



Global Developments in Religious Freedom and Equal Treatment

November 2018

Dear Friends:

Welcome to the International Network of Civil Liberties Organizations' (INCLEO) newsletter, *Global Developments in Religious Freedom and Equal Treatment*. This newsletter highlights recent international developments, including cases and legislation, concerning religious freedom, equal treatment, and the intersection of the two.

Here are a few brief highlights from this issue:

- Uruguay passed a law expanding the rights of transgender people, including the right to government-funded gender-affirming surgery;
- The Indian Supreme Court decriminalized sexual conduct between adults of the same sex;
- Scotland became the first country to embed LGBTI issues in school curricula;
- Bermuda's Supreme Court struck down legislation banning marriage for same-sex couples;
- Costa Rica set a deadline to legalize marriage for same-sex couples;
- A Romanian referendum to establish a constitutional ban on marriage for same-sex couples failed to pass;
- A South African court ruled that marriages solemnized under Sharia law must be legally recognized;
- Argentina's Senate voted against a bill to legalize abortion during the first 14 weeks of pregnancy after the bill had passed the Chamber of Deputies;
- Ireland voted to remove blasphemy as a constitutional offense;
- The U.K. Supreme Court held that a bakery did not unlawfully discriminate when it refused to make a cake with a message supporting marriage for same-sex couples; and
- The U.S. Supreme Court held that there was hostility to religion in the adjudication of a case involving a bakery that refused to make a wedding cake for a same-sex couple.

As always, please note that this newsletter does not purport to be comprehensive or definitive. Instead, it is our best effort to identify and characterize the international legal developments in this arena. Please feel free to alert us to developments you think should be included in future issues of INCLO's newsletter.

If there is someone you think would benefit from this newsletter or if you would prefer not to receive future issues, please contact Deepa Patil at INCLONewsletter@aclu.org.

Best,

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About INCLO: The International Network of Civil Liberties Organizations (INCLO) is a group of civil liberties and human rights organizations committed to addressing, among other issues, questions of religious freedom and equal treatment. INCLO's members include: American Civil Liberties Union, Association for Civil Rights in Israel, Canadian Civil Liberties Association, Centro de Estudios Legales y Sociales (Argentina), Dejusticia (Colombia), Egyptian Initiative for Personal Rights, Human Rights Law Network (India), Hungarian Civil Liberties Union, International Human Rights Group Agora of Russia, Irish Council for Civil Liberties, Kenya Human Rights Commission, Legal Resources Centre (South Africa), and Liberty (United Kingdom).

Religious Freedom & LGBT Rights

Adoption

Colombia: In May 2017, Colombia's Congress [upheld](#) the full adoption rights of same-sex couples and LGB individuals, rejecting a referendum that would have reversed a 2015 Constitutional Court ruling. The Court had instructed adoption agencies not to discriminate against same-sex couples when providing adoption services, reasoning that denying same-sex couples the right to adopt "limits children's right to a family."

Honduras: In August 2018, the Honduran Parliament [approved](#) a law that prohibits same-sex couples from adopting children. In defending the law, politicians cited the Honduran constitution, which does not permit marriage between same-sex couples, and said that the adoption law could not override the constitutional prohibition. As noted below, both the marriage and adoption provisions are being challenged as unconstitutional.

Italy: After taking office in June 2018, the Italian interior minister, Matteo Salvini, [ordered](#) that identity card application forms for children replace the gender-neutral terms "Parent 1" and "Parent 2" with "mother" and "father," so that same-sex parents cannot both declare themselves as a child's parents. Salvini stated that he would "exert all the power possible" to "defend the natural family founded on the union between a man and a woman." Currently, surrogacy pregnancies are illegal in Italy, and same-sex couples cannot adopt children.

