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**STATUS OF HUMAN RIGHTS IN ICELAND
FOR THE 40TH SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in Iceland for the 40th Session of the Universal Periodic Review (UPR).

Background

2. Iceland is an island nation located northwest of the United Kingdom and has a population of approximately 368,792¹. Of the population, 62.3% belong to the Evangelical Lutheran Church of Iceland, 4% are Roman Catholic, 2.7% are part of the Reykjavik Free Church, 2% are part of the Hafnarfjordour Free Church, 7.6% adhere to no religion, and 15% are unspecified².

3. Iceland's previous review was held on 1 November 2016³. As a result of the review, Iceland received 167 recommendations, 131 of which it supported. There were no recommendations made regarding freedom of religion. One recommendation, which Iceland noted but did not support, was for the country to "[t]ake additional measures to fully protect the human rights of all persons with disabilities . . ."⁴.

4. However, Iceland has taken the exact opposite approach to protecting the human rights of those with disabilities. In fact, Iceland has embraced a contemporary practice of eugenics in order to "cure" Down syndrome through abortion. Iceland is using government funded prenatal screenings for the purposes of eradicating Down syndrome through facilitating the death of nearly every single fetus with Down syndrome⁵.

5. Although there were no recommendations during the previous review that addressed abortion specifically, we are distressed by Iceland's complete disregard for life that is revealed by its efforts to expand access to abortion.

Legal Framework

6. Under Article 65 of Iceland's Constitution, "[e]veryone shall be equal before the law and enjoy human rights irrespective of . . . *birth* or other status"⁶. Furthermore, under Article 76, "[f]or children, the law shall guarantee the protection and care which is necessary for their well-being"⁷.

7. Iceland is a party to the Convention on the Rights of Persons with Disabilities (CRPD) which recognises:

the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion

of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty⁸.

8. As further stated in Article 1 of the CPRD, “[t]he purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity”⁹.

9. In addition, under Article 10 of the CRPD, “States Parties reaffirm that *every* human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others”¹⁰. Furthermore, under Article 15 of the CRPD:

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment¹¹.

10. Iceland is also a party to the Convention on the Rights of the Child (CRC) which states under Article 6:

1. States Parties recognize that *every* child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child¹².

11. Similarly, Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which Iceland is also a party, states that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”¹³.

12. In 2019, Iceland amended its Law on Counseling and Education Regarding Sex and Childbirth to expand access to abortion. The new law expanded access to abortion from 16 weeks to 22 weeks¹⁴. Under Article 4 of Iceland’s Termination of Pregnancy Act, No. 43/2019:

Any woman who so requests shall have the right to have her pregnancy terminated up to the end of the 22nd week of pregnancy. In all cases, pregnancy shall be terminated as soon as possible, and preferably before the end of the 12th week of pregnancy.

If a healthcare worker refuses to terminate a pregnancy on the grounds of Article 14 of the Healthcare Workers Act, No. 34/2012, measures shall be taken to ensure that the woman is able to exercise her rights in accordance with the first paragraph.

Pregnancy may only be terminated after the end of the 22nd week of pregnancy if the life of the pregnant woman would be endangered were pregnancy to continue or if the fetus is not considered to be viable. Confirmation by two physicians shall be obtained stating that the fetus is not considered to be viable¹⁵.

13. Under Article 8 of this same law:

Before a pregnancy is terminated, the woman shall have the opportunity to receive information and counselling from a physician, a nurse, a midwife and a social worker, as necessary. Furthermore, the woman shall be informed of the potential risks associated with the procedure (*cf.* Article 5 of the Patients' Rights Act, No. 74/1997), by the physician who carries out the procedure or a physician with special qualifications in the field of the termination of pregnancy. Following termination of the pregnancy, the woman shall have the opportunity of a supportive conversation.

All information and counseling provided in relation to the termination of pregnancy shall be given in an impartial manner and based on tried and tested knowledge, with respect for human rights and with human dignity as the guiding principle¹⁶.

Abortion in Iceland

14. As previously stated, in 2019 the Icelandic government passed a law expanding the time in which abortion is legal from 16 weeks to 22 weeks¹⁷. Within Iceland the current abortion rate is 14.1 per 1,000 women¹⁸. In 2018, the most recent year for which there are statistics, there were a total of 1,049 abortions carried out and only 4,238 live births that same year¹⁹. This means that when excluding miscarriages, approximately 19% of all pregnancies in Iceland end in abortion. However, when a pre-natal tests show the possibility of Down syndrome, this percentage skyrockets²⁰.

