

HB

88

<TARGET><BILL>HB 88</BILL><SUBJECT>HB
88</SUBJECT><COMM>HJUD27</COMM></TARGET>

Alaska State Legislature

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Representative Carl Gatto

CSHB 88 (HSTA) Use of Foreign Law

America has unique values of liberty which do not exist in foreign legal systems. Yet foreign laws are increasingly finding their way into U.S. court cases, particularly in the area of family law, involving divorce and child custody.

CSHB 88 (STA) aims at preventing "a court or other enforcement authority" from enforcing foreign law in Alaska. The bill preempts violations of an individual's constitutional rights resulting from the application of foreign law. CSHB 88 (STA) exempts corporations, partnerships, or other forms of business association. The CS also states that foreign law shall not mean, nor shall it include, any laws of the Alaska Native or American Native tribes in the state of Alaska, in the limited circumstances when tribal members may be subject to the concurrent jurisdiction of the tribal courts and the state courts.

CS for HB88 (STA) offers a baseline law that provides a statutory framework for precluding constitutionally objectionable foreign laws and legal systems from finding their way into the state judicial system. To the question of whether this bill would affect conventions or treaties, such as, the Law of the Sea, Pacific Salmon Treaty, etc., the Attorney General replied in a legal opinion, dated March 21, 2011, "*...it is the United States who is a party to some of these conventions and/or treaties... These federal laws, to the extent they apply to Alaska, will preempt inconsistent state law, including HB88.*"

There are 16 other states with similar legislation regarding foreign law being considered in state courts. Alaska, like other states, recognizes the growing need to emphasize the fact that our state and U.S. constitutions are the fundamental basis for civil law for everyone in our country.

This bill is *not* about religion or First Amendment rights. Nothing in this bill prevents any person from freely exercising his or her right to freedom of religion and worship. CSHB88 (STA) only applies to legal doctrines in our court systems. The bill is not even principally focused on religious law, but any foreign law that violates constitutionally protected liberties. But to those who are accustomed to their religion and their civil laws being inextricably connected, we must clarify that all individual rights are guaranteed and protected under the Constitution of the State of Alaska and the United States Constitution.

Contact: Karen Sawyer
465-5025
27-LS0333\B
March 25, 2011

Alaska State Legislature

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Explanation of Changes from HB 88, version M To CSHB 88 (STA) version I

There were several questions asked at the first hearing in HSTA Committee regarding how HB 88 will affect corporations, partnerships, or other business associations. In addition, a legal opinion from the Department of Law indicated that "*HB 88 might affect a foreign entity's willingness to do business ...in Alaska...*"

Therefore, a change to Page 2, Line 26 adds

(g) This section shall not apply to a corporation, partnership, or other form of business association.

There are several states with similar legislation and this amendment has been inserted in those bills as well.

In addition, there were concerns if HB 88 affected family matters involving tribes in Alaska. The Department of Law legal opinion states that although family matters should not be affected, "*...in limited circumstances, tribal members may be subject to the concurrent jurisdiction of the tribal courts and the state courts. ... Tribes have the concurrent authority to initiate cases regarding children's proceedings or custody proceedings involving native children.*"

To alleviate questions about tribal law under this Act, a change to Page 2, Line 25 adds

After 'States.' For the purposes of this act, foreign law shall not mean, nor shall it include, any laws of the Alaska Native or American Native tribes in the state of Alaska.

Karen Sawyer
March 23, 2011

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

Fiscal Note Number _____
 Bill Version CSHB088(STA) 1B
 () Publish Date _____

Identifier (file name): CSHB088-LAW-CIV-03-25-11
 Title An Act prohibiting the use of foreign law that violates an individual's right under the United States Constitution.
 Sponsor Representative(s) Gatto
 Requester (H) JUD
 Dept. Affected Law
 Appropriation Civil
 Allocation Commercial and Fair Business
 OMB Component Number 2717

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants							
Miscellaneous							
TOTAL OPERATING	***	***	***	***	***	***	***

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES							
---------------------------	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other (please identify)							
TOTAL	***	***	***	***	***	***	***

Estimate of any current year (FY2011) cost ***

POSITIONS

Full-time							
Part-time							
Temporary							

Why this fiscal note differs from previous version (if initial version, please note as such)

Fiscal analysis revised due to changes in CS version.

Prepared by Eileen Donahue, Division Operations Manager
 Division Administrative Services
 Approved by John J. Burns, Attorney General
Department of Law

Phone 465-5427
 Date/Time 3/25/11 10:00 AM
 Date 3/25/2011

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. CSHB088(STA) \B

Analysis

This bill is designed to protect the rights of citizens of Alaska from the application of foreign law if the application would violate the individual's rights guaranteed by the Alaska Constitution or the United States Constitution. The Department of Law cannot estimate how many cases in which the State or State agencies might be named in which this new standard might be an issue. The new legal standard could likely involve interpretation of federal treaties and compacts and the application of those treaties on states by federal law.

The fiscal impact of this legislation cannot be accurately determined at this time.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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PHONE: (907)269-5100

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March 21, 2011

Representative Carl Gatto
State Capitol
Room 118
Juneau, AK 99801-1182

Re: HB 88

Representative Gatto:

You have asked the Department of Law ("Department") for an opinion on HB 88 and its impact on Alaska natives and tribal law, international conventions, litigation with foreign corporations, and contracts with foreign entities. One premise applicable to all of the questions posed is that HB 88 would have no effect to the extent it conflicts with a federal law or treaty. Pursuant to the Supremacy Clause of the US Constitution (Article VI, clause 2), the US Supreme Court has recognized for many years that State laws that conflict with federal law are "without effect." *Maryland v. Louisiana*, 451 U.S. 725, 746 (1981).

HB 88 defines "foreign law" as a law, rule or legal code or system used or applied outside of the United States and the territories of the United States. With regard to family matters, tribes operate within the United States. Accordingly, HB 88 should not affect family matters involving tribes. Tribal members are citizens of Alaska as well as citizens of their tribes. Therefore, in limited circumstances, tribal members may be subject to the concurrent jurisdiction of the tribal courts and the state courts. One example of this concurrent jurisdiction is domestic relations among members. Tribes have the concurrent authority to initiate cases regarding children's proceedings or custody proceedings involving native children. As to the final question regarding American Indian tribal law and Alaska Indian tribal law, there is no difference between the two.

With regard to conventions on the Law of the Sea, the International Pacific Halibut Convention, and the Pacific Salmon Treaty, to name a few, Alaska is not a party to these conventions. Instead, it is the United States who is a party to some of these conventions and/or treaties. For example, the United States has not yet signed the latest Law of the Sea Convention, though there is a resolution currently pending before the Alaska legislature urging the United States to ratify the convention. The laws that directly affect Alaska are the federal statutes and regulations that implement the treaties,

such as the Northern Pacific Halibut Act. These federal laws, to the extent they apply to Alaska, will preempt inconsistent state law, including HB 88.

In general, Alaska courts and enforcement entities can only apply Alaska law and federal law. Sometimes they will apply applicable law from another state, but only after determining that that law is applicable to the matter before the tribunal. But Alaska courts will not apply a foreign law if application of the law would violate an individual's constitutional rights. Generally, "foreign law" does not apply in Alaska. Judges take an oath to uphold the laws of the state and of the United States. If a foreign choice of law provision in a contract deprives the party to the contract of a fundamental constitutional right, the offending provision would be void as against public policy. In some instances a court might confront the application of foreign law, but these instances likely involve foreign treaties and compacts (such as the Hague Convention on the Civil Aspects of International Parental Child Abduction), in which case the foreign law would not be impacted by a state statute such as HB 88.

All courts have the ability to reform or modify a contract provision if enforcement of the provisions would be contrary to public policy. This would apply to both a choice of law provision and choice of venue or choice of forum provision. If the contract has a choice of venue or forum provision and a party (whether an individual or a corporation or other type of business entity) complies with the provision by filing a dispute in the foreign venue, then HB 88 would have no effect for Alaska law would not be applicable in the foreign venue. The provisions of HB 88 would apply if the party filed a lawsuit in Alaska and was opposing a motion to change venue to the foreign venue because of the clause in the contract. If the fundamental constitutional rights of the party opposing the change of venue motion would be impaired by the foreign venue, the Alaska court could void the venue provision as against public policy.

HB 88 might affect a foreign entity's willingness to do business with individuals or businesses in Alaska if it knows that provisions of the contract may be void by law should HB 88 become law. If a contract is entered into with a foreign entity to provide goods or services to the foreign entity in that entity's country, it would not be unusual for the contract to contain choice of law and/or choice of venue provisions. The foreign entity might be hesitant to enter into such a contract if there is the possibility that in the future the terms of the contract might be changed by an Alaskan court because the other party to the contract claims that his or its constitutional rights are being violated if the choice of law or choice of venue provisions are enforced. Finally, what is unclear from HB 88 is how an Alaska state court could interpret a choice of venue or forum provision so as to preserve constitutional rights other than by determining the provision to be void and to allow a lawsuit to proceed in Alaska rather than in the country chosen in the contract.

Representative Carl Gatto
Re: HB 88

March 21, 2011
Page 3 of 3

As part of the common law doctrine of forum non conveniens, consideration is given to the laws applicable in the foreign jurisdiction and their impact on the parties to a lawsuit. A party will not be sent to a jurisdiction that does not have equal protection and due process. For example, in a divorce case between two Kenyan citizens, a judge denied a forum non conveniens motion to move the case to Kenya because the wife would have had diminished property rights under the laws of Kenya.

In conclusion, the general concern the Department has with HB 88 is whether the legislation is necessary considering the current ability of the courts to reform or modify contracts if enforcement of provisions of the contract would be contrary to public policy and the general premise that Alaska courts and enforcement entities apply only Alaska and federal law, not foreign law of a foreign country.

The Department is available to answer any question you have about these comments.

Sincerely,

JOHN J. BURNS
ATTORNEY GENERAL

By: *Mary Ellen Beardsley*
Mary Ellen Beardsley
Assistant Attorney General

MEB/ma

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MEMORANDUM

March 15, 2011

SUBJECT: Limited application of foreign law
(Work Order No. 27-LS0333\M)

TO: Representative Carl Gatto
Attn: Karen Sawyer

FROM: Dennis C. Bailey *DCB*
Legislative Counsel
and
Dan Wayne
Legislative Counsel

Since there is a hearing on your bill coming up on March 17 and drafting attorney Dennis Bailey has been out of the office because of illness for a few days, I've briefly addressed the three concerns raised in the March 10 e-mail from Karen Sawyer to this office.