United States: On November 6, 2018, the U.S. Court of Appeals for the Third Circuit heard a Catholic social services agency's request to enjoin the City of Philadelphia from ending referrals to the agency because of its refusal to place foster children with same-sex couples. A lower court [rejected](#) arguments that requiring the agency to comply with the city's antidiscrimination ordinance violates the constitution and federal law. In a similar case, on September 14, 2018, a Michigan federal court [denied](#) motions to dismiss a [lawsuit](#) challenging the constitutionality of

Michigan's practice of permitting state-funded agencies to turn away same-sex couples seeking to foster or adopt children.

Education

Scotland: On November 8, 2018, the Scottish government [announced](#) that state schools will embed LGBTI issues in school curricula, becoming the first country in the world to do so. The curricula will incorporate themes related to LGBTI history, terminology, and ways to tackle prejudice across different student age groups and subjects. The move comes after the LGBTI Inclusive Education Working Group published a [report](#) identifying ways to combat LGBTI bullying in schools.

Canada: On June 15, 2018, the Canadian Supreme Court [held that](#) legal societies could deny accreditation to a Christian university's proposed law school because the university does not allow students to engage in sexual intimacy outside of opposite-sex marriage. The court found that the legal societies were entitled to balance the freedom of religion with other statutory considerations, and that "equal access to the legal profession, diversity within the bar, and preventing harm to LGBTQ law students were all within the scope of its duty to uphold the public interest." The Court's ruling diverges from its [2001 decision](#) in support of the same university when it sought to assume full responsibility for a teacher's college.

On August 23, 2018, INCLO-member Canadian Civil Liberties Association [challenged](#) an Ontario government-issued directive instructing school boards to use old sex-education curriculums, thus removing material on consent and LGBTQ+ identities, among other topics. The legal challenge will be [heard](#), along with a similar case, on January 9, 2019.

Employment

United States: On July 20, 2018, a funeral home [petitioned](#) the U.S. Supreme Court to review whether a federal law barring discrimination based on sex covers discrimination based on gender identity. In the lower courts, the owner of the funeral home had argued that he "would be violating God's commands" if he supported the "idea that sex is a changeable social construct" and permitted employees to dress consistent with their gender identity. The home is not asking the Supreme Court to review the appellate court's [ruling](#) that the Religious Freedom Restoration Act – a federal statute – did not provide a defense in this case. INCLO-member ACLU [intervened](#) on appeal on behalf of the employee. The Court must still determine whether it will hear the appeal.

Fundamental Rights

India: On September 6, 2018, the Supreme Court of India [struck down](#) a section of the Indian Penal Code that criminalized consensual sexual conduct between adults of the same sex. In a unanimous judgment, the Court held that discrimination on the basis of sexual orientation is a violation of freedom of speech and expression, and that the constitution protects an individual's bodily autonomy and right to privacy. The stricken law carried a penalty of up to life imprisonment. The judgment overturns the Supreme Court's 2013 decision to reinstate the law after the Delhi High Court determined that the law violated fundamental constitutional rights in 2009.

Following the Supreme Court's verdict, on September 24, 2018, the High Court in the State of Kerala [permitted](#) a 24-year-old woman to live with her female partner. The matter was before the court on a habeas corpus petition alleging that the woman was illegally detained in a mental health facility by her family immediately after the couple decided to move in together.

On November 12, 2018, the Supreme Court of India [refused](#) to hear a petition challenging a provision of the Indian Penal Code that defines rape as an act committed by a man against a woman – leaving out men or transgender people who are victims of rape. The Court refused to hear the plea asking it to intervene and make India's rape law gender-neutral, as the Court stated that it could not interfere at this stage and that the legislature should change the law.

[Gender Recognition](#)

Argentina: On November 1, 2018, the Director of the Civil Registry in [Mendoza](#), a province of Argentina, issued a resolution requiring a new birth certificate be designed that would permit people to identify themselves on official identity documents as neither male or female. The Director's resolution cites the Inter-American Court on Human Rights' [advisory opinion](#) from November 2017, which provides that States are obligated to recognize individuals' right to change their names and rectify public records to conform with their gender identity. The issue was raised when an individual seeking access to medical treatment was required to change the sex on their birth certificate, but did not wish identify as either male or female, and was ultimately permitted not to identify a sex.

