
**Study on Homophobia, Transphobia and Discrimination on
Grounds of Sexual Orientation and Gender Identity**

Sociological Report: Iceland

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A. Executive summary

1. The population of Iceland is about 318,000 persons (2010 figures).
2. Public opinion towards LGB persons are positive and opinion polls show a high degree of acceptance of LGB persons.
3. The yearly pride in Reykjavik has around 70,000 participants and there are no problems regarding freedom of assembly and association.
4. There are no problem regarding freedom of expression.
5. No incidents of hate crimes have been reported. Some incidents of hate speech have been expressed in the media primarily from religious figures.
6. In 2010 the Icelandic parliament passed a gender neutral law on marriage following the law on registered partnership from 1996.
7. There has been one case of a refugee seeker not having his application approved. The Parliamentarian Ombudsman reviewed the case and found no reason for criticism of the decision.
8. No cases with regards to social security, social care and insurance.
9. There is a lack of LGBT topics in the official curriculum. And derogative words for gay men are widely used in schools.
10. No official cases on discrimination in employment but anecdotal evidence suggest that some LGB persons hide their sexual orientation in fear of losing their jobs.
11. No cases with regards to housing and access to goods and services.
12. Gay and bisexual men are not allowed to give blood.
13. The media portrays lesbian and gay men in a neutral or positive way. Transgender persons are often not portrayed and when they are, they tend to be portrayed in a sensational/negative manner.
14. There are serious problems with the legal foundation for gender reassignment. It is believed that an inter-ministerial working group will be established in order to draft a new law making up for the deficit and lack of regulation in the present situation.

B. Data Collection

15. Data have been collected for this report through:
16. A study of available online and print data on the situation regarding homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in Iceland.
17. Data collection through interviews in Iceland held in Reykjavik 14-15 July 2010 with:
18. Authorities:
 - Ministry of Health (a joint meeting with Óttar Gudmundsson, psychiatrist)
 - Parliamentary Ombudsman of Iceland
19. NGOs:
 - Samtökin78
 - TransIsland
 - Icelandic Human Rights Center
20. Others
 - Hrefna Friðriksdóttir, ass. professor, University of Iceland (national legal expert)

C. Findings

C.1. Public opinion and attitudes towards LGBT people

21. General public attitude towards the LGBT community seems to be very positive. It is especially shown by the fact that Iceland has (as the first countries in the world) an openly lesbian Prime Minister Jóhanna Sigurðardóttir. In her interview to Icelandic news website www.gayice.is, Ms. Sigurðardóttir states that the election of her candidature to Prime Minister position, although barely discussed by her colleagues or media, is probably as significant for Icelandic LGBT community as the election of Barak Obama as American president is important for African-American community in USA.¹
22. A uniform impression of the development in Iceland emerges. Since the AIDS crisis began in the early 1980's a more tolerant attitude has started with several open gays and lesbians in the media. The most significant with regards to legislation was in 1996 when the registered partnership law was passed. "Iceland is a society of families and the heterosexual couples supported our families and took our course and make it theirs." Most notably this can be seen from the gay prides held in Reykjavik since 1999 where the pride today has participation from around 20 to 25 per cent of the country's total population. "We actually call it a family pride now."²
23. The development of the attitudes towards LGB persons can be illustrated in the following story:
24. "I teach law at University and after the introduction of the partnership law in 1996 I decided to ask my students how they felt about the new law. The first year after the law was passed the discussions were very emotional and not very factual - both from those for and against. Over the following years the emotional expressions disappeared. Every year a bit more. And now in 2010 we have passed the law on gender neutral marriage hardly with any opposition.
25. I wondered quite a lot about how we have been able to move so rapidly forward and I think it is a combination of many things: First of all an active NGO promoting the rights of LGBT issues, secondly several well-known people in Iceland came out and thereby gave LGBT persons a face - LGBT stopped being an anonymous group, thirdly the discussions on LGBT issues were founded on facts and not hear-say and assumptions which was promoted by academics. This fact-based approach and personal identification of LGBT persons gradually made the voice of the opposition die out."³
26. According to an opinion survey carried out in 2004 (before the law on gender neutral marriage was passed), 87 per cent of the population supported same-sex marriage.⁴
27. A positive picture emerges when looking at the attitudes towards transgender persons even if the acceptance of transgender persons is perceived not to be as high as is the case

1 *What is Significant?*, www.gayice.is/articles/gay-life/265-what-is, accessed 13 February 2010.