1. The bill's potential for interfering with a choice of law provision in a contract seems direct and not inadvertent, as far as I am able to determine. Language on page 2 of the bill, lines 2 - 8, relates to agreements containing choice of law provisions. This language would void an agreement containing a choice of law provision if the provision has an effect that violates an individual's constitutionally protected individual rights unless the provision can be changed to eliminate its unconstitutional effect.
2. The bill uses the term "foreign law" instead of "law," and defines the term to mean "a law, rule, or legal code or system established and used or applied in a jurisdiction outside of the United States and the territories of the United States." I understand that the "foreign law" that is of concern to you is the law from outside of the U. S. If that is correct, no change is necessary.
3. HB 88 does not necessarily conflict with provisions of AS 25.30.400 - 25.30.590 that may require enforcement of foreign orders under the Hague Convention on the Civil Aspects of International Child Abduction, a multinational treaty to which the United States is a signatory. The United States Congress implemented the Convention in the International Child Abduction Remedies Act, (ICARA), 42 U.S.C. 11601 et seq. The ICARA grants concurrent jurisdiction to state and federal courts. 42 U.S.C. 11603. It allows a court that has jurisdiction to exercise discretion that is potentially very broad. 42 U.S.C. 11604. This may reduce the risk of a conflict between the bill's provisions and federal law to some degree. 42 U.S.C. 11604, reads:

Representative Carl Gatto
March 15, 2011
Page 2

§ 11604. Provisional remedies

(a) Authority of courts. In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 11603 (b) of this title may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) Limitation on authority. No court exercising jurisdiction of an action brought under section 11603 (b) of this title may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

Keep in mind that, as noted in the December 30, 2010 memo to your office, if the bill's provisions are adopted and are later found to be in conflict with federal law, including ICARA, the Supremacy Clause of the U. S. Constitution would cause the conflict to be resolved in favor of the federal law.

If I can be of further assistance, please advise.

DCB:DCW:plm
11-138.plm

Karen Sawyer

From: Karen Sawyer
Sent: Thursday, March 10, 2011 3:35 PM
To: LAA Legal
Cc: 'Carl Gatto'
Subject: HB 88 legal opinion requested
Attachments: HB 88; HB 88

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

Attached are two e-mails from Doug Wolliver, Courts System legislative liaison, in response to my request for information about whether any of the Family Courts in Alaska have experienced cases where foreign law (example, Sharia Law) had been invoked. These two e-mails are his replies to date. I am requesting a legal opinion on the questions below.

Doug made these suggestions based on what the family court judges said:

- look into **“choice of law” clauses in contracts**. I don't believe that such a contract clause can be upheld if it violated our constitutions and your bill drafter has probably already considered this (they generally think of most everything).
 - **MY REQUEST:** double-check just to make sure the bill does not inadvertently interfere with **choice of law clauses**, which are routine.
- consider **defining law “foreign law.”** In many contexts a foreign jurisdiction is any jurisdiction other than Alaska. So, for example, registering a domestic violence restraining order from Washington State is considered registering a foreign order.
 - **MY REQUEST:** HB 88, version M, already has a definition of foreign law. However, it limits the jurisdiction to the United States and its territories. **Do we need to specifically mention “Alaska jurisdiction”, or is it okay as is?**
- **AS 25.30.400-590 (a portion of the Uniform Child Custody Jurisdiction and Enforcement Act)** provides for the enforcement of foreign orders under the Hague Convention on the Civil Aspects of International Child Abduction. I don't know if HB 88 conflicts with that statute, but it is something you might consider investigating.
 - **MY REQUEST:** Does HB 88 conflict with statute above?

FYI: My request of the Department of Law regarding cases involving foreign law came back with the answer of 'the State has had no cases'.

We have a bill hearing on HB 88 next week, Thursday, March 17th, at 8AM in House State Affairs.

Thanks much.

American Public Policy Alliance

Representative Civil Legal Cases Involving Shariah Law

November 8, 2010

American Public Policy Alliance
www.publicpolicyalliance.org

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Civil Legal Cases involving Shariah Law

ILLINOIS

Shaheed Allah, Plaintiff, v. Adella Jordan-Luster, et al., Defendants: Inmate demands Halal-slaughtered meat in prison

United States District Court, C.D. Illinois - August 3, 2007

http://scholar.google.com/scholar_case?case=10507683704817451581

Shaheed Allah, an inmate incarcerated at Pontiac Correctional Center, alleged violations of the First Amendment and the Religious Land Use and Institutionalized Persons Act ("RLUIPA") caused by the Defendants' failure to provide him with a Halal diet.

Allah requested to be provided with a Halal diet. Pontiac Correctional Center claimed it was already in compliance with this dietary requirement as pork and pork by-products are not served at Pontiac. The Plaintiff disagreed that the only dietary restriction for Muslims is the abstinence of pork and pork by-products. Plaintiff requested that the Defendants confer with Aqueel Khan, the Muslim Chaplain, to verify the validity of the Plaintiff's dietary request.

Although he was provided with bread, fruit and vegetables, he asserted that a Halal diet must consist of "meat that has been slaughtered in the manner prescribed by the Sharia."

According to Plaintiff, the prescribed method for Halal meat includes keeping the animal "in a humane way prior to slaughter," then slaughtering the animal by "slitting of the throat" while reciting the Qur'an.

The court found that the Plaintiff has not met his initial hurdle of showing a substantial burden was placed upon his religious beliefs as he admittedly could consume vegetables and grains without violating his faith. Thus, the practice of the Plaintiff's faith was not hindered by the provision of a general prison diet rather than the Halal diet the Plaintiff sought.

Wafra Leasing Corporation, Plaintiff, v. Prime Capital Corporation, et al., Defendants.

United States District Court, N.D. Illinois, Eastern Division - August 30, 2004

http://scholar.google.com/scholar_case?case=1862554034514970966

Prime Capital was a specialty finance company that through its affiliates financed certain equipment leases. Wafra Leasing Corp. invested in Prime Capital securities. Wafra claimed it was the victim of securities fraud and improper auditing.

The plaintiff corporation, Wafra, is a wholly owned subsidiary of the Wafra Fund. The sole owners of the Wafra Fund are the Kuwaiti National Security Administration, a branch of the Kuwaiti government, and Aref Investment Group, owned by the Kuwait Public Institution for Social Security and an Islamic bank. Wafra invested in the 1999-A Securitization on May 4, 1999. Wafra's investors sought to comply with Islamic law, or Sharia, which prohibits investors from collecting interest, but allows them to earn money from the ownership and operation of assets.

Of the multiple counts against Prime Capital individuals, several requests for summary judgments were approved.

LOUISIANA

Amin v. Bakhaty: Louisiana court refuses to enforce Egyptian child custody order

Supreme Court of Louisiana - October 16, 2001

<http://www.thenewamerican.com/index.php/usnews/politics/4342-states-take-preemptive-strike-against-shariah>

http://scholar.google.com/scholar_case?case=4590415366527786188

In the 2001 custody case of *Amin v. Bakhaty*, 01-1967 (La.10/16/01), 798 So.2d 75, the defendant (father) Abdelrahman Bakhaty filed an affidavit when he petitioned for a civil warrant stating that by operation of Egyptian law both the temporary guardianship and physical custody of the child rested exclusively with him. Egypt follows Islamic family law, which structures some of the rights between family members based solely on gender. Under the Egyptian concept of "guardianship," the father has the absolute right to the guardianship and the physical custody of the minor child.

Louisiana Supreme Court refused to enforce an Egyptian custody order stating that:

The only other forum that could possibly determine custody would be Egypt. However, the Egyptian Court is not compelled to consider the minor child's best interest. [The father] would have the absolute right to guardianship, as well as the right to physical custody. This Court believes that a parent's interest in a relationship with his or her child is a basic human right. The unique circumstances of this case required more consideration for the best interest of this child than for the extension of comity toward the Egyptian/Islamic legal system.

The court ruled that the child would stay in the custody of the mother, Magda Amin, in Louisiana.

MARYLAND

Aleem vs. Aleem: Maryland's Highest Court Refuses to Recognize Pakistani Shariah Divorce Court of Appeals of Maryland - May 6, 2008

http://volokh.com/archives/archive_2008_05_04-2008_05_10.shtml#1210196695

<http://mdcourts.gov/opinions/coa/2008/108a07.pdf>

Farah Aleem filed suit for a limited divorce from her husband, Irfan Aleem in the Circuit Court of Montgomery County, MD. In response her husband, a Pakistani resident of Maryland, tried to divorce her preemptively by entering the Pakistani Embassy in Washington, DC and performing *talaq*, the Shariah-approved way for a man to declare a divorce by simply stating "I divorce thee ..." three times.

The court reasoned that while foreign divorces are generally recognized unless they violate the state's public policy, the sex-discriminatory nature of Islamic divorce law does violate Maryland public policy when the parties are Maryland residents:

The *talaq* divorce of countries applying Islamic law, unless substantially modified, is contrary to the public policy of this state and we decline to give *talaq*, as it is presented in this case, any comity. The Pakistani statutes providing that property owned by the parties to a marriage, follows title upon the dissolution of the marriage unless there are agreements otherwise, conflicts with the laws of this State where, in the absence of valid agreements otherwise or in the absence of waiver, marital property is subject to fair and equitable division. **Thus the Pakistani statutes are wholly in conflict with the public policy of this State as expressed in our statutes and we shall afford no comity to those Pakistani statutes.**

Hosain v. Malik: Maryland grants custody of child to father over mother in accordance with (Shariah-based) Pakistani law

Court of Special Appeals of Maryland - February 21, 1996

<http://www.thenewamerican.com/index.php/usnews/politics/4342-states-take-preemptive-strike-against-shariah>

http://scholar.google.com/scholar_case?case=13345154354945640474

In *Hosain v. Malik*, 108 Md.App. 284, 671 A.2d 988 (Md.1996), a Maryland Court granted comity and enforced a Pakistani custody order turning a child brought to the US by the mother (Joohi Q. Hosain) over to the father (Anwar Malik).