Colombia: The Colombian Constitutional Court will [review](#) lawsuits against a national [law](#) that regulates the recruitment, reserves, and mobilization services of the Colombian military. One lawsuit argues that, although transgender men are required to perform military service – as are all men in Colombia – service should be voluntary for them because their integrity is at risk. Further, the lack of procedure for transgender men to obtain their satisfaction of service papers violates their rights to human dignity, gender identity, equality, work, and free development of personality, among others. The second lawsuit argues that the law should not include transgender women on the list of men exonerated from military service, because they are not men.

India: On May 9, 2018, the Indian Income Tax Department [issued](#) an advisory allowing transgender people to change the gender associated with their Permanent Account Number (PAN), a tax-related identity code, or to obtain a new PAN. The PAN application form will now list three gender options, with transgender as the third option, and applicants will not need to provide any documentation in support of their selection. This change came in response to the Indian Supreme Court's March 28 directive to the government to resolve the mismatch between the PAN card and another identity card that already had a third gender option. The matter was before the Court based on a petition filed by a transgender activist seeking an option to indicate a third gender identity on the PAN card.

[Health Care](#)

Uruguay: On October 18, 2018, the Uruguayan Congress [passed](#) a law that expands the social and economic rights of transgender people. The law defines gender-affirming surgery and hormone therapy as a right that will be government-funded, reserves 1% of public jobs for transgender people, and establishes a fund to pay reparations to transgender people who were detained and tortured during the country's military dictatorship from 1973 to 1985. The law

comes in response to a 2016 census finding that 75% of transgender Uruguayans did not graduate from high school and 25% have no familial support.

Marriage

Bermuda: On November 23, 2018, Bermuda's Supreme Court [ruled](#) that legislation banning marriage for same-sex couples was unconstitutional. The Court first [ruled](#) in May 2017 that banning same-sex couples from marrying was unconstitutional, but in February 2018 Bermuda enacted a law rescinding marriage for same-sex couples, limiting them to domestic partnerships. The most recent ruling allows marriages between same-sex couples to resume after they had been prohibited for several months.

China & Hong Kong: On September 20, 2018, Hong Kong's [policy](#) to grant dependency visas to foreigners in same-sex marriages took effect. The change follows the Final Court of Appeal's July 4 [judgment](#) that the same-sex partner of a British citizen working in Hong Kong is entitled to the same dependency visa to which spouses and children of other foreign workers are entitled. When the immigration department appealed to the Final Court, it argued that Hong Kong law only recognized marriages between men and women, but the Court ultimately reasoned that only granting dependency visas to opposite-sex partners "constituted indirect discrimination."

Costa Rica: On November 14, 2018, the Supreme Court of Costa Rica released an [opinion](#) setting a May 2020 deadline for lawmakers to legalize marriage for same-sex couples in the country, otherwise the current ban on marriage for same-sex couples would be struck down. The Court [held](#) that the ban is unconstitutionally discriminatory, and explicitly referred to the Inter-American Court of Human Rights' January 2018 [opinion](#) that States should recognize same-sex marriages.

European Union's Court of Justice: On June 5, 2018, the European Court of Justice [held](#) that member countries of the European Union (EU) that do not recognize marriages between same-sex couples must still grant residency to same-sex partners of EU citizens. The case was brought by a Romanian and American citizen who married his American partner in Belgium. In 2013, the couple appealed Romanian authorities' refusal to permit the American spouse to stay in Romania for more than three months, because the country does not recognize same-sex marriage.

Honduras: Two [appeals](#) filed by LGBTI rights organizations – challenging the bans on marriage for same-sex couples and adoption by same-sex couples as unconstitutional – are now before the Honduran Constitutional Chamber. The appeals are based on the Inter-American Court of Human Rights' [ruling](#) on January 9, 2018 that States must recognize marriages between same-sex couples, and that it was discriminatory for there to be separate legal provisions for such marriages.