2 Interview with Samtökin and Trans Island, 14 July 2010 and Icelandic Human Rights Center, 15 July 2010. A personal Journey to Iceland by Reed Ide, www.globalgayz.com/country/iceland/view/ISL/gay-iceland, accessed 13 February 2010.

3 Interview with ass. professor Hrefna Friðriksdóttir, ass. professor, University of Iceland (national legal expert), 14 July 2010.

4 Jennie Westlund (ed.), *Rainbow Families in Iceland*, 2009, p. 269.

with lesbians and gay men. The big changes in attitudes have emerged during the last 15 years and there are now known to be around 20-25 transgender persons in Iceland. The attitudes can be summed up in the following quotation from an Icelandic woman to a transgender person: "why are you not gay like normal people".⁵

28. According to the same article, the main pocket of homophobia, still remaining in Iceland, is in some rural areas of Iceland as well from the dominant Evangelical Lutheran Church.⁶ "The last tension was between Lutheran state church - and the rest of the nation - with regards to marriage. But it was not a hostile debate. The Church had lost track of the nation. It was a lost battle and they knew it".⁷

C.2. Freedom of assembly and association

29. There are no problems with freedoms of assembly and association in Iceland.
30. Gay Pride in Reykjavik has been a huge success since 1999. Currently, the Pride has its own website (www.gaypride.is), where potential guests can find the city map, programme, useful advice on accommodation and transport and request events/performances. Simultaneously the website contains a historical overview over the laws related to LGBT in Iceland. The website is sponsored by various Icelandic and international concerns.
31. The biggest Icelandic NGO "Samtökin 78" is supported by both the City Council of Reykjavik and The Icelandic Government. In their own words:
32. "Today Samtökin 78 get financial support both from the Icelandic Government and from the City of Reykjavik. There has also been a steady increase of membership, making all our work much easier. But we still have a lot of work to do and it seems that the number of projects increases faster than the number of members. The projects of Samtökin 78 are many and different as they (along with FSS) fight for equal social rights and law reforms for gay men and lesbian in our country: Firstly, the organisation attempts to create a cultural base to support the self-confidence of lesbians and gay men; secondly Samtökin 78 fight for legal reforms for homosexual people; and thirdly the organisation fights social injustice and prejudice by open discussion and information in schools⁸
33. Trans Island was established in 2007 and has about 20-25 members. Samtökin also works with transgender issues and has done that since 2008.⁹

C.3. Freedom of expression

34. There are no problems with freedom of expression in Iceland.
35. As a part of Year of Equal Opportunities (2007) Icelandic NGO "Samtökin 78" has published a "Guide for Gays, Lesbians, Bisexual and Transgender people living in Iceland". The guide provides its readers with a short overview over the rights of LGBT community

5 Interview with Samtökin 78 and Trans Island, 14 July 2010.

6 A personal Journey to Iceland by Reed Ide, www.globalgayz.com/country/Iceland/view/ISL/gay-iceland, accessed 13 February 2010, interview with the Icelandic Human Rights Center, 15 July 2010.

7 Interview with Samtökin 78, 14 July 2010

8 About Samtökin 78: One of Iceland's LGBT Rights Organization, www.globalgayz.com/country/Iceland/view/ISL/gay-iceland, accessed 13 February 2010.