The Maryland Court held that: the burden was on the mother to prove the Pakistani court did not apply law in “substantial conformity with Maryland law” by a preponderance of the evidence; the case was “not about whether Pakistani religion, culture, or legal system is personally offensive to us or whether we share all of the same values, mores and customs, but rather whether the Pakistani courts applied a rule of law, evidence, or procedure so contradictory to Maryland public policy as to undermine the confidence in the trial”; the best interest of the child should not be “determined based on Maryland law, i.e., American cultures and mores,” but rather “by applying relevant Pakistani customs, culture and mores”; **“a Pakistani court could only determine the best interest of a Pakistani child by an analysis utilizing the customs, culture, religion, and mores of ... Pakistan”**; **“in the Pakistani culture, the well being of the child and the child’s proper development is thought to be facilitated by adherence to Islamic teachings”**;

The court recognized the **“longstanding doctrine [of Hazanit1] of one of the world’s oldest and largest religions practiced by hundreds of millions of people around the world and in this country, as applied as one factor in the best interest of the child test, is [not] repugnant to Maryland public policy.”**

The mother argued that Maryland law was violated because she may have been arrested for adultery if she returned to Pakistan for the custody proceedings and have been subject to “public whipping or death by stoning.” The court found this was “not repugnant” to Maryland public policy because such punishments were “extremely unlikely.”

MASSACHUSETTS

Rhodes v. ITT Sheraton Corp: Rejection of Saudi Arabia as an Alternate Forum for Resolving a Dispute

Massachusetts Superior Court - 1999

<http://volokh.com/2009/08/12/rejection-of-saudi-arabia-as-an-alternate-forum-for-resolving-a-dispute/>

The Plaintiff Rhodes was a British citizen on summer break from her university when she visited her parents at their home in Jeddah, Saudi Arabia. On August 23, 1994, she and her sister met two of their friends at the Sheraton Jeddah Hotel and Villas. The resort complex encompassed a beach, a large concrete wharf, a wooden platform or jetty and a lagoon. Coral stretched out from under the jetty and around the edge of the lagoon. The Plaintiff struck her head on this coral when she dove into the lagoon from the jetty. She lay in the water, face

down and unable to move, until she was pulled out and taken to a nearby hospital. The Plaintiff sustained a high level spinal injury and Plaintiff's expert estimated that her medical expenses resulting from the accident would exceed ten million dollars.

Under Massachusetts law a judge may dismiss or stay an action upon finding "that in the interest of substantial justice the action should be heard in another forum." The judge found that Saudi Arabia was not an adequate alternative forum because the **Plaintiff would experience severely restricted rights under the Shariah-based Saudi legal code:**

The first significant drawback to trial of this case in Saudi Arabia is that **plaintiff would not be permitted to testify...**

Prevailing in Saudi Arabia would be even more difficult for plaintiff in light of the requirement that, "[i]n financial matters, **a party must produce two male witnesses or one male and two female witnesses in order to prove a point.**"...

Saudi Arabia does not offer parties the opportunity to be heard by a jury...

... a Saudi forum would deprive plaintiff of basic procedures which she expects to enjoy in a Massachusetts forum.

Finally, the existence of biases against women and non-Muslims in Saudi Arabia would impose additional disadvantages on plaintiff. Defendants' expert attributes the differential treatment based on gender and religion to "long-standing, well-known provisions in the law." Although defendants promise to ensure that any recovery by plaintiff in a Saudi court would not be diminished because of her gender and religion, their guarantee cannot insulate plaintiff entirely from the systemic prejudices...

MICHIGAN

Saida Banu Tarikonda v. Bade Saheb Pinjari: Lower court recognizes Shariah divorce law; appeals court overrules

Court of Appeals of Michigan – April 7, 2009

<http://www.michbar.org/opinions/appeals/2009/040709/42377.pdf>

http://scholar.google.com/scholar_case?case=4294001533062003586

Plaintiff Tarikonda (wife) and defendant Pinjari (husband) are Muslim citizens of India who were married in Hyderabad, India in 2001. The couple resided in Michigan from February 2006 to January 2008, when they separated. Plaintiff remained in Michigan and defendant moved to New Jersey.

The triple talaq is a mechanism for divorce which exists in Sunni Islam. It simply consists of the husband saying the phrase I divorce you (Arabic:talaq) to the wife, three times.

In April 2008, the husband traveled to India and pronounced the following written triple talaq:

Now this deed witnesses that I the said Bade Pinjari, do hereby divorce Saida Tarikonda, daughter of T. Babu Khan, by pronouncing upon her Divorce/Talaq three times irrevocably and by severing all connections of husband and wife with her forever and for good.

1. I Divorce thee Saida Tarikonda
2. I Divorce thee Saida Tarikonda
3. I Divorce thee Saida Tarikonda

In May 2008, the wife filed a complaint for divorce in Michigan. The husband filed a motion to dismiss the complaint pursuant because of the existing Indian divorce. To prove the divorce occurred, he offered a divorce certificate from a Wakf Board in Andhra Pradesh, India. The trial court granted his motion. It instructed the wife to register the Indian divorce in Michigan and file a separate complaint for custody and child support.

On appeal, the wife argues that the trial court erred when it recognized the Indian divorce, because the triple talaq is violative of due process and contrary to public policy. **The court of appeals reversed the previous decision as void and against public policy since it violates due process and equal protection.**

***Nabil Taiseer Hassan and Sawsan Hassan v. Eric H. Holder, Jr.:* Michigan case cites Shariah courts, documents and marriage certificates**

United States Court of Appeals, Sixth Circuit - May 11, 2010.

http://scholar.google.com/scholar_case?case=17900651172709546887

The Petitioners were Nabil Hassan and his wife Sawsan Hassan, both Muslim and self-identified “Palestinians” born and raised in Jerusalem. Nabil Hassan was admitted to the United States in 1995 on an F-24 Immigrant Visa, which is reserved for unmarried children of lawful permanent residents. Hassan qualified for this visa because his mother was living in the United States and had LPR status. Sawsan Hassan entered the United States on the same day as Nabil and was admitted to the country on a Nonimmigrant Tourist Visa. On April 10, 1995, Nabil and Sawsan had a small wedding ceremony at a mosque in Michigan and signed documents to certify their marriage.

On December 29, 1999, Nabil filed an application for naturalization. Daniel Wells of the Immigration and Naturalization Service was assigned to investigate and adjudicate Nabil's application. On July 27, 2000, Officer Wells conducted an in-person interview of Nabil Hassan and became suspicious that Nabil and Sawsan had in fact married sometime before their 1995 entry in the United States. Nabil's naturalization application was denied. On May 23, 2002, the government served Nabil Hassan with a Notice to Appear, alleging that he had married Sawsan before entering the United States which would automatically revoke his visa.

Pursuant to Israeli law, the Shariah courts (and Shariah law) control personal status matters of Muslims residing in Jerusalem. Therefore the evidence in the case was based on Shariah marriage documents

issued by Islamic legal authorities in Jerusalem and whether the couple had “completed” their Shariah marriage via sexual intercourse.

Nabil testified that on February 24, 1995, the families created a written engagement contract, and that a Sharia agent named Nasra helped the families create the document and then file it with the appropriate authorities. **Nabil claimed that he and Sawsan did not finalize (i.e. consummate) their marriage in Jerusalem, however. Instead, they waited until April 10, 1995, when they had their ceremony in the mosque and celebration in Michigan.**

The appeals court noted that the lower court was looking for “**evidence that Petitioners had performed all the steps required for a marriage under Sharia law before they left for the United States.**” The lower court found that “**the evidence on the record, when viewed as a whole, compels the contrary conclusion that the government did not offer clear and convincing evidence that Petitioners had completed the steps required for a Muslim marriage under Sharia law before entering the United States.**”

The appeals court both affirmed in part and reversed in part the ruling, but ordered that “removal proceedings against Petitioners” be quashed and that they may remain in the United States.

MINNESOTA

Mohamed D. ABD ALLA v. Mohamed MOURSSI: Minnesota man appeals to court regarding decision in Islamic arbitration hearing

Court of Appeals of Minnesota - June 1, 2004

http://scholar.google.com/scholar_case?case=8449493111914467247

In August 2001, Mourssi and respondent Mohamed D. Abd Alla entered into a partnership to manage and acquire restaurants. The partnership was subject to a partnership agreement. The partnership agreement included an arbitration clause, which provides:

Any dispute, controversy or claim arising out of or in connection with or relating to this Agreement or any breach or alleged breach hereof shall, upon the request of any party involved, be **submitted to and settled by arbitration before the Arbitration Court of an Islamic Mosque located in the State of Minnesota pursuant to the laws of Islam** (or at any other place or under any other form of arbitration mutually acceptable to the parties so involved). Any award rendered shall be final and conclusive upon the parties and a judgment thereon may be entered in the highest court of the forum, state or Federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the costs of its own experts, evidence, and counsel.

At some point, the partnership acquired the Al-Bustan Restaurant. After purchasing the restaurant, numerous disputes arose between the partners. The parties agreed to arbitrate their difference before an Islamic arbitration committee. In September 2002, the committee issued its decision in favor of Abd Alla against Mourssi.

In April 2003, Abd Alla moved the district court to confirm the arbitration award. On May 14, 2003, Mourssi responded that the court should deny Abd Alla's motion and vacate the arbitration award "on the grounds that it was procured by corruption, fraud or other undue means and that the Committee exceeded its authority." During the hearing Abd Alla argued Mourssi had not timely contested the arbitration award and therefore could not now contest the award. **Mourssi argued that under Islamic law there is no set time for appeal.**

The district court confirmed the arbitration reward and appeals court affirmed their decision under Minn.Stat., ch. 572.

NEW JERSEY

S.D. v. M.J.R.: Man rapes wife and claims Shariah as a defense S.D. v. M.J.R.

Superior Court of New Jersey, Appellate Division - Decided July 23, 2010.

<http://www.leagle.com/unsecure/page.htm?shortname=innico20100723325>

Plaintiff S.D. (wife) and defendant M.J.R.(husband) are Muslim citizens of Morocco who were wed in an arranged marriage on July 31, 2008, when plaintiff was seventeen years old. On August 29, 2008, they came to New Jersey as the result of defendant's employment in this country as an accountant.

She describes a continual pattern of abuse culminating on January 22, 2009, when the defendant forced plaintiff to have sex with him while she cried. Plaintiff testified that defendant always told her, **"This is according to our religion. You are my wife, I c[an] do anything to you. The woman, she should submit and do anything I ask her to do."**

While recognizing that defendant had engaged in sexual relations with plaintiff against her expressed wishes in November 2008 and on the night of January 15 to 16, 2009, the judge did not find sexual assault or criminal sexual conduct to have been proven. He stated:

This court does not feel that, under the circumstances, that this defendant had a criminal desire to or intent to sexually assault or to sexually contact the plaintiff when he did. The court believes that he was operating under his belief that it is, as the husband, his desire to have sex when and whether he wanted to, was something that was consistent with his practices and it was something that was not prohibited.

