains it. The apparent cause for this is that the welfare system is moderately small and lacks coordination and cooperation between welfare organizations on a municipal and governmental level.<sup>vii</sup>

In August 2010, the Icelandic National Audit Office issued an audit of the service the Icelandic government renders to people with disabilities. The report shows that no holistic policy has been formulated in the affairs of people with disabilities. Financial resources have not been in accordance with regular estimates of the demand for services. Monitoring of municipalities and regional offices in charge of the services has been ineffective and full equality independent of residence etc. has therefore not been guaranteed for those who need these services. Core operational factors in the services around the country are not based on conformal procedures and therefore comparison of whether the service rendered is of equal standards is not possible. Furthermore, the National Audit Office stated that even after investigating, it could not evaluate whether services provided for people

with disabilities are efficient, effective or according to legislation. <sup>viii</sup> These services have been transferred from the Government to the municipalities with the aim of improving the services by bringing them closer to the recipients. The reporting group welcomes this change but is however concerned that the lack of monitoring and holistic policies will increase the risk of full enjoyment of services not to being equally rendered to all recipients.

#### **f. Women's rights and gender equality**

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. Alas, 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%.

Gender based violence is still a constant problem in Iceland, even more so after the recession. 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.

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.

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.

As 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. 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.

#### **g. Children's rights**

##### **Child Protection**

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.<sup>ix</sup> 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.<sup>x</sup> It is also the opinion of many child protection staff members that many cases are more complicated, serious and more difficult than before.

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 a child witness to such abuse. The interests of the adult are placed before the interests of the child, which not only goes against the Convention 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). On this basis, it is of great importance that those working with children have sufficient knowledge to handle these situations. The reporting group 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 crises.

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>xi</sup> Of the 100 cases reported to child protection agencies very few lead to prosecution and even fewer to conviction.

The reporting group is concerned that no preventive measures are coordinated by the Government regarding sexual abuse of children. The preventive measures are limited to non-governmental organisations 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.

### **Minority groups**

The reporting group is concerned that no special measures are guaranteed for disabled children that need to be removed from their parents. 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.

It has been pointed out that in Iceland all too often the access to services for disabled children is limited by their public allocation or their parents' financial standing. Also it is more a rule than an exception that there are extensive waiting lists for the various support remedies established for children and their families by the Disabilities Act. It has been a prevailing problem in the Icelandic health care system that the governmental service institution seeing to the payment of social insurance (Social Insurance Administration, hereafter TR) has not been able to make agreements with various medical specialist regarding discount payments. Therefore when families with children need to take their children to a dentist or a speech therapist they have to pay large amounts for treatment getting little support from TR. Some families do not have the financial capacity to pay these specialists and therefore the dental health of young children has deteriorated over the last few years. Some children are not getting the necessary therapy, from speech therapists to psychologists and so on, to enable them to develop to their full potential.

As regards immigrant children, the Acts on compulsory school and secondary upper school stipulate that every school has to prepare a receiving plan for children with another mother tongue than Icelandic. In spite of what laws and regulations stipulate, provisions and services for immigrant students and their parents vary greatly from one school to another. In the school system, the situation

of children who do not have sound knowledge of any language, neither their native tongue nor other languages, and do not have roots in any one culture is considered especially difficult and precarious. It is of great concern that a high percentage of this group and other immigrant children drop out of school after finishing compulsory education. It is of great concern that a high percentage of this group and other immigrant children drop out of school after finishing compulsory education. Immigrant children are also more at risk of becoming socially isolated or form groups that coexist in conflict with other immigrant groups or groups of Icelandic children.<sup>xii</sup>

### **Adoption**

The reporting group 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 reporting group is of the opinion that this provision does not afford enough protection to children who are sold for illegal adoption.

#### **h. Promotion and protection of the rights of specific groups, including: migrants, people with disabilities, minorities, indigenous peoples.**

### **Immigrants**

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.

The rapid increase in the number of immigrants to Iceland was due to the economic boom and partly due to the fact that citizens from new EU member states have the right to work in Iceland without a formal Work Permit. Since the economic crises there has been a decrease in the immigrant population which consisted largely of single men coming to work in construction. When foreign workers that have their families here become unemployed they usually seek jobs in other countries, but their families stay in Iceland and a steady increase in family reunification has been taking place in Iceland. The largest group by far is from Poland, other substantial groups come from the Philippines, Lithuania, Germany and Thailand. Since the recession started those from countries outside the EEA Area coming here on a family reunification permit do not get work permits (due to there being no shortage of labour). If the spouse has an Icelandic citizenship or is an EEA citizen this is of no consequence, since no work permits are needed in these instances. This situation creates a group of people forced to live on one wage and if circumstances change, if for instance the working

spouse becomes pregnant, the family must eke out a living on 80% of her wages during parental leave. The reporting group believes this situation to be discriminatory, a true poverty trap.

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 reporting group 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.

### **Refugees and asylum seekers**

The Government has a service agreement with the Icelandic Red Cross which serves a monitoring role in the cases of all asylum seekers, including children. The Government also has contract with Reykjanesbær which provides accommodation and social services. The interests of the child take

priority in cases dealing with the above mentioned group of children. Reykjanesbær Social Services are well qualified and equipped, and are swift to pick up on unusual patterns which suggest any sort of violence or abuse, in which case the rights of the child are the priority. All in all the conditions of this group of children are very good.

Many European governments 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 agreement, the procedural standards of the UNHCR have not been honoured.

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<sup>i</sup> [http://www.velferdarraduneyti.is/media/utgafa2010/Nefnd\\_um-samning\\_um\\_fatlada12032010.pdf](http://www.velferdarraduneyti.is/media/utgafa2010/Nefnd_um-samning_um_fatlada12032010.pdf)

<sup>ii</sup> The University of Iceland Institute of Human Rights and the Law Department of the University in Reykjavík. Mannréttindasáttmáli Evrópu. Reykjavík 2005

<sup>iii</sup> <http://stjornlagathing.is/english/>

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

<sup>v</sup> Article in the Fréttablaðið, Wednesday January 12<sup>th</sup> 2011.

<sup>vi</sup> [http://eng.velferdarraduneyti.is/media/acrobat-enskar\\_sidur/The\\_Icelandic\\_Action\\_Plan\\_against\\_Trafficking\\_in\\_Human\\_Beings.pdf](http://eng.velferdarraduneyti.is/media/acrobat-enskar_sidur/The_Icelandic_Action_Plan_against_Trafficking_in_Human_Beings.pdf)

<sup>vii</sup> Prime Ministry (2005) Committee on the strategy in the affairs concerning children and young people. *Suggestions in matters concerning the affairs of children and young people*. Reykjavík.

<sup>viii</sup> The Icelandic National Audit Office; Report to Alþingi. Service Rendered to Disabled People. August 2010. page 5

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

<sup>x</sup> Red Cross Iceland, (2010). *The most Vulnerable Group in Iceland*, report

<sup>xi</sup> Icelandic Red Cross, 2010

<sup>xii</sup> Hulda Karen Daníelsdóttir. *Immigrant Pupils with Special Educational Needs: Cultural Diversity and Special Needs Education*. Report. Reykjavík 2008, and Icelandic Red Cross, 2010