15. According to a series of reports from CBS News, Iceland is leading the way in “eradicating” Down syndrome through a lethal combination of pervasive prenatal screening and abortion on demand²¹. However, Iceland isn't eradicating Down syndrome, they are eradicating people. The State mandates that all expectant mothers be informed of the option for state funded prenatal screening²². It claims to present this option “as neutral counseling”, but more than 4 out of 5 pregnant women counseled opt for the test, and, upon a positive diagnosis, statistically all of them choose to abort²³. Prenatal tests should not be used to determine whether the child lives or dies, but rather to provide information for expectant parents to prepare for the eventual birth of their child.

16. The practices of prenatal screening and the abortion of a preborn child with *potential* health issues go well beyond the desire for a healthy and prosperous child. While abortion is never

justified, there is simply no reason to abort a child with Down syndrome. Children born with this challenge can live long, healthy lives²⁴. The average life expectancy of someone with Down syndrome is 60 years with many living well into their 60s and 70s²⁵.

17. Even though the law states that information regarding abortion must be presented in a neutral manner, the reality can often be quite different. Proponents of eugenic abortion work hard to undermine the inherent value of life, and hospital counselors seem to take a “heavy-handed” approach to genetic counseling in favor of abortion²⁶. One hospital “counselor” stated, “We don’t look at abortion as a murder. We look at it as a thing that we ended. We ended a possible life that may have had a huge complication . . . preventing suffering for the child and for the family”²⁷.

18. This eugenic practice of abortion flies in the face of Iceland’s laws and commitments to international treaties, and undermines the inherent right of children, preborn or otherwise, to live. Furthermore, those children who escape detection and are born in Iceland with Down syndrome are viewed as a failure by the national health system. The head of a prenatal diagnosis unit in one of Iceland’s hospitals states that babies with Down syndrome are still being born in Iceland because “[s]ome of them were low risk in [the] screening test, so we didn’t find them in our screening”²⁸. As a result of these policies, only two to three children have been born with Down syndrome on average each year over the past ten years²⁹.

19. Proponents of the eugenic abortion measures in Iceland have also succeeded in stigmatising perceived disabilities, and they treat preborn children that may have Down syndrome like damaged produce only worthy of being discarded.³⁰ While it is horrific that preborn children with disabilities are being targeted, it is also troubling that prenatal tests are not 100% accurate³¹. In fact, medical professionals tell expectant mothers that their child is merely “at risk” of being born with a life changing illness based on a test that is, *at most, 85% accurate*³². How many mothers under the terrible weight of this decision, backed by a false confidence in medical science, choose to end the life of their completely healthy preborn child?

20. It is an indisputable fact that the human child in the womb is a distinct biological organism, is alive, and belongs to the species *homo sapiens*. Thus, any justification of abortion fundamentally rests on the proposition that some members of the human race do not have even the most basic of human rights, the right to life. That proposition is incompatible with international law and the very notion of innate rights based in one’s humanity, such as what is found in documents such as the ICCPR. Article 6 of the ICCPR states: “of the inherent dignity and of the equal and inalienable rights of *all members of the human family* is the foundation of freedom, justice and peace in the world, [that] these rights derive from the inherent dignity of the human person, . . . [and that] *[e]very human being has the inherent right to life*. This right shall be protected by law”³³.

21. No one has the right to take the life of a child simply because they have a different genetic makeup. This practice is in and of itself discrimination in a manner prohibited by the CRPD, because the determining factor in whether or not the child ought to live is the *possible* presence of a disability. Eugenic abortion is in direct opposition to Iceland’s constitution, which proports to protect the lives of children, and to provide that protection irrespective of “birth or other status” – in this case, disability. It is also contrary to the human rights treaties to which Iceland is a party which, among other things, state that “[n]o one shall be arbitrarily deprived of his life”³⁴.

Conclusion

22. Iceland must uphold its obligation to protect all life. The government must recognise the inherent dignity of the human person, from conception to death. Therefore, we request that Iceland reform its laws in order to protect the life of the unborn.