After acknowledging that this was a case in which religious custom clashed with the law, and that under the law, plaintiff had a right to refuse defendant's advances, the judge found that defendant did not act with a criminal intent when he repeatedly insisted upon intercourse, despite plaintiff's contrary wishes.

An appellate court reversed in 2010, writing: **"Defendant's conduct in engaging in nonconsensual sexual intercourse was unquestionably knowing, regardless of his view that his religion permitted him to act as he did."**

The appeals court ruled that the judge was wrong to excuse the Defendant's actions due to his religious beliefs. The appellate court remanded for entry of a restraining order.

Odatalla v Odatalla - Enforcement of Islamic Mahr Agreement
Superior Court of New Jersey, Chancery Div., Passaic County - June 24, 2002

http://scholar.google.com/scholar_case?case=2649501230049632360

This case presented the issue of whether a civil court can enforce the terms of an Islamic Mahr Agreement, and arose in an action brought by the plaintiff for a divorce based upon grounds of extreme cruelty. The Defendant filed an answer and a countercomplaint for divorce also on grounds of extreme cruelty. The plaintiff sought enforcement of the Mahr Agreement contained in the Islamic marriage license.

The court used testimonial evidence from both plaintiff and defendant and an **actual copy of the Islamic marriage license. The videotape of the entire ceremony showed the families sitting on separate couches in the living room negotiating the terms and conditions of the entire Islamic marriage license including those of the Mahr Agreement.** After the negotiations, when a sum of money was determined for the Mahr Agreement, both families went to a table where the Imam began preparing the written Islamic marriage license including the Mahr Agreement. When the Islamic marriage license, including Mahr, was completed, the Imam presented it to each party for their signature. Each party read the entire license and Mahr Agreement and signed the same freely and voluntarily.

The Mahr Agreement, a section of the Islamic marriage license in the lower left portion of the license, read: "According to Islamic Law Dower is: Prompt One golden pound coin, Postponed Ten Thousand U.S. Dollars, Personal conditions ___"

The defendant, Zuhair Odatalla, claimed the agreement was not a valid contract under New Jersey law. The court found that the Mahr Agreement is not void simply because it was entered into during an Islamic ceremony of marriage. Rather, enforcement of the secular parts of a written agreement is consistent with the constitutional mandate for a "free exercise" of religious beliefs. The court found that all of the essential elements of a contract were present and ruled that the defendant owed to the plaintiff the sum of \$10,000.

Clearly, the Mahr Agreement in the case at bar is nothing more and nothing less than a simple contract between two consenting adults. It does not contravene any statute or interests of society. Rather, the Mahr Agreement continues a custom and tradition that is unique to a certain segment of our current society and is not at war with any public morals.

NEW YORK

Sofyan Ali SALEH, Petitioner, v. UNITED STATES DEPARTMENT OF JUSTICE: Yemeni jailed in US fights deportation on Shariah grounds

United States Court of Appeals, Second Circuit - Decided April 29, 1992.

http://scholar.google.com/scholar_case?case=12533084801905965406

Saleh contended that because he was under a death sentence imposed by an Islamic court in Yemen for a homicide which he committed in the United States that had already resulted in his imprisonment here, he had established a "well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion" within the meaning of 8 U.S.C. § 1101(a)(42) (1988), and thus qualified for asylum and withholding of deportation.

Saleh, a Yemeni citizen, became a permanent resident alien through marriage to a U.S. citizen in 1982. On February 4, 1983, while living in New York City, he shot and killed Abdulla Elhosheshi, another Yemeni national. Saleh pled guilty to first degree manslaughter and commenced serving a sentence of 8 1/3 to 25 years. **Based on the same occurrence, Saleh was also tried and convicted in absentia in Yemen and sentenced to death by a "Sharia" (Islamic) court. Jurisdiction existed because Saleh and the victim were both Yemeni Muslims.**

He submitted a memorandum of law arguing that his Yemeni conviction entitled him to asylum. He argued that he was being persecuted on account of his religion — because he would be punished in Yemen under the **"fanatical interpretation of age old [religious] laws and customs,"** and that he was being persecuted because of his membership in a particular social group — Yemeni Moslems residing outside of Yemen, "upon whom the Islamic authorities in Yemen are attempting to exert their power and control."

Also, under Islamic law, the victim's family could waive the death sentence by electing to receive "blood money" from Saleh in lieu of his execution. In this case, the amount of "blood money" could range from \$186,000 to \$360,000. Saleh contended that he was being persecuted on account of his membership in the "particular social group" of poor Yemenis who could not afford to pay "blood money" to buy their way out of a death sentence.

On June 5, 1990, the IJ rendered a decision that denied Saleh's applications and ordered his deportation. The IJ concluded that Saleh's conviction in Yemen did not constitute statutory "persecution" because Saleh had simply been "prosecut[ed] for a common law offense."

PEOPLE of the STATE of NEW YORK v. IBRAHIM BEN BENU:

CRIMINAL COURT OF THE CITY OF NEW YORK, KINGS COUNTY - May 13, 1976

Case of forced child marriage following Islam that was voided as against public policy; the father of the child forced into marriage was also acknowledged to be in a polygamous "marriage"

http://ny.findacase.com/research/wfrmDocViewer.aspx/xq/fac.%5CNY%5CNY3%5C1976%5C19760513_0042949.NY.htm/qx

OHIO

Mohammed Zawahiri v. Raghad Zahar Alwattar: Islamic Mahr Agreements in Civil Courts
Court of Appeals of Ohio - July 10, 2008

http://volokh.com/archives/archive_2008_07_13-2008_07_19.shtml#1216332053

Mohammed Zawahiri and Raghad Z. Alwattar were married, in an arranged marriage. The day of the wedding, Zawahiri signed a "mahr" under which he promised to pay his wife \$25,000 in the event of divorce.

This case is similar to the *Odatalla v Odatalla* mahr agreement case in New Jersey above.

TENNESSEE

HOSSEIN AGHILI VS. HAMIDEH SABA SAADATNEJADI: Legitimizes Polygamy and "expertise" in Islamic Studies

COURT OF APPEALS OF TENNESSEE June 11, 1997

<http://www.tsc.state.tn.us/opinions/TCA/PDF/972/aghilih.pdf>

This appellate decision dealt with the validity of an Islamic marriage under U.S. law, and the decision acknowledges that Islamic law supports polygamy with up to four wives:

This appeal involves the validity of an Islamic marriage. Shortly after the marriage, the husband filed suit in the Circuit Court for Davidson County seeking a divorce or, in the alternative, an annulment. After the wife counterclaimed for a divorce, the husband moved for a summary judgment on his annulment claim. The trial court granted the summary judgment, finding that the undisputed evidence demonstrated that the officiant was not qualified to perform the marriage under Islamic law and that the officiant had failed to file the marriage license within the legally prescribed time. The wife takes issue on this appeal with the trial court's conclusion that the marriage was void ab initio. We have determined that the trial court erred and, therefore, reverse the summary judgment.

TEXAS

AMIR AHMED V. AFREEN S. AHMED: Texas Divorce Case; \$50,000 Mahr agreement disputed Court of Appeals of Texas - June 17, 2008

http://scholar.google.com/scholar_case?case=13628678145937799273

MAJORITY OPINION

LESLIE B. YATES, Justice.

In this divorce case, appellant Amir Ahmed appeals from the trial court's order awarding his ex-wife, appellee Afreen S. Ahmed, \$50,000 pursuant to an Islamic marriage certificate signed by the parties. We affirm in part and reverse and remand in part.

Amir and Afreen married in a civil ceremony in November 1999. Both are of Indian descent, and both practice the Islamic faith. The marriage was arranged 193*193 between the parties' families. They did not live together until about six months later after their Islamic marriage ceremony in New York on May 21, 2000. As part of this ceremony, the parties signed an Islamic marriage certificate called a "Nikah Nama," which mentions a deferred "Mahr" of \$50,000. According to Afreen's trial testimony, a Mahr is an Islamic religious custom whereby the husband contracts to give the wife a sum of money, either at the time of the marriage or deferred in the event of a divorce. On appeal, Amir argues that the trial court erred in enforcing the Mahr because (1) it is not a valid premarital agreement under the Family Code, (2) its terms are too vague and uncertain to be enforced, (3) the evidence is legally and factually insufficient to support the \$50,000 award, (4) it is a religious agreement and enforcing it violates the Establishment Clause of the United States Constitution, (5) it

encourages divorce, which is against public policy, and (6) according to **Islamic law**, enforcing a Mahr is inconsistent with an additional division of marital property.

The Court erred when it granted a money judgment in favor of [Afreem] in the amount of \$50,000 for a [Mahr] agreement between the parties. Even though the court did not make an express finding, the court erred when it implicitly found that the religious based [Mahr] agreement constitutes an enforceable contract under the laws of Texas and [the] United States. The finding is not supported by evidence, or in the alternative, there is insufficient evidence to support the finding.

Saadallah JABRI and Aida Jabri, Appellants, v. Jamal QADDURA, Appellee: Texas Islamic arbitration court taken into account in divorce case

Court of Appeals of Texas - May 8, 2003

http://scholar.google.com/scholar_case?case=9457607297329156688

<http://www.2ndcoa.courts.state.tx.us/opinions/HTMLopinion.asp?OpinionID=14601>

Rola Qaddura and Jamal Qaddura were married on September 3, 1993. Previously, on August 28, 1993, they had signed an "Islamic Society of Arlington Islamic Marriage Certificate" which reflects that the 407*407 "dowry for the bride" was: "One-half of the value of the house located at 2206 Gladstone. This is in addition to \$40,000 Fourty [sic] Thousand U.S. Dollars the payment of which is deferred."

On October 19, 1999, Rola filed for divorce. She sought sole managing conservatorship of the parties' two children, child support, division of the parties' estate, and enforcement of the terms of the Islamic Marriage Certificate. Rola subsequently sued Jamal's brother, Osama Qaddura, as a third-party defendant, alleging he was engaged in a conspiracy with Jamal whereby Jamal was wrongfully transferring community assets to Osama, including a house on Vesta Via Court.

Jamal filed a counterclaim seeking sole managing conservatorship and child support. He sought a declaration that the Islamic Marriage Certificate was unenforceable because it was induced by Rola by fraud. He also alleged a separate cause of action against Rola for "defamation and false light," in which he sought \$250,000 actual damages and \$1,000,000 exemplary damages.

Osama filed a counterclaim seeking a declaratory judgment that he is the sole owner of the house on Vesta Via Court (with no right of reimbursement by Rola or Jamal) and of a specific bank account.