Romania: On October 8, 2018, a referendum in Romania to establish a constitutional ban on marriage for same-sex couples [failed](#) with only 20.4% of Romanians voting, far below the 30% requirement for a referendum to be binding. In September, Senators had voted to put the referendum on the ballot to change the current gender-neutral language of the constitution, which refers to marriage as a union between spouses, to specify that marriage is between a man and woman. The referendum followed the Constitutional Court's September 28, 2018, [ruling](#) that same-sex couples have the same family and privacy rights as heterosexual couples, although marriage between same-sex couples is still not permitted.

South Africa: A [bill](#) is being considered in Parliament to repeal a section of a 2006 law – the same law that recognized marriage rights for same-sex couples – that allows state-employed marriage officers to refuse to marry same-sex couples because of the officer’s conscience or religious beliefs. The law only allows such marriage officers to raise their religion or beliefs in relation to same-sex civil unions – they cannot refuse to solemnize any other marriages based on religious beliefs. The bill seeks to repeal the section as it is contrary to the equality clause of the South African Constitution. INCLO-member LRC will offer written and oral submissions in favor of the bill in response to Parliament’s request for public participation.

Taiwan: On November 24, 2018, three [referendums](#) that call for marriage to be recognized only as between a man and a woman in Taiwan’s civil code and for same-sex unions to be regulated under a separate law, among other issues, were passed by a majority of Taiwanese voters. A referendum in support of marriage for same-sex couples failed. These referendums follow the May 2017 ruling by Taiwan’s highest court that the ban on marriage for same-sex couples was unconstitutional and the government had two years to enshrine marriage for same-sex couples into law. It is unclear what effect the referendums will have on the government’s obligations to legalize marriage for same-sex couples; the government has stated that the referendum results will not impact the court’s original decision.

United Kingdom: Two couples [appealed](#) the High Court of Justice’s decision to uphold the prohibition on marriage for same-sex couples to the Court of Appeal in Northern Ireland. The High Court’s ruling, issued in August 2017, [rejected](#) a challenge to Northern Ireland’s continued refusal to permit gay marriage. The court recognized the compelling nature of the evidence “about the effect on the gay and lesbian community of being treated less favourably than others so repeatedly and for so long.” It nonetheless concluded that the European Convention on Human Rights does not recognize a right to same-sex marriage, and that the right would need to be achieved through legislation.

[Services & Public Accommodations](#)

United Kingdom: On October 10, 2018, the U.K. Supreme Court unanimously [found](#) that a bakery did not unlawfully discriminate on the basis of sexual orientation when it refused to serve a customer who sought a cake featuring the slogan “support gay marriage,” together with a picture of Bert and Ernie from the children’s show, Sesame Street, to mark the International Day Against Homophobia and Transphobia. The Court [held](#) that “[t]he bakers could not refuse to supply their goods to [the customer] because he was a gay man or supported gay marriage, but that is quite different from obliging them to supply a cake iced with a message with which they profoundly disagreed.”

United States: On July 6, 2018, the U.S. Supreme Court narrowly [ruled](#) in favor of a bakery that turned away a couple seeking a cake for their wedding reception because the couple is gay. The Supreme Court found that the Civil Rights Commission that considered the matter evidenced anti-religious bias. At the same time, the Court reaffirmed that states can prevent the harms of discrimination in the marketplace against LGBT people. The Court did not address the bakery’s argument that requiring it to comply with the state law barring discrimination would violate its constitutional rights to free speech and freedom of religion. The U.S. Department of Justice [filed](#) a brief in support of the bakery, arguing also that the constitution protects the right to discriminate in certain circumstances. INCLO-member ACLU represented the couple who were denied service, and other INCLO members [filed](#) a friend-of-the-court brief in support of the couple.