9 Interview with Trans Island, 14 July 2010

members, as well as good advices and a list of “places to go”. The guide is in 4 languages: English, Polish, Estonian and Lithuanian¹⁰.

C.4. Hate crime - hate speech

36. According to Samtökin 78 and Trans Island hate crimes against LGBT are practically unknown in Iceland.¹¹
37. There has been one case where a transgender woman was attacked, but it has not been established whether it was due to her gender identity.¹²
38. Hate speech rarely occurs in Iceland. Verbal attacks on LGB persons primarily take place on blogs written by fundamentalist, religious groups.¹³
39. Following the gender neutral law on marriage the bishop of the state church apologises for having stated that passing such a law would undermine the entire Icelandic society. This followed a series of meetings between Samtökin 78 and church representatives before the passing of the law.¹⁴

C.5. Family issues

40. In June 2010 the act on gender neutral marriage was passed by the Iceland parliament (Althing).
41. It was the result of yearlong process from the introduction of the registered partnership in 1996 to the adoption of several amendments to the law until the passing on the gender neutral law. Most notably has been the struggle to include children in the law where the debate sometimes was emotional where unqualified statements like "in the best interest of the children" were common.¹⁵ The law includes both the right to adoption and insemination.
42. Both Samtökin 78 and Trans Island stressed the size of the Icelandic population and underlined that "when you're out to one you are out to all. The news travels fast". And thereby implying that it is difficult to hide your sexual orientation or gender identity in Iceland.
43. The parliamentarian ombudsman of Iceland has had one case concerning the right to marriage. In a case from 2008, an individual firstly lodged a complaint to the Ombudsman over the fact that there is separate legislation on marriage in Iceland, i.e. the Act on Marriage No. 31/1993 (between heterosexuals) and Act on Registered Partnership No. 87/1996 (between homosexuals.) The Ombudsman completed his investigation on this part of the case with reference to Article 3(3a) of the Act on the Althing Ombudsman No. 85/1997 which stipulates that the Ombudsman's jurisdiction shall not extend to proceedings of the Icelandic Parliament and its bodies.
44. Secondly, the individual complained over the fact that there were separate forms at the Sheriffs' offices to apply for marriage / registered partnership, i.e. one for opposite-sex

10 Samtökin 78, www.samtokin78.is/index.php?option=com_content&view=article&id=153&Itemid=160, accessed 13 February 2010.

11 Interview with Samtökin 78 and Trans Island, 14 July 2010.

12 Ibid.

13 Ibid.

14 Ibid.

15 Interview with ass. Professor Hrefna Friðriksdóttir, University of Iceland (national legal expert), 14 July 2010.

couples which were applying for marriage and another for same-sex couples which were applying for registered partnership. The Ombudsman concluded this part of the case by saying that there was not a reason for him to continue investigation of the case because the Parliament had decided to adopt on the one hand an act on the marriage of opposite-sex couples and on the other hand an act on registered partnership for same-sex couples. Regarding this case one must bear in mind that, by law, the Ombudsman's jurisdiction does not extend to the proceedings of the Icelandic Parliament.

45. Thirdly, the individual complained that the forms one has to fill out to apply for registered partnership were purple but the forms one has to fill out to apply for marriage were white. The Ombudsman concluded this part of the matter by directing the complainant to the Ministry of Justice, cf., Article 6 (3) of the Act on the Althing Ombudsman, which stipulates that where a case can be appealed to a higher authority a complaint may only be lodged with the Ombudsman after this higher authority (in this case the Ministry of Justice) has given its ruling.
46. However, last June the Parliament passed a new Act on Marriage which now covers both same sex-couples and opposite-sex couples.
47. Regarding transgender persons' right to family life no one can be forced to divorce due to their change of gender. However Trans Island and Samtökin 78 stress that transgender persons can face considerable isolation in Iceland since society is still not very comfortable talking about transgender issues yet.¹⁶