On January 18, 2002, Jamal filed a separate suit seeking a protective order against Rola's parents (the children's grandparents), Saadallah Jabri and Aida Jabri, alleging the children had been injured while in their care.

On September 25, 2002, all five parties signed an "Arbitration Agreement" to submit all claims to the TEXAS ISLAMIC COURT, 888 S. Greenville Ave., Suite 188, Richardson, Texas.

Accomodations

- **Deference to Islamist sensibilities in education.** A St. Cloud State student, who was disabled and assisted by a dog, was simply granted credit for a required course when the dog was found to be offensive to the majority of Muslim students at the school location where he was assigned to gain his teaching credit.
<http://www.wnd.com/?pageId=64151>
- **A public school with Islamist principles.** The Tarek ibn Ziyad Academy in Minneapolis is a public, magnet school, funded with taxpayer money, that was discovered to mandate prayer on the premises and impose other sharia mandates on its students, such as full coverage uniforms for female students. There is a mosque on campus and a Muslim studies course taught in addition to the regular curriculum, which is essentially mandatory due to the fact that school buses do not leave the campus until the extra course ends each day.
<http://www.startribune.com/local/17406054.html>
- **State governments going outside their duty to accommodate sharia.** In Minnesota, the state actively works to sponsor Murabaha financed mortgages, acting as intermediaries when they buy homes from realtors and re-sell them to Muslims at their total, with mortgage interest included, price. It is not within a state's duty to actively participate in the real estate market.
<http://wcco.com/local/islamic.mortgages.minnesota.2.952805.html>
- **US medical organization adopts accommodationist stance on FGM.** On April 26, the American Association of Pediatrics revised its 1998 policy on FGM. They replaced "mutilation" with "cutting" and advocated a "compromise" position of "clitoral nicking" be practiced in the United States. Under intense scrutiny from anti-FGM advocates, AAP reversed itself a month later. The WHO has fervently and repeatedly condemned the practice on ethical and medical grounds.
<http://www.who.int/reproductivehealth/publications/fgm/en/index.html>
- **Sharia activism in the political system.** In certain parts of Minnesota, politicians directly engage their constituency on a platform advocating Somali Muslim rights and sensibilities. Particularly, Representative Keith Ellison has come to be their national campaigner. It is clear that as a Muslim community with Islamist interests they are attempting to make a voice for themselves within the American legal system. Ellison's strong ties to radical groups is enough to cause great alarm.
<http://www.weeklystandard.com/Content/Public/Articles/000/000/012/764obcsx.asp?page=2>
- **Sharia rules for Minneapolis cabbies.** In October of 2006, the issue of sharia incorporation was brought to national attention when Minneapolis-St. Paul airport taxi cab drivers were refusing services to any potential riders who were carrying alcohol. They made an attempt to make a legal right of their refusal of service, going so far as to work with the Metropolitan Airports Commission to make sure that drivers were in no way penalized for this refusal. Only after major public outcry did the MAC back down on proposed solutions that seemed partial to sharia law deference.
<http://www.danielpipes.org/4046/dont-bring-that-booze-into-my-taxi>
- **Muslim on trial exempted from strip search.** An imprisoned oncologist, Rafil Dhafir, charged with setting up an unlicensed charity and illegally funneling \$4 million to Iraq was allowed to attend his trial without being strip-searched. Dhafir said strip searches were against his Muslim faith.
<http://query.nytimes.com/gst/fullpage.html?res=9C01E1DD133AF93AA25753C1A9629C8B63>

- **Teaching jihad in public schools.** "Become a Muslim warrior during the crusades or during an ancient jihad." Thus read the instructions for seventh graders in *Islam: A Simulation of Islamic History and Culture, 610-1100*, a three-week curriculum produced by Interaction Publishers, Inc. In classrooms across the United States, students who follow its directions find themselves fighting mock battles of jihad against "Christian crusaders" and other assorted "infidels." Upon gaining victory, our mock-Muslim warriors "Praise Allah." A lawsuit to stop the program's use in California schools failed in 2003.
<http://www.danielpipes.org/430/become-a-muslim-warrior>
- **Proselytizing with taxpayer funds.** In 2002, PBS aired a documentary entitled "Muhammad: Legacy of a Prophet" funded in large part by the Corporation for Public Broadcasting, a private, nonprofit corporation created by Congress that in fiscal 2002 received \$350 million in taxpayers' funds. The film treated religious beliefs, such as Muhammad's trip to Heaven, as historical fact, painted Muslim wars as exclusively defensive, and praised Muhammad's treatment of women while ignoring the conditions of women in the Muslim world.
<http://www.danielpipes.org/982/pbs-recruiting-for-islam>
- **Muslim-only swim time.** A Seattle pool sets aside time for Muslim women to use the pool by themselves so they could adhere to strict religious restrictions, which require women to be completely covered. The outfit that organizes and pays for the Muslim Sister Swim program is the North Seattle Family Center, a unit of the Children's Home Society, a non-profit that gets most of its money from various government sources. As such, it should strictly comply with non-discrimination guidelines. Nevertheless, the Muslim Sister Swim is open exclusively to Muslims.
<http://www.soundpolitics.com/archives/004929.html>
- **Gender-separate classrooms.** In 2005, 60 faculty members from King Abdulaziz University in Saudi Arabia were taking courses at Virginia Tech. Though taking identical courses, the students met in gender-specific classes. Tech officials said administrators from the Saudi university separated the sexes to mirror classroom settings at their home institution, which operates separate campuses for men and women. The university spokesman said Tech chose to respect the Saudi culture "rather than impress our culture on them."
<http://www.roanoke.com/news/roanoke/28903.html>
- **Public Universities, including University of Michigan and George Mason University, have installed Islamic footbaths in student restrooms.** In 2007, UM-Dearborn announced that it would install \$25,000 foot-washing stations in several bathrooms to accommodate a student body that is 10% Muslim. According to the New York Times, "But as a legal and political matter, that solution has not been quite so simple. When word of the plan got out this spring, it created instant controversy, with bloggers going on about the Islamification of the university, students divided on the use of their building-maintenance fees, and tricky legal questions about whether the plan was a legitimate accommodation of students' right to practice their religion or unconstitutional government." <http://www.nytimes.com/2007/08/07/world/americas/07iht-muslims.4.7022566.html>
- **A community for sharia-practitioners only.** Little Rock, Arkansas's Local Planning Commission has granted the right to zone land for an Islamic community, which will feature a mosque, school, and public calls to prayer. Most importantly, however, the community will ban all alcohol, which is in direct contrast to American law, making this a specifically sharia-abiding community. Although the community is proclaimed as "open to everybody," there is no doubt that it will attract mainly Muslims.
<http://www.danielpipes.org/blog/2004/08/permit-muslim-only-enclaves>

- **Restrictions on mail to U.S. military.** Mail sent from United States families to their military relatives serving in foreign countries is often censored, with restrictions to certain codes barring the mailing of pork or pork byproducts, or more jarringly, “religious materials contrary to Islamic faith.”
<http://www.usps.com/cpim/ftp/bulletin/2003/html/pb22097/apofpo.html#0.2.LMRPOZ.NQFEZ8.BZO8BH.H>
- **Endorsement of prayer breaks in public schools.** Students at a San Diego elementary school are given 15 minute prayer breaks, and it has been alleged that a school aide often led these prayers. Opponents of the prayer breaks have noted that they feel the school to be endorsing Islam over other faiths, especially when it is considered that no other religious groups are given equal access to prayer leaders such as priests or rabbis.
<http://legacy.signonsandiego.com/news/metro/20070702-9999-1n2prayer.html>
- **An Arab-language institution may promulgate sharia.** In New York, the Khalil Gibran International Academy, was originally pitched as an Arabic-language institution, however, concerns soon arose when it became clear that the group’s leadership was known to have radical Islamist ties, and that the majority of the advisory board was composed of local imams. Add to this the fact that much Arab literature has Islamist overtones, and the school runs the risk of being a fully sharia-propagating shop.
<http://www.danielpipes.org/blog/2007/03/on-new-yorks-khalil-gibran-international>
- **Christians arrested for handing out leaflets at Arab festival.**
<http://the-american-catholic.com/2010/06/24/sharia-in-dearborn/>
- **Shariah compliant mortgages in NJ** <http://creepingsharia.wordpress.com/2010/06/08/islamic-shariah-based-banking-in-new-iersey/>
<http://minnesota.publicradio.org/display/web/2010/07/23/electrolux-eeoc-complaint/>
- **Colorado Plant Segregates Prayer Rooms for Muslims** ("JBS, Muslims vow harmony")
<http://www.greeleytribune.com/article/20090821/NEWS/908219988/1001>
- **Boston Mosque to Broadcast Amplified Call to Prayer Against Previous Assurances**
<http://www.solomoniam.com/blog/archive/2008/09/boston-mosque-to-broadcast-amplified-cal/index.shtml>

AMERICAN LAWS FOR AMERICAN COURTS (ALAC)

FAQ, ISSUES AND OBJECTIONS

1. This bill is not needed because it states what is already reality in state courts

First, this is not true. Most states merely state that foreign laws and judgments that violate the state's "public policy" shall not be recognized. But the courts consistently rule that the state legislature has the responsibility to articulate clearly what the state's public policy actually is. For the state to make clear that comity, choice of law, and choice of venue issues must still safeguard fundamental state and federal constitutional rights is precisely the role of the state legislature.

Second, there are actually hundreds of cases on the books in which foreign laws and foreign legal doctrines were invoked by parties to a dispute. In many cases those foreign laws and foreign legal doctrines are anathema to our constitutional ideals.

2. This bill is not needed because shariah is not a threat in the US and is not in our court systems.

The Act is not simply about shariah but also transnationalism—or the documented creep of foreign and offensive laws being recognized by state and federal courts. More, shariah has already crept into the legal systems of Western Europe, including 85 shariah courts operating openly with the full authority of law in the United Kingdom. There are numerous cases in which shariah doctrines have been invoked in the US. Here is a sampling of 17 examples from 11 states:

http://publicpolicyalliance.org/wp-content/uploads/2010/11/Shariah_Cases_11states_11-08-2010.pdf

3. This bill interferes with foreign treaties.

By operation of law this cannot be. Treaties, when signed by the President of the United States and ratified by the United States Senate, are the law of the United States, and not foreign law. Thus, the *Act*, or a specific application of the *Act*, could not by operation of the Supremacy Clause affect in any way a treaty.