Religious Freedom, Reproductive Rights and Women's Rights

Access to Abortion

Argentina: On August 9, 2018, Argentina's Senate narrowly [rejected](#) a bill that would have legalized abortion during the first 14 weeks of pregnancy; the bill had passed the Chamber of Deputies on June 14. Abortion is only permissible in Argentina if the pregnancy poses a health risk or if the pregnancy is a result of rape. A special commission had met twice a week for two months to consider the bill, hearing testimony from more than six hundred activists, experts, and other witnesses. The U.N. Working Group on the issue of discrimination against women in law and in practice had sent a [letter](#) to the government expressing support for the bill, as it would put Argentina closer to complying with international human rights standards regarding women's right to sexual and reproductive health, physical integrity, and non-discrimination. INCLO-member Centro de Estudios Legales y Sociales [opposed](#) the Senate's decision, as it "den[ies] women and trans men the right to decide about their bodies, reinforcing instead clandestine conditions, criminalization and the risk of death for those who opt to voluntarily interrupt a pregnancy."

Chile: On October 23, 2018, the Chilean government [published](#) a new protocol for entities that object to providing abortions for reasons of conscience. The protocol states that conscientious objections are not valid where there is a risk to the life of the patient, and that public institutions and private institutions that receive certain public funds may not be conscientious objectors, among other limitations. On November 20, 2018, the Constitutional Court of Chile agreed to review the newly released protocol at the [request](#) of a group of legislators. Previously, in August 2017, the Constitutional Court [upheld](#) the law decriminalizing abortions – when there is imminent risk to the life of the pregnant person, in cases of fatal fetal anomalies, and in cases of rape – but invalidated the part of the law prohibiting conscientious objections on the part of institutions.

Colombia: On October 17, 2018, the Colombia Constitutional Court affirmed the right of a woman to proceed with an abortion at 26 weeks where the pregnancy endangered her life. The court [declined](#) to set time limits on the availability of abortion or, more specifically, to say that abortion is [prohibited](#) under any circumstance after 24 weeks. Currently, abortion is legal if a doctor determines that one of three conditions exist – danger to health, a serious issue with the fetus, or the pregnancy resulted from rape or incest – and the doctor authorizes the abortion.

Germany: On October 12, 2018, a German court heard a gynecologist's appeal of her conviction for advertising abortion services. At least three gynecologists are being [prosecuted](#) for violating part of the German Penal Code that prohibits advertisements for pregnancy termination, and all three are challenging the law's constitutionality.

India: On July 16, 2018, the Supreme Court of India [denied](#) an abortion request from a 20-year-old woman who was the victim of child marriage and domestic violence. The petitioner, who was over 25 weeks pregnant at the time of the denial, had been advised against oral contraceptives due to her epilepsy. In denying her request, the Court reasoned that the petitioner would "regret killing the baby" if she "reconciles with the husband," and told the woman's advocate that the fetus should have been represented in court, not the woman. Under current law, pregnancies beyond 20 weeks can only be terminated if they pose a risk to the life of the woman or serious health risks to the fetus.

Ireland: On October 2, 2018, Ireland's Minister for Health [received](#) government approval to include two new provisions in [draft](#) legislation designed to regulate abortion: to make abortion universally accessible so that cost is not a barrier, and to establish safe access zones near abortion service providers. In addition, the bill would permit abortion up to 12 weeks for any reason, and until viability if the pregnancy poses a serious health risk. The legislation comes after the country voted to repeal the Eighth Amendment to its constitution in May of this year, overturning the ban on abortion by a [margin](#) of 66.4% to 33.6%. INCLO-member Irish Council for Civil Liberties [supported](#) efforts to overturn the ban. The legislation is expected to be introduced in the Houses of Parliament in early 2019.

Following this repeal, on June 11, 2018, Ireland's Prime Minister [asserted](#) that no publicly-funded hospitals, including Catholic hospitals, may be exempt from providing abortion services guaranteed when the new laws are in effect. The draft legislation provides that only individuals, not institutions, could opt out of the services based on religious objections.

Isle of Man: On November 20, 2018, the Isle of Man's Legislative Council will review a bill [passed](#) by the House of Keys that permits abortion up to 14 weeks of pregnancy for any reason, or up to 24 weeks if there are medical or "serious social grounds." The bill also creates buffer zones around abortion clinics and offers counseling to all patients. The legislation comes in response to a 2017 public survey that found 87% of Manx believe women should have the choice to get an abortion up to 14 weeks and 73% believe some circumstances warrant providing an abortion after 24 weeks. Currently in the Isle of Man, abortion is only allowed in cases where the pregnancy is life-threatening or the fetus has a low survival rate.