C.6. Asylum and refugee issues

48. In 2003 an individual lodged a complaint regarding the refusal of the Ministry of Justice to grant him asylum as a refugee.¹⁷ The individual argued that he had been persecuted in his home country on grounds of his sexual orientation. The Ministry considered that the individual could not be granted the status of a refugee on the grounds of Item 2 of Item A of Article 1 of the UN Convention Relating to the Status of refugees from 1951 unless it was probable that he had a valid reason to fear that he would be persecuted on the grounds of his sexual orientation which the government in his home state could not or would not protect him against.
49. The Ministry considered that he had not demonstrated that it was probable that he had fled his home state because of persecution on the grounds of his sexual orientation when he applied for asylum. According to his testimony he had arrived in Iceland from other countries which were member states to the Refugee Convention and therefore the Ministry believed it was clear that he had not applied for asylum in the first state which he arrived in. Therefore the Ministry considered that he was not a refugee which had a valid reason to fear that he would be persecuted and because of that he did not fall within the definition of Item 2 of Item A of Article 1 of the Refugee Convention.
50. Based on the documents presented in the case and the explanations of the Ministry the Ombudsman did not consider that there was reason for him to make comments on the procedure or the decision of the Ministry in this case.

C.7. Social security, social care and insurance

51. There are no cases on discrimination in social security, social care and insurance.

¹⁶ Interview with Samtökin 78 and Trans Island, 14 July 2010.

¹⁷ Interview with Parliamentary Ombudsman, 15 July 2010.

C.8. Education

52. The curriculum of Icelandic primary and secondary schools does not explicitly mention LGBT and Samtökin 78 states that introducing an official inclusive curriculum will be one of the areas of concern for the coming years.¹⁸
53. The Icelandic derogative word for a gay man is "hommi" (or "helvitis homminn thin" meaning "you f..... fagot" and is widely used as a swear word in schools.¹⁹
54. Since 1981 Samtökin 78 has visited 60-70 schools a year in order to talk about LGB issues.²⁰

C.9. Employment

55. Around 10 years ago there was one court case regarding a young man who was denied a job at a treatment home for teenage boys because he was gay. He was awarded compensation by the court.²¹
56. There are still many LGB persons who do not want to disclose their sexual orientation of fear of losing their jobs or missing career opportunities.²²
57. Transgender unemployment is perceived to be higher than the average. According to Samtökin and Trans Island it would probably be around 20 per cent (compared to seven per cent for all).²³

C.10. Housing and Access to goods and services

58. Samtökin 78 and Trans Island only know of one case, where a same-sex couple were kissing in a hot tub in a public swimming pool and where ask to leave the premises. But there are no official cases.²⁴
59. Over the last 15 years there has always been a gay/lesbian bar in Reykjavik.²⁵

C.11. Health care

60. Blood donation is not allowed for gay men. This has been the rule since the early 1980s.²⁶ A movement at the University is trying to stop the practice with the parole: "Gay blood is quality blood".²⁷

18 Interview with Samtökin 78, 14 July 2010.

19 Ibid.

20 Ibid.

21 Interview with the Icelandic Human Rights Center, 15 July 2010. Morgunbladid, 19 May 2003, http://mbl.is/mm/frettir/innlent/2003/05/19/spurning_um_kynhneigd_thjonadi_ekki_logmaetum_tilga/, accessed, accessed 22 September 2010.

22 Interview with Samtökin 78 and Trans Island, 14 July 2010.

23 Interview with Samtökin 78 and Trans Island, 14 July 2010.

24 Interview with Samtökin 78 and Trans Island, 14 July 2010.

25 Ibid.

26 *Regulation No 441/2006 on the collection, processing, storage and distribution of blood is in force* (English version not available). Article 18 is about the eligibility of donors and refers to annex IV. In annex IV to the regulation, under the heading of 2.1. Permanent deferral criteria for donors of allogeneic donations, you can find sexual behaviour as one of the points made. In the explanatory column it says: Persons whose sexual behaviour puts them at high risk of acquiring severe infectious diseases that can be transmitted by blood. This regulation is built on Directive 2002/98/EC of the

61. Please refer to the chapter on transgender issues for a detailed description of the situation for gender reassignment process etc.