Some uninformed critics of the Act assume, without citation, that certain ratified treaties require the enforcement of foreign judgments or the application of foreign law in contradiction with the *Act*. Although some treaties address the treatment of foreign arbitral awards or child custody judgments, all of these treaties have an exemption when the foreign tribunal enforces a law that violates the fundamental public policy of the domestic

state. This is also the common law and state statutory rule for recognizing foreign judgments of any kind not affected by federal treaty or federal preemptive statutes.

The Act articulates what the boundaries are for the state's important public policy—to protect fundamental state and federal constitutional liberties.

Further, state courts consistently hold that it is up to the state legislature to set the state public policy in the first instance.

4. This bill restricts the right to contract.

The right to contract is not unlimited. The state may legitimately restrict the right to contract if the contract is found to have some deleterious effect on the public or to contravene some other matter of public policy. As the Supreme Court has noted, a state's police power to protect the health and safety of its citizenry in the area of contract law not touching upon a suspect class is subject to a rational basis scrutiny—does the state law have any rational basis.

Innumerable regulations exist governing contractual provisions, including choice of law and forum selection clauses. For an impairment of a contract to violate the constitutional right to contract the state regulation must constitute a substantial impairment, and no significant and legitimate public purpose may justify the regulation. The requirement of a legitimate public purpose is primarily designed to prevent a state from embarking on a policy motivated by a simple desire to escape its financial obligations or to injure others through the repudiation of debts or the destruction of contracts or the denial of the means to enforce them.

It is patently clear that the Act—which merely sets fundamental state and federal constitutional liberties as protectable interests—is constitutional.

Indeed, all of the state courts and the federal courts have allowed such impairments of contract when the provisions violate the public policy announced in statutes.

Moreover, American Laws for American Courts only restricts the right to contract in terms of enforcement. Theoretically, people can contract for whatever they want to, on whatever terms. Obviously the only time the state gets involved with regard to policy is when there is a dispute and the parties go to the courts to resolve and enforce. In this case it is properly the role of the state to protect constitutional liberties.

5. This bill impacts “comity” and violates the Full Faith & Credit Clause of the US Constitution

The Full Faith & Credit Clause only applies to sister states. Moreover, even sister states may deny comity if the sister state’s foreign judgment violates the domestic state’s public policy. In the context of the Act, however, only foreign country judgments are at issue. All state courts have ruled, as has the U.S. Supreme Court, that foreign judgments from abroad are subject to the public policy of the state granting comity.

Even in the case of granting domestic arbitral awards comity or recognition in state courts, the Federal Arbitration Act permits states to preclude granting comity or recognition if the arbitral award was based on a decision process or law that was contrary to public policy.

6. This bill interferes with business activity and commerce and thus would adversely impact economic development in the state.

Protecting the fundamental constitutional rights of the citizens of a state does not adversely impact commerce or business. In fact, quite the contrary. Our free enterprise system was built upon the fundamental liberties in our constitutions and thus preserving them protects free enterprise.

Specifically, state courts have consistently refused to allow parties to enter into agreements that violate public policy. Moreover, a party to a contract does not typically knowingly waive his/her/its fundamental constitutional liberties. The question the courts consistently ask is whether the contract waiver was entered into knowingly and at arm’s length. Courts consistently reject waivers of a parties statutory or inherent rights when the parties are not equally sophisticated and where there is evidence that the contract was an adhesion contract more or less forced upon the waiving party.

If these protections are applied to statutory or inherent rights, a fortiori they apply to is a purported waiver of a fundamental constitutional liberty.

Thus, in the case of two businesses entering into a contract and one business waiving its constitutional protections, at the very least any amendment to the Act should limit such waivers only to cases where all of the parties to the contract are businesses and the waiving party has expressly waived its fundamental constitutional liberties protected by the Act.

Nevertheless, because so many of the cases involving foreign laws that violate constitutional rights infiltrating our state legal systems involve family law, particularly the rights of women and children, appropriate language can be included to exempt businesses and corporations without destroying the intent of American Laws for American Courts.

7. The business exemption language used in some states violates the equal protection clause of the constitution.

The *Act* would not likely be struck as violative of “equal protection” simply because it exempts contracts involving corporations. There is no “protected class”, such as race, religion, sex or even age, affected by distinguishing individuals from corporations, that would require “strict scrutiny” by the judiciary. All the legislature requires is a “rational basis” for the distinction, the lowest level of judicial scrutiny. As constitutional rights affecting individuals rationally receive greater concern than rights of businesses, and businesses tend to be more sophisticated in entering contracts, the legislature has a rational basis for making the distinction and allowing businesses to contractually waive rights when submitting to foreign law, but individuals to not.

8. Provisions of this bill would violate the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

The UCCJEA only applies to foreign child custody judgments for those foreign countries not “contracting parties” to the Hague Child Abduction Convention. The UCCJEA specifically exempts states from granting comity or enforcing a foreign child custody judgment or foreign jurisdiction when doing so violates “fundamental principles of human rights.” It is hard to imagine how fundamental state and federal constitutional liberties are not fundamental human rights in the context of state law.

And, even among the contracting parties to the Hague Child Abduction Convention, the treaty exempts cases where the foreign jurisdiction or judgment would violate the public policy of the domestic jurisdiction.

9. This bill could violate the federal Parental Kidnapping Prevention Act (PKPA)

The PKPA does not apply to foreign jurisdictions. It applies within the US between the states.

10. This bill would violate international treaties dealing with child custody, namely the Hague Convention.

As noted above, the Hague Convention itself provides a public policy exemption. Beyond this, as a treaty entered into by the federal government, the Hague Convention is federal law and cannot be trumped by state law. There is no way for ALAC to do so. Moreover, it is important to note that the only country that employs shariah in its legal system that is a member of the Hague Convention is Morocco. The following countries are some that are not parties to the Hague Convention, thus it does not apply to US relations with them:

- Egypt
- Iran
- Pakistan
- Saudi Arabia
- Syria
- Jordan
- Libya
- Sudan
- Somalia
- Algeria
- Lebanon
- Indonesia
- Afghanistan
- Iraq
- India
- Bangladesh
- Nigeria
- Kuwait
- Bahrain
- Qatar
- Tunisia
- Yemen
- United Arab Emirates
- Oman

11. This bill would interfere with English Common Law

To the extent that English Common Law forms the foundation of our legal traditions, it is not a foreign law. Moreover, all states have by statute or by “common law” adopted the common law as adopted by the courts in that state to be part of state law and thus not foreign.

Moreover, this bill does not ban all foreign or international law, just the use of such law when it would violate the constitutional rights of someone in the state AND specifically applied in the particular case. The fact that a country like Germany or China might have some law that violates our constitutional liberties is wholly irrelevant. It only becomes relevant if the particular offensive law is the law at issue in the particular case being litigated in the domestic state court.

12. This bill would open up states that pass it to expensive law suits

This legislation already passed in two states in 2010 with no legal challenges. There is no basis on which to challenge a law which seeks to safeguard individual constitutional rights as its express purpose. Indeed, it is absurd to even suggest such a proposition. A state might be sued if it does NOT protect fundamental state and federal constitutional liberties.

13. This bill would interfere with Native American tribal law

Federal law, in the form of treaties with Native Americans, preempts state law. Thus, ALAC would not because it could not as a matter of law affect those federal laws. If absolutely necessary, language can be inserted in ALAC expressly confirming this.

14. This bill would interfere with Jewish law

This bill would not interfere with Jewish law because Jewish law has a provision inherent which instructs people of the Jewish faith to follow the law of the land in which they live. Moreover, ALAC only applies when the use of a foreign legal doctrine in a court would violate someone’s constitutional rights. This is not the case with Jewish law.

15. ALAC unfairly targets Muslims

Nothing in the ALAC bill prevents any person from freely exercising his or her right to freedom of religion and worship. ALAC only applies to legal doctrines in our court systems. Furthermore, ALAC is facially neutral. It does not discriminate in any way based on faith of any kind. The bill makes no mention of Islam or Muslims and is not even principally focused on religious law, but any foreign law that violates constitutionally protected liberties.

List of country legal systems

From Wikipedia, the free encyclopedia

The **legal systems of the world** today are generally based on one of three basic systems: civil law, common law and religious law — or combinations of these. However, the legal system of each country is shaped by its unique history (see State law), and so incorporates individual variations.

Contents

- 1 Civil law
- 2 Common law
- 3 Religious law
- 4 Pluralistic systems
 - 4.1 Civil law and common law
 - 4.2 Civil law and religious law
 - 4.3 Common law and religious law
- 5 Hybrid law
- 6 Systems by geography
- 7 See also
- 8 External links
- 9 References



Legal Systems of the World

- Civil law
- Common law
- Bijuridical (civil and common law, also known as mixed jurisdiction)
- Customary law
- Shariah

Civil law

Main article: Civil law (legal system)

Civil law is the most widespread system of law around the world. It is also sometimes known as *Continental European law*. The central source of law that is recognized as authoritative are codifications in a constitution or statute passed by legislature, to amend a code.

While the concept of codification dates back to the Code of Hammurabi in Babylon ca. 1790 BC, civil law systems mainly derive from the Roman Empire, and more particularly, the *Corpus Juris Civilis* issued by the Emperor Justinian ca. AD 529. This was an extensive reform of the law in the Byzantine Empire, bringing it together into codified documents. Civil law was also partly influenced by religious laws such as Canon law and Islamic law.^{[1][2]} Civil law today, in theory, is interpreted rather than developed or made by judges. Only legislative enactments (rather than judicial precedents, as in common law) are considered legally binding.


















Scholars of comparative law and economists promoting the legal origins theory usually subdivide civil law into four distinct groups:































Shamash (the Babylonian sun god) hands King Hammurabi a code of law













- French civil law: in France, the Benelux countries, Italy, Romania, Spain and former colonies of those countries;
- German civil law: in Germany, Austria, Switzerland, former Yugoslav republics, Greece, Portugal, Turkey, Japan, South Korea and the Republic of China;
- Scandinavian civil law: in Denmark, Norway and Sweden. As historically integrated in the Scandinavian cultural sphere, Finland and Iceland also inherited the system.
- Chinese law: a mixture of civil law and socialist law in use in the People's Republic of China.
