Kenya: During a three-day [hearing](#) in May 2018, the High Court of Kenya heard arguments in a lawsuit demanding that the government reinstate guidelines on safe abortions. Abortion is permitted under Kenya's constitution when a pregnant person's life is at risk or in cases of emergency, but the Ministry of Health has withdrawn guidelines on conducting safe abortions – including who can perform abortions – and banned health workers from conducting abortion trainings, causing a chilling effect on abortion providers and, in some cases, arrests. The petitioners argue that withdrawing the guidelines violates the rights of women and health workers under the constitution and international law. One of the petitioners [challenging](#) the ministry's actions is the mother of a teenage girl who died following complications of an abortion she sought after she was raped. The Court's decision is expected by the end of the year.

Mexico: On October 2, 2018, a bill to [amend](#) the Mexican federal constitution to legalize abortion was introduced to the Senate. The amendment would include the right to self-determination and free development of personality in the first article of the constitution. Right now, state laws include penalties up to 6 years in prison, with only Mexico City permitting abortion up to 12 weeks of pregnancy.

United Kingdom: In a [landmark ruling](#) on June 7, 2018, the U.K. Supreme Court found that existing abortion laws in Northern Ireland, which ban abortion except where there is a risk to life or of serious long-term harm, are incompatible with human rights law in cases of fatal fetal anomaly, rape, and incest. The majority opinion held that the laws infringed upon the right of respect for private and family life under the European Convention on Human Rights. The judgment is not binding because the Northern Ireland Human Rights Commission did not have standing to bring the case, but the Court concluded that "the present law clearly needs radical reconsideration."

On August 25, 2018, the British government [announced](#) that those obtaining an abortion in England will be allowed to take the second of two pills required for a medication abortion at home. Currently, both pills, which are administered 24 to 48 hours apart, must be taken at a clinic. The plan is expected to take effect by the end of the year and follows similar plans in Scotland and Wales.

On October 23, 2018, a bill to decriminalize abortion in the U.K., including Northern Ireland, [passed](#) its first reading (the first parliamentary hurdle), and is scheduled for a second reading on January 25, 2019. The “ten-minute rule” bill – which does not hold the same weight as legislation that has been formally entered into Parliament – proposes to strike the law criminalizing abortion except where there is a risk to the life or health of the pregnant person, which is still the law in Northern Ireland. In other parts of the U.K., abortion is still *prima facie* a crime, but other laws allow for exceptions, such as legalizing abortions up to 24 weeks gestation if it is carried out by a doctor with the written agreement of a second doctor, or after 24 weeks in cases of risk to life, fetal abnormality, or severe physical or mental injury to the pregnant person.

Meanwhile, the U.K. Home Office [rejected](#) a proposal for new national legislation to impose buffer zones around abortion clinics, in response to reports that anti-abortion protestors at clinics have been intimidating patients. The proposal also raised concerns about free speech, freedom of assembly, and the criminalization of homelessness and/or begging by legitimizing the use of Public Space Protection Orders. Ultimately, the Home Secretary found that establishing protest-free areas would be a disproportionate response because harassment from protestors was “not the norm” and there was already legislation in place that restricted harmful protest activities.

[Marriage](#)

India: On September 27, 2018, the Supreme Court of India [decriminalized](#) adultery, striking down a section of the Indian Penal Code. The law had defined adultery as a person having sex with a man’s wife without prior consent from the husband, which the Court found treats a wife as the property of her husband. The Court held that the law violated the Indian Constitution, as it perpetuated the subordinate status of women, denying them dignity and sexual autonomy, and was based on gender stereotypes.