C.12. Media

62. Basically there are no significant problems with the media and its presentation of LGB persons. The yellow press has had negative stories of transgender persons.²⁸
63. The major newspaper (Morgunbladid) has a blog, where there sometimes are negative statements about LGBT persons. But the editorial line of the newspaper is supportive of LGBT issues.

C.13. Transgender issues²⁹

64. There is a significant legal uncertainty regarding gender reassignment etc. in Iceland. This was highlighted during an investigation conducted by the Parliamentary Ombudsman. This case resulted in an official Opinion in April 2009. The case is described below:
65. In this case an individual (A) lodged a complaint regarding the Ministry of Justice's refusal to agree upon her request to change her male name to a female name. A argued that she had lived socially as a female for 12 years when her complaint was received by the Ombudsman. The ministry's refusal was reasoned by the fact that A had not undergone a gender reassignment surgery which, according to the Ministry made it impossible to change the registration of her male name and gender in the National Register according to Act No. 45/1996. (According to that Act names are gender specific, women shall bear a woman's name and men shall bear a man's name).
66. Before the Ombudsman's opinion from April 2009 transsexuals in Iceland had the possibility to undergo gender reassignment surgery after an evaluation process with a group of advisors on behalf of the Directorate of Health. They could only change their name and gender in the National Register after having completed the gender reassignment surgery. After the surgery the individual's ID number was also changed in the register if requested. However, the process prior to the gender reassignment surgery often takes many years and during that time the individuals live socially as the sex which is opposite to their biological sex. This can of course cause these individuals great inconvenience in their everyday life.
67. After consultation between the Ombudsman and the relevant authorities, the Directorate of Health and Ministry of Justice declared that it would be possible to accept requests for changes of registration of name and/or gender when a year of hormonal treatment had been completed.
68. Regardless of this change in practice, the Ombudsman decided to take under view two issues on the basis of Articles 5 (cases of initiative) and 11 (flaws in legislation) of Act No. 85/1997, on the Althing Ombudsman. Firstly, the Ombudsman examined rules regarding the possibility of transsexual persons to obtain a name change in the National Registry.

European Parliament and of the Council and Commission Directive 2004/33/EC (which Iceland is obligated to follow because of the European Economic Area Agreement). The instructions given by the Icelandic Blood Bank is, among others, that you should not give blood if you are male and you have had sex with other males or if you have been involved in prostitution or if you have been infected or you could have been infected with hepatitis or HIV.

27 Interview with Samtökin 78, 14 July 2010.

28 Interview with Samtökin 78 and Trans Island, 14 July 2010.

29 This section draws on a written response from the Parliamentary Ombudsman describing the mentioned case concerning a complaint from a transgender person as well as the interview with the Ministry of Health on 15 July 2010.

Secondly, the Ombudsman examined rules regarding the legal status of transsexual persons in terms of undergoing reassignment surgery.

69. The Ombudsman referred to the fact that neither Act No. 45/1996 nor other legal provisions addressed the right of transsexual persons' to request a change of his and her name and gender in the National Register. The Ombudsman considered the individual's right to identification, self-image and name to be protected by Article 71 of the Constitution regarding respect for private and family life as the article is interpreted in terms of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Ombudsman stated that the lack of legal provisions regarding whether transsexual persons can request alternations of public registration of their name and gender, and, if so, on what conditions could have significant effect on transsexual persons' circumstances and private life in the meaning of Article 71 of the Constitution and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
70. In light of the above the Ombudsman concluded that there were sufficient grounds for him to notify the Ministry of Justice and the Icelandic Parliament of the necessity to take a stance towards whether it was necessary to adopt legal provisions regarding the right of transsexual persons to request alterations of the official registration of their name and gender in the National Registry.
71. The Ombudsman stated that according to information from the Directorate of Health neither the basis of gender reassignment surgery nor the proceedings leading to the surgery were addressed by law or administrative rules. The Ombudsman considered that while assessing whether it was necessary to adopt more detailed legal provisions on this matter, consideration should be given to the fundamental principles of the Constitution and the Convention regarding respect for private and family life. Furthermore consideration should be given to the development that has taken place in the case law of the Court which stipulates increased obligations on the member states to provide individuals, who have undergone gender reassignment surgery, legal acknowledgement of their new gender and the emphasis the Court has put on the importance of the member states' revision of legal provisions within this field of law by means of scientific and societal developments. The Ombudsman stated that the individual's self-identity was of great importance for the individual concerned and conformed with the core of the right to respect for private and family life which is protected by the Constitution and the Convention.
72. In accordance with the above, the Ombudsman concluded that there were viable reasons for him to notify the Minister of Justice, the Minister of Health and the Icelandic Parliament of the necessity to consider whether or not to adopt detailed legal provision on transsexual persons' possibility to undergo a gender reassignment surgery, on the administrative procedure and the duties of authorities in this field of law and provision which stipulate the legal effects that the medical analysis of transsexualism and the gender reassignment surgery brings about for the individuals concerned.
73. The present government's manifesto (a coalition government of the Social Democrats and the Leftist Green Party) from 10 April of 2009 stipulates that special attention will be on the improved rights of transsexual persons, in accordance with the recommendations of the Ombudsman.
74. Members of Parliament have put forward a parliamentary resolution which stipulates that the government shall appoint a committee to work on proposals regarding amendments on the legal status of transgender people in Iceland. In this parliamentary resolution reference is made to the opinion of the Ombudsman from April 2009. However, the resolution has not yet been approved.

75. Samtökin 78 and Trans Island have confirmed that there is an ongoing process of establishing a committee to deal with the legal uncertainty.
76. The legal uncertainty was also highlighted in an interview with the Ministry of Health. The leading psychiatrist described the situation as a "legal vacuum" because the old law on castration has been repealed. It is foreseen that the legal vacuum will last for a couple of years before a new law has been drafted and passed.
77. In practice, significant positive changes have been made according to Trans Island. In 2009 a Swedish doctor performs gender reassignment surgery on four transgender persons in Iceland.³⁰ Previously transgender persons wanting surgery would have to go to for example, Sweden with the following problems of a foreign language etc.
78. There was a public debate where some voiced that the country should not be spending money on such things during the financial crisis, but these voices were not loud and had no bearing on the decision made by the public authorities. All expenses were paid by the Icelandic state.
79. Only a few have had their application for gender reassignment treatment rejected, since the Icelandic practice has before more liberal during the last five years.
80. There are normally four steps in a gender reassignment process: Going into details on how the process is, the Ministry of Health stated the following: All phases of the evaluation take place in Iceland.
- 1. step: consultation with psychiatrist(s).
 - 2. step: hormone therapy.
 - 3. step: change of documents
 - 4. step: surgery
81. According to the leading psychiatrist one of the problems with the Icelandic system is that the professionals involved in the process are the same. It is the same people assessing, treating and making decisions on gender reassignment. A problem that the psychiatrist hopes will be solved during the inter-ministerial committee work on the potential new law on gender reassignment.

C.14. Data availability

82. As this report shows, there are some issues relevant for LGBT persons in Iceland, which are more covered and documented than others. Most of the information has been collected via the LGB and T NGOs as well as written material on the situation regarding families in Iceland.
83. In contrast to many other countries, subjected to this study, transgender related issues are being covered quite exhaustively by not only the two main NGOs but also the Ministry of Health and the parliamentary Ombudsman.

³⁰ The Swedish doctor is used to performing around 50-60 gender reassignment operations a year.