

4-2022

## INTERNATIONAL NOTES - April 2022

Arthur S. Leonard

# LAW & SOCIETY/INTERNATIONAL *notes*

the bill on substantive and economic grounds, noting that the inevitable lawsuits would impose severe financial burdens and that the measure would be unfair to those transgender girls who could fairly compete due to the nature and progress of their transition. He also noted the issue of suicidal tendencies of transgender youths denied equal access, and premised his veto as an attempt to save lives. The bill passed without a veto-proof majority, but enough Republicans who voted no were persuaded to switch their votes for the override, which was accompanied by passage of a bill to provide state funding for defending lawsuits.

---

## LAW & SOCIETY NOTES

*By Arthur S. Leonard*

**MARRIAGE EQUALITY** – Keeping up with marriage equality developments around the world is daunting, as the issue is “in play” either in the courts or the legislatures – or both – in numerous jurisdictions. The best way to keep current is to consult the frequently updated blog established by journalist Rex Wockner. The current URL for this is <https://wockner2.blogspot.com/2022/>. Journalists and legal scholars seeking to write on the issue should find it particularly useful. This newsletter attempts to highlight the most important developments each month in the International Notes section, but we are not as comprehensive as Wockner’s blog.

---

**LAW SCHOOL ACCREDITATION** – The American Bar Association’s House of Delegates approved amendments to the accreditation standards for law schools, adding a requirement that schools provide training on bias as part of their curriculum and making additions to the required non-discrimination policies for law schools, including for the first time “gender identity or expression.” The

ABA added “sexual orientation” many years ago. The accreditation standards do not require religiously affiliated law schools to adopt any non-discrimination policy that would contradict their religious creed.

---

**WHO APPOINTED THE JUDGES?** – We have begun as a matter of course in federal cases to identifying the president who appointed the judges rendering the decision. During his single term President Donald J. Trump set a record for judicial appointments, and this has been much in evidence particularly at the district court level. We thought it was useful and information to note how the Trump-appointed judges are doing in handling LGBTQ-related cases. We leave it to our readers to draw conclusions.

---

## INTERNATIONAL NOTES

*By Arthur S. Leonard*

**UNITED NATIONS** – The United Nations Committee on the Elimination of Discrimination Against Women voted on February 21, 2022, to approve a decision finding that Sri Lanka was in violation of the U.N. Convention on the Elimination of All Forms of Discrimination against Women by maintaining a criminal prohibition on sex between women and failing to protect lesbians from violence. The decision ends with a list of recommendations to the Sri Lanka government, including repealing the criminal prohibition, adopting comprehensive anti-discrimination legislation that would protect lesbian, bisexual, transgender, and intersex women, and to take various steps to protect women from violence based on their sexual orientation or gender identity. The formal title of the decision is “Views adopted by the Committee under article 7(3) of the Optional Protocol, concerning Communication

No. 123/2018,” so apparently it took several years for the Committee to investigate the claim brought by Rosanna Flamer-Caldera, a Sri Lankan lesbian. The Committee observed that Sri Lanka formally adhered to the Optional Protocol on January 15, 2003, thus obligating itself to act on the Committee’s recommendations. The decision was released publicly on March 23, 2022.

---

**CUBA** – *NBC News* reported March 30 that proponents of a new Family Code in Cuba, which would allow for same-sex marriages, civil unions, and other progressive family law policies, is uncertain of approval in a national referendum scheduled for this fall. The news report stated that referenda sponsored by the government normally pass with an overwhelming margin, but political observers suggest that passage this time will not be so easy. The Catholic Church in Cuba has come out strongly against the government’s proposals.

---

**GUATEMALA** – A bill combining strict abortion bans as well as bans on marriage equality and discussion of sexual diversity in schools was threatened with a veto by President Alejandro Giammattei, due to concerns about its constitutionality. On March 15, the legislature voted to “archive” the measure rather than send it to the president for approval or veto. *Associated Press*, March 15.

---

**HUNGARY** – LGBT rights advocates are urging voters in the national elections on April 3 to “spoil” the portion of their ballot dealing with the government’s referendum on LGBT issues, preventing it from being valid. Under the law, a referendum is not valid if fewer than 50% of the voters cast valid ballots. The government’s proposal is a grab-

# PROFESSIONAL *notes*

bag of anti-gay and anti-transgender measures that have been emphasized by the government in its appeal to socially conservative voters for their support.

---

**KOSOVO** – The Parliament voted overwhelming against a measure proposed by the government to allow civil unions for same-sex partners. If the measure had passed, it would have made Kosovo the first, and so far only, Muslim country to provide a legal status for same-sex partners. *Euronews.com*, March 17.

---

**MEXICO** – Marriage Equality legislation was published officially early in March, opening up the possibility for same-sex couples to marry in Yucatan State without the need to get a court order.

---

**THAILAND** – On March 29 the cabinet rejected a proposed marriage equality bill, but it will still receive discussion in the parliament as a result of introduction by a minority party. The cabinet is pushing a civil union bill that would address some of the legal issues arising from the lack of a marital status for same-sex couples, but has been criticized for failing to provide a truly equal status for same-sex couples.

---

**UNITED KINGDOM** – There were reports at the end of March that Prime Minister Boris Johnson had been backing away from an announced commitment to ban conversion therapy. Legislation to that effect has been tied up in Parliament, with arguments being made that a conversion therapy should only extend to sexual orientation, not to gender identity, based on the contention that there is research data showing that sexual orientation is not susceptible to change through conversion therapy, but that similar documentation is not yet available concerning gender identity.

LGBT rights groups in the U.K. reacted with outrage to the possibility that the government would retreat from its position, and it was unclear at the end of March exactly where the government stood.

---

**ZIMBABWE** – *HIV Justice Network* reported on March 25 that Zimbabwe's parliament voted to repeal its HIV-specific criminal law, being only the second country in Africa to take such an action. Zimbabwe was also the first African country to pass an HIV-specific law. Advocates evidently convinced the parliament that the law was unduly vague and had been invoked to wrongly prosecute HIV-positive women who had likely been infected by their spouses or male partners.

---

## PROFESSIONAL NOTES

*By Arthur S. Leonard*

**U.S. DISTRICT JUDGE ALISON NATHAN** was confirmed by the Senate on March 23 for a seat on the U.S. Court of Appeals for the 2<sup>nd</sup> Circuit by a 49-47 vote. She was the second out lesbian to be appointed and confirm for a federal court of appeals seat, joining **BETH ROBINSON**, also nominated by **PRESIDENT JOE BIDEN**, who was previously a Vermont Supreme Court justice. Prior to her judicial service, Judge Nathan was special council to the Solicitor General of New York in 2010-11, and before that worked in the White House Counsel's Office during the early years of the Obama Administration. Now the 2<sup>nd</sup> Circuit has the distinction of being the first federal circuit court with an out LGBT judge, and of course the first to have two such judges!

---

On March 25, **CALIFORNIA GOVERNOR GAVIN NEWSOM** appointed **ANDI MUDRYK**, an out

transgender longtime disability rights advocate, to the Sacramento Superior Court. According to the San Francisco Chronicle, Judge Mudryk is the first transgender attorney in California to receive a governor's appointment to the judiciary, and Judge Mudryk is the second out transgender judge in the state. The first, **VICTORIA KOLAWKOWSKI**, was elected by voters in Alameda County to the Superior Court there.