On September 20, 2018, the President of India [promulgated](#) an Ordinance to criminalize “triple talaq” – a practice permitting a Muslim man to legally divorce his wife by saying “talaq” three times. Under the Ordinance, “triple talaq” is punishable with a fine and imprisonment for up to three years. The Ordinance responds to the Supreme Court of India’s decision in August 2017, which [held](#) that the practice was unconstitutional and violated Muslim women’s fundamental rights. After the decision, the Lok Sabha had [passed](#) a bill making any pronouncement of talaq void and punishable by imprisonment, but it was blocked by the Rajya Sabha, necessitating the President’s Ordinance. Supporters of the practice argue that it is a religious right.

South Africa: On August 31, 2018, the Western Cape High Court [ruled](#) that marriages solemnized under Sharia law must be legally recognized. The court found that failing to recognize such marriages violated the constitutional rights to equality, human dignity, and freedom of religion, among other rights, in part because it prevented Muslim women from being able to demand legal protection in cases of divorce. INCLC-member LRC represented an amicus applicant in support of the petitioners.

Religious Freedom & Individual Rights

Religious Discrimination

Canada: On June 28, 2018, a Quebec Superior Court [suspended](#) the province's ban on face coverings for anyone giving or receiving a public service. The Court held that the ban violates the Canadian Charter of Rights and Freedoms, and could cause irreparable harm to Muslim women. The ban was previously suspended in December 2017, until the government could create regulations. Although the completed regulations include provisions for religious exemptions, the Superior Court prevented the ban from going into effect because the regulations are ambiguous and confusing.

Sweden: On August 15, 2018, a Swedish labor court [ruled](#) in favor of a Muslim prospective employee whose job interview ended when she refused to shake hands with a male employee because of her religious beliefs. The employer had argued that it was not discriminating against the prospective employee based on her religion, but was defending gender equality, as it could not hire someone who would refuse to shake a person's hand based on gender – though the prospective employee contended that she does not shake anyone's hand. The court held that while the company was right to promote gender equality, the European Convention on Human Rights protects the prospective employee's right to refuse to shake hands on religious grounds.

Religious Freedom

India: On September 28, 2018, the Supreme Court of India [struck](#) a provision prohibiting women between the ages of 10 and 50 from entering a Hindu temple in Sabarimala, Kerala. The Court held the restriction violated the right of women to practice their religion, noting that any rule segregating women based on their biological characteristics can never be constitutional. The Court reasoned that “[p]atriarchy in religion cannot be permitted to trump over the element of pure devotion borne out of faith and the freedom to practice and profess one's religion.”

Ireland: On October 26, 2018, Ireland voted via referendum to remove “blasphemy” as an offense from an article in the Constitution. The final results showed that about 65% voted in favor of removing the word, while about 35% were opposed – though the last time someone had been prosecuted for blasphemy was in 1855. INCLC-member Irish Council for Civil Liberties [campaigning](#) to remove “blasphemous” from the Constitution.

United Nations: On February 28, 2018, the United Nations Human Rights Council [distributed](#) the Report of the Special Rapporteur on Freedom of Religion and Belief. As noted by the report, “[i]nternational human rights law imposes a duty on States to be impartial guarantors of the enjoyment to freedom of religion or belief of all individuals and groups within their territory and those subject to their jurisdiction.” The report analyzed how relationships between States and religions impact freedom of religion or belief and stressed the obligation of States to impartially guarantee freedom of religion to all. The report observed that States with a favoured religion, or that pursue policies to heavily restrict the role of religion, are both less likely to uphold their obligations to freedom of religion or belief, whereas States with no identification toward religion tend to fare better.

IACHR: On May 11, 2018, the Inter-American Commission on Human Rights (IACHR) [held](#) a public hearing on Freedom of Religion and the Secular State in Latin America. The [participating organizations](#) “stressed the fundamental importance of strengthening the clear separation

between the State's duty to protect the human rights of people under its jurisdiction and the existence and influence of religious groups." In particular, they emphasized the impact of a secular State on sexual and reproductive rights, and the rights of Afro-descendant and LGBTI persons. The IACHR committed to monitoring and following up on this issue and offered to provide technical assistance to States.

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