23. Additionally, Iceland must end the horrific practice of eugenic abortion, which arbitrarily determines which lives are worth living. All life has inherent value and a prenatal test showing the possibility of Down syndrome or any other birth defect does not change that fact.

¹ *Population of Iceland 2011 – 2021*, STATISTA (23 Mar. 2021), <https://www.statista.com/statistics/594539/total-population-of-iceland/>.

² *Iceland*, WORLD FACTBOOK (24 Mar. 2021), <https://www.cia.gov/the-world-factbook/countries/iceland/> (last updated 30 June 2021).

³ *Universal Periodic Review – Iceland*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ISIndex.aspx>.

⁴ UPR of Iceland - Thematic List of Recommendations, A/HRC/34/7/Add. 1 – Para. 6, http://lib.ohchr.org/HRBodies/UPR/Documents/Session26/IS/UPR26_%20Iceland_%20Thematic%20list%20of%20Recommendations_E.docx.

⁵ Kacey Cherry, *Behind the Lens: Iceland's Down Syndrome Dilemma*, CBSN (11 Aug. 2017), <https://www.cbsnews.com/news/behind-the-lens-disappearing-down-syndrome/>.

⁶ *Iceland's Constitution of 1944 with Amendments through 2013*, CONSTITUTEPROJECT.ORG (art. 65, https://www.constituteproject.org/constitution/Iceland_2013.pdf?lang=en (last visited 28 Jun. 2021) (emphasis added).

⁷ *Id.* at art. 76.

⁸ Convention on the Rights of Persons with Disabilities, preamble, https://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf.

⁹ *Id.* at art. 1.

¹⁰ *Id.* at art. 10 (emphasis added).

¹¹ *Id.* at art. 15.

¹² Convention on the Rights of the Child art. 6, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (emphasis added).

¹³ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 6.

¹⁴ Andie Fontaine, *Iceland's New Abortion Law Goes into Effect Today*, REYKJAVIK GRAPEVINE (2 Sep. 2019), <https://grapevine.is/news/2019/09/02/icelands-new-abortion-law-goes-into-effect-today/>.

¹⁵ Termination of Pregnancy Act No. 43/2019 art. 4, GOVERNMENT OF ICELAND MINISTRY OF HEALTH (2019), <https://www.government.is/library/04-Legislation/Termination%20of%20Pregnancy%20Act%20No%2043%202019.pdf>.

¹⁶ *Id.* at art. 8.

¹⁷ Andie Fontaine, *supra* note 14.

¹⁸ *Abortion Rates by Country*, WORLD POPULATION REVIEW, <https://worldpopulationreview.com/country-rankings/abortion-rates-by-country> (last visited 7 Jul. 2021).

¹⁹ Robert Johnston, *Historical Abortion Statistics, Iceland*, (14 Jan. 2020), <http://www.johnstonsarchive.net/policy/abortion/ab-iceland.html>.

²⁰ Kacey Cherry, *supra* note 5.

²¹ Julian Quinones & Arijeta Lajka, “*What Kind of Society Do You Want to Live In?: Inside the Country Where Down Syndrome is Disappearing*”, CBS News (14 Apr. 2017), <https://www.cbsnews.com/news/down-syndrome-iceland/?linkId=40953194>.

²² *Id.*

²³ *Id.*

²⁴ *Facts About Down Syndrome*, NATIONAL ASSOCIATION FOR DOWN SYNDROME, <https://www.nads.org/resources/facts-about-down-syndrome/#:~:text=Children%20with%20Down%20syndrome%20have%20a%20higher%20incidence%20of%20inflection,syndrome%20can%20lead%20healthy%20lives> (last visited 7 Jul. 2021).

²⁵ *Id.*

²⁶ Julian Quinones & Arijeta Lajka, *supra* note 21.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Facts About Down's Syndrome*, *supra* note 24.

³⁰ A hospital employee who informs patients about abortion options described the abortion of a baby with Down syndrome as simply ending “a possible life that may have had huge complication”. “*What Kind of Society Do You Want to Live In?: Inside the Country Where Down Syndrome is Disappearing*”, *supra* note 21.

³¹ *Id.*

³² *Id.*

³³ ICCPR, *supra* note 13 (emphasis added).

³⁴ *Id.*