A comprehensive list of countries that base their legal system on a codified civil law follows:











Country	Description
 Albania	The Civil Code of the Republic of Albania, 1991 [1] (http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN014893.pdf)
 Angola	Based on Portuguese civil law
 Argentina	<p>The Spanish legal tradition had a great influence on the Civil Code of Argentina, basically a work of the Argentine jurist Dalmacio Vélez Sársfield, who dedicated five years of his life on this task. The Civil Code came into effect on January 1, 1871. Beyond the influence of the Spanish legal tradition, the Argentinian Civil Code was also inspired by the Draft of the Brazilian Civil Code, the Draft of the Spanish Civil Code of 1851, the Napoleonic code and the Chilean Civil Code. The sources of this Civil Code also include various theoretical legal works, mainly of the great French jurists of the 19th century. It was the first Civil Law that consciously adopted as its cornerstone the distinction between i. rights from obligations and ii. real property rights, thus distancing itself from the French model.</p> <p>The Argentinian Civil Code was also in effect in Paraguay, as per a Paraguayan law of 1880, until the new Civil Code went in force in 1987.</p> <p>During the second half of the 20th century, the German legal theory became increasingly influential in Argentina.</p>
 Andorra	Courts apply the customary laws of Andorra, supplemented with Roman law and customary Catalan law. ^[3]
 Aruba	Based on Dutch civil law
 Austria	The Allgemeines bürgerliches Gesetzbuch (ABGB) of 1811
 Azerbaijan	
 Belarus	
 Belgium	The Napoleonic Code is still in use, although it is heavily modified (especially concerning family law)
 Benin	
 Bolivia	Influenced by the Napoleonic Code
 Bosnia and Herzegovina	Influenced by Austrian law. The Swiss civil law (Zivilgesetzbuch) was a model for the Law on Obligations of 1978.
 Brazil	Derived from the German and Roman civil law
 Bulgaria	Civil Law system influenced by Germanic and Roman law systems
 Burkina Faso	
 Burundi	
 Chad	

 People's Republic of China	civil law system; based on native customs and practices with Soviet and German influence
 Republic of the Congo	
 Democratic Republic of the Congo	
 Cote d'Ivoire	
 Cambodia	
 Cape Verde	Based on Portuguese civil law
 Central African Republic	
 Chile	<p>The Spanish legal tradition exercised an especially great influence on the civil code of Chile. On its turn, the Chilean civil code influenced to a large degree the drafting of the civil codes of other Latin-American states. For instance, the codes of Ecuador (1861) and Colombia (1873) constituted faithful reproductions of the Chilean code, but for very few exceptions. The compiler of the Civil Code of Chile, Venezuelan Andrés Bello, worked for its completion for almost 30 years, using elements, of the Spanish law on the one hand, and of other Western laws, especially of the French one, on the other. Indeed, it is noted that he consulted and used all of the codes that had been issued till then, starting from the era of Justinian.</p> <p>The Civil Code came into effect on January 1, 1857. Its technique is regarded as perfect; it is distinguished for the clarity, logic and cohesiveness of its provisions. As mentioned by Arminjon, Nolde, and Wolff ('Traite de droit comparé', Paris, 1950–1952) Andrés Bello may be regarded as one of the great legislators of mankind. The influence of the Napoleonic code is great; it is observed however that <i>e.g.</i> in many provisions of property law, the solutions of the French <i>code civil</i> were put aside in favor of pure Roman law.</p>
 Colombia	Civil code introduced in 1873. Nearly faithful reproduction of the Chilean civil code
 Costa Rica	First Civil Code (a part of the General Code or Carrillo Code) came into effect in 1841; its text was inspired by the South Peruvian Civil Code of Marshal Andres de Santa Cruz. The present Civil Code is into effect since January 1, 1888, and reveals the influenced by the Napoleonic Code and the Spanish Civil Code of 1889 (from its 1851 draft version).
 Croatia	Influenced by Austrian and Hungarian law. The Law on Obligations of 2005.

 Cuba	Influenced by Spanish and American law with large elements of Communist legal theory.
 Czech Republic	Descended from the Civil Code of the Austrian Empire (1811), influenced by German (1939-45) and Soviet (1947/68-89) legal codes during occupation periods, substantially reformed to remove Soviet influence and elements of socialist law after the Velvet Revolution (1989).
 Denmark	Scandinavian-German civil law
 Dominican Republic	Based by the Napoleonic Code
 Ecuador	Civil code introduced in 1861. Nearly faithful reproduction of the Chilean civil code
 El Salvador	
 Estonia	
 Finland	civil law system based on Swedish law ^[4]
 France	Based on the Napoleonic code (<i>code civil</i> of 1804)
 Equatorial Guinea	
 Ethiopia	
 Gabon	
 Guinea	based on French civil law system, customary law, and decree ^[4]
 Guinea-Bissau	
 Georgia	
 Germany	The Bürgerliches Gesetzbuch of 1900 ("BGB"). The BGB is influenced both by Roman and German law traditions.
 Greece	The Greek civil code of 1946, highly influenced by the German civil code of 1900 (Bürgerliches Gesetzbuch); the Greek civil code replaced the Byzantine-Roman civil law in effect in Greece since its independence (Νομική Διάταξη της Ανατολικής Χέρσου Ελλάδος, Legal Provision of Eastern Mainland Greece, November 1821: 'Οι Κοινωνικοί Νόμοι των Αειμνήστων Χριστιανών Αυτοκρατόρων της Ελλάδος μόνοι ισχύουσι κατά το παρόν εις την Ανατολικήν Χέρσου Ελλάδα', 'The Social [i.e. Civil] Laws of the Dear Departed Christian Emperors of Greece [referring to the Byzantine Emperors] alone are in effect at present in Eastern Mainland Greece')

 Guatemala	<p>Guatemala has had three Civil Codes: the first one from 1877, a new one introduced in 1933, and the one currently in force, which was passed in 1963. This Civil Code has suffered some reforms throughout the years, as well as a few derogations relating to areas which have subsequently been regulated by newer laws, such as the Code of Commerce and the Law of the National Registry of Persons. In general, it follows the tradition of the roman-French system of civil codification.</p> <p>Regarding the theory of 'sources of law' in the Guatemalan legal system, the 'Ley del Organismo Judicial' recognizes 'the law' as the main legal source (in the sense of legislative texts), although it also establishes 'jurisprudence' as a complementary source. Although jurisprudence technically refers to judicial decisions in general, in practice it tends to be confused and identified with the concept of 'legal doctrine', which is a qualified series of identical resolutions in similar cases pronounced by higher courts (the Constitutional Court acting as a 'Tribunal de Amparo', and the Supreme Court acting as a 'Tribunal de Casación') whose theses become binding for lower courts.</p>
 Haiti	Influenced by the Napoleonic Code
 Honduras	
 Hungary	Based on codified Roman law, with elements of the Napoleonic civil code
 Iceland	Based on Germanic traditional laws and influenced by Medieval Norwegian and Danish laws.
 Italy	Based on codified Roman law, with elements of the Napoleonic civil code; civil code of 1942 replaced the original one of 1865
 Japan	Modeled after European (primarily German) civil law system. Japanese civil code of 1895.
 Latvia	Largely influenced by Germany, medium influences from Russian and Soviet law.
 Lebanon	Modeled after French civil law
 Lithuania	Modeled after Dutch civil law
 Luxembourg	Influenced by the Napoleonic Code
 Macau	Based on the Portuguese strand of the continental tradition, itself much influenced by Germany; also influenced by the law of the PRC

 Mexico		"The both Gre and com thro Lati Euro http Jain auth
 Mongolia	Civil Code of 2002 based on German BGB	
 Montenegro	First: the General Property Code for the Principality of Montenegro of 1888, written by Valtazar Bogišić. Present: the Law on Obligations of 2008.	
 Netherlands	Influenced by the Napoleonic Code	
 Norway	Scandinavian-German civil law. King Magnus VI the Lawmender unified the regional laws into a single code of law for the whole kingdom in 1274. This was replaced by Christian V's <i>Norwegian Code</i> of 1687.	
 Panama		
 Paraguay	The Paraguayan Civil Code in force since 1987 is largely influenced by the Napoleonic Code and the Argentinian Code	
 Peru	Based on civil law system; accepts compulsory ICJ jurisdiction with reservations	
 Poland	The Polish Civil Code in force since 1965	
 Portugal	Influenced by the Napoleonic Code and later by the German Civil Law	
 Republic of China (Taiwan)	Codification derived from German BGB.	
 Romania	Based on the Napoleonic Code	
 Russia	Civil Law system descendant from Roman Law through Byzantine tradition. Heavily influenced by German and Dutch norms in 1700-1800's. Socialist-style modification in 1900's, and Continental European Law influences since 1990's.	
 São Tomé e Príncipe	Based on Portuguese civil law	
 Serbia	First: the Civil Code of Principality of Serbia of 1844, written by Jovan Hadžić, was influenced by the Austrian Civil Code (<i>Allgemeines bürgerliches Gesetzbuch</i>). Present: The Swiss civil law (<i>Zivilgesetzbuch</i>) was a model for the Law on Obligations of 1978.	

 Slovakia	Descended from the Civil Code of the Austrian Empire (1811), influenced by German (1939-45) and Soviet (1947/68-89) legal codes during occupation periods, substantially reformed to remove Soviet influence and elements of socialist law after the Velvet Revolution (1989).
 Slovenia	A Civil Law system influenced mostly by Germanic and Austro-Hungarian law systems
 Spain	Influenced by the Napoleonic Code, it also has some elements of Spain's legal tradition, starting with the Siete Partidas, a major legislative achievement from the Middle Ages. That body of law remained more or less unchanged until the 19th century, when the first civil codes were drafted, merging both the Napoleonic style with the Castilian traditions.
 Sweden	Scandinavian-German civil law. Like all Scandinavian legal systems, it is distinguished by its traditional character and for the fact that it did not adopt elements of Roman law. It is indeed worth mentioning that it assimilated very few elements of foreign laws whatsoever. It is also interesting that the Napoleonic Code had no influence in codification of law in Scandinavia. The historical basis of the law of Sweden, just as for all Nordic countries, is Old German law. Codification of the law started in Sweden during the 18th century, preceding the codifications of most other European countries. However, neither Sweden, nor any other Nordic state created a civil code of the kind of the <i>Code Civil</i> or the BGB.
 Switzerland	The Swiss civil code of 1908 and 1912 (obligations; fifth book)
 Turkey	Modeled after the Swiss civil law (<i>Zivilgesetzbuch</i>) of 1907; this has been a conscious choice of Kemal Atatürk, the founder of the modern Turkish state, in order to abolish the Islamic law (Sharia), aiming at westernizing the country
 Ukraine	Civil Code of Ukraine of 2004
 Uruguay	
 Uzbekistan	Represents an evolution of Soviet civil law. Overwhelmingly strong impact of the Communist legal theory is traceable.
 Vietnam	Communist legal theory and French civil law

Common law

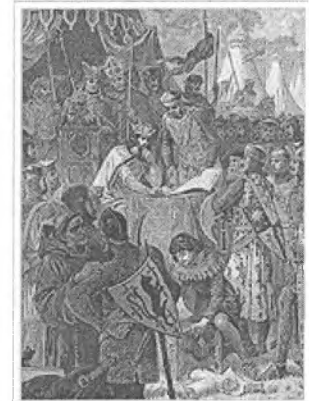
Main article: Common law

Common law and equity are systems of law whose sources are the decisions in cases by judges. Alongside, every system will have a legislature that passes new laws and statutes. The relationships between statutes and judicial decisions can be complex. In some jurisdictions such statutes may overrule judicial decisions or codify the topic covered by several contradictory or ambiguous decisions. In some jurisdictions judicial decisions may decide whether the jurisdiction's constitution allowed a particular statute or statutory provision to be made or what meaning is contained within the statutory provisions. Statutes were allowed to be made by the government. Common law developed in England, influenced by the Norman conquest of England which introduced legal concepts from Norman law, which in turn was influenced by aspects of Islamic law.^[2] Common law was later inherited by the Commonwealth of

































Nations, and almost every former colony of the British Empire has adopted it (Malta being an exception). The doctrine of *stare decisis* or *precedent by courts* is the major difference to codified civil law systems.







Common law is currently in practice in Ireland, most of the United Kingdom (England and Wales and Northern Ireland), Australia, India (excluding Goa), Pakistan, South Africa, Canada (excluding Quebec), Hong Kong, the United States (excluding Louisiana) and many other places. In addition to these countries, several others have adapted the common law system into a mixed system. For example, Nigeria operates largely on a common law system, but incorporates religious law.

In the European Union the Court of Justice takes an approach mixing civil law (based on the treaties) with an attachment to the importance of case law. One of the most fundamental documents to shape common law is Magna Carta^[5] which placed limits on the power of the English Kings. It served as a kind of medieval bill of rights for the aristocracy and the judiciary who developed the law.



King John of England
signs Magna Carta

Country	Description
 American Samoa	
 Antigua and Barbuda	based on English common law
 Australia	based on English common law
 Bahamas	based on English common law
 Barbados	based on English common law
 Belize	based on English common law
 Bhutan	
 British Virgin Islands	based on English common law
 Canada	based on English common law, except in  Quebec, where a civil law system based on French law prevails in property and private matters
 Dominica	based on English common law
 England and Wales  (UK)	primarily common law, with early Roman and some modern continental influences
 Fiji	based on English common law
 Gibraltar	based on English common law
 Ghana	
 Myanmar	based on English common law
 Grenada	based on English common law
 Hong Kong	principally based on English common law
 India	based on English common law (except Goa which follows a Civil Law based on Portuguese Civil Law)
 Ireland	based on Irish law before 1922, which was itself based on English common law
 Jamaica	based on English common law
 Kiribati	based on English common law
 Marshall Islands	based on U.S. Law
 Nauru	based on English common law
 New Zealand	based on English common law
 Northern Ireland  (UK)	based on Irish law before 1921, which was itself based on English common law
 Palau	based on U.S. Law
 Pakistan ^[6]	based on English common law with some provisions of Islamic law
 Saint Kitts and Nevis	based on English common law
 Saint Vincent and the Grenadines	based on English common law

 Singapore	based on English common law, but Muslims are subject to the Administration of Muslim Law Act, which gives the Syariah Court jurisdiction over Muslim personal law, e.g., marriage, inheritance and divorce.
 Tonga	based on English common law
 Trinidad and Tobago	based on English common law
 Tuvalu	based on English common law
 Uganda	based on English common law
 United States	Federal courts and 49 states use legal system originally based on English common law but which diverged greatly in 19th century with substantial indigenous innovations and borrowing of some civil law practices such as codification; State law in the U.S. state of Louisiana is based upon French and Spanish civil law (see below)

Religious law

Main article: Religious law

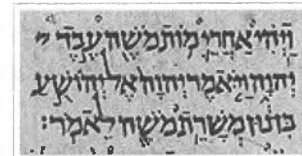
Religious law refers to the notion of a religious system or document being used as a legal source, though the methodology used varies. For example, the use of Jewish Halakha for public law has a static and unalterable quality, precluding amendment through legislative acts of government or development through judicial precedent; Christian Canon law is more similar to civil law in its use of civil codes; and Islamic Sharia law (and Fiqh jurisprudence) is based on legal precedent and reasoning by analogy (*Qiyas*), and is thus considered similar to common law.^[7]

The main kinds of religious law are Sharia in Islam, Halakha in Judaism, and canon law in some Christian groups. In some cases these are intended purely as individual moral guidance, whereas in other cases they are intended and may be used as the basis for a country's legal system. The latter was particularly common during the Middle Ages.















The Islamic legal system of Sharia (Islamic law) and Fiqh (Islamic jurisprudence) is the most widely used religious law, and one of the three most common legal systems in the world alongside common law and civil law.^[8] It is the most protected divine law, because, the majority of the rulings of Sharia law are based on the Qur'an and Sunnah, while a small fraction of its rulings are based on the Ulema (jurists) who used the methods of *Ijma* (consensus), *Qiyas* (analogical deduction), *Ijtihad* (research) and *Urf* (common practice) to derive *Fatwā* (legal opinions). An Ulema was required to qualify for an *Ijazah* (legal doctorate) at a *Madrasah* (school) before they could issue *Fatwā*.^[9] During the Islamic Golden Age, classical Islamic law may have had an influence on the development of common law^[2] and several civil law institutions.^[1] Sharia law governs a number of Islamic countries, including Saudi Arabia and Iran, though most countries use Sharia law only as a supplement to national law. It can relate to all aspects of civil law, including property rights, contracts or public law.

The Halakha is followed by orthodox and conservative Jews in both ecclesiastical and civil relations. No country is fully governed by Halakha, but two Jewish people may decide, because of personal belief, to have a dispute heard by a Jewish court, and be bound by its rulings.

Canon law is not a divine law, properly speaking, because it is not found in revelation. Instead, it is seen as human law inspired by the word of God and applying the demands of that revelation to the actual situation of the church. Canon law regulates the internal ordering of the Roman Catholic Church, the Eastern Orthodox Church and the Anglican Communion. Canon law is amended and adapted by the legislative authority of the church, such as councils of bishops, single bishops for their respective sees, the Pope for the entire Catholic Church, and the British Parliament for the Church of England.

























Aleppo Codex: 10th century Hebrew Bible with Masoretic pointing

Country	Description
 Afghanistan	Islamic law
 Bangladesh	Formerly based on English common law
 The Gambia	English common law, Islamic law and customary law
 Ghana	Based on English common law
 Iran	Islamic law
 Libya	Islamic law
 Mauritania	mix of Islamic law and French Civil Codes, Islamic law largely applicable to family law.
 Morocco	mix of Islamic law and French Civil Codes, Islamic law largely applicable to family law.
 Nigeria	Sharia
 Oman	Sharia and tribal custom laws
 Saudi Arabia	Islamic law
 Sudan	Based on Islamic law
 Vatican City	Based on principles of Code of Canon Law
 Yemen	Islamic law















Pluralistic systems

Civil law and common law







Country	Description
 Botswana	South African law (a mixed system) transferred <i>uno acto</i> through a proclamation of reception
 Cameroon	
 Cyprus	Based on English common law (Cyprus was a British colony 1878-1960), with admixtures of French and Greek civil and public law, Italian civil law, Indian contract law, Greek Orthodox canon law, Muslim religious law, and Ottoman civil law.
 Guyana	
 Israel	Originally (1948) based on English common law; in the process, influenced by German civil law—for instance, between 1962 and 1981, the Knesset issued twenty (20) wide-ranging laws, which were clearly influenced by civil law, and were in the form of codes. Religious law plays a role, especially in matters of personal status and family law, and judicial and legislative decisions take into account Jewish law (halakhah) on occasion. ^[10]
 Lesotho	South African law (a mixed system) transferred <i>uno acto</i> through a proclamation of reception
 Louisiana (U.S.)	Based on French and Spanish civil law, but federal laws (based on common law) are in effect in Louisiana as well.
 Malta	Initially based on Roman Law and eventually progressed to the Code de Rohan, Code Napoleon with influences from Italian Civil Law. English common law however is also a source of Maltese Law, most notably in Public Law
 Mauritius	
 Namibia	South African law (a mixed system) transferred <i>uno acto</i> through a proclamation of reception
 Philippines	Based on Spanish law; influenced by U.S. common law after 1898 Spanish and Philippine-American Wars, personal law based on sharia law applies to Muslims
 Puerto Rico (U.S.)	Based on Spanish law; influenced by U.S. common law after 1898 (victory of the U.S. over Spain in the Spanish-American war of 1898 and cession of Puerto Rico to the U.S.)
 Quebec (Canada)	After the defeat of the French in the battle at the Plains of Abraham, the British tried to convert Quebec to English language and Common Law, but given the growing menace of the United States, had to allow them to keep their language (French), their religion (Roman Catholicism), and their legal system (civil law), as part of the Quebec Act of 1774. However, as Quebec is part of the Canadian Confederation (since 1867), English-based laws applied at the federal level are in effect in Quebec also.
 Saint Lucia	
 Scotland (UK)	Based on Roman and continental law, with common law elements dating back to the High Middle Ages

 Seychelles	The substantive civil law is based on the French Civil Code. Otherwise the criminal law and court procedure are based on the English common law. See Seychelles Legal Environment (http://sites.google.com/site/theseychelleslegaleenvironment/legal-system) .
 South Africa	An amalgam of English common law and Roman-Dutch civil law as well as Customary Law.
 Sri Lanka	An amalgam of English common law, Roman-Dutch civil law and Customary Law
 Swaziland	South African law (a mixed system) transferred <i>uno acto</i> through a proclamation of reception
 Thailand	The Thai legal system became an amalgam of German, Swiss, French, English, Japanese, Italian, and Indian laws and practices. Even today, Islamic laws and practices exist in four southern provinces. Over the years, Thai law has naturally taken on its own Thai identity.
 Vanuatu	Consists of a mixed system combining the legacy of English common law, French civil law and indigenous customary law.
 Zimbabwe	South African law (a mixed system) transferred <i>uno acto</i> through a proclamation of reception

Civil law and religious law

Country	Description
 Afghanistan	
 Algeria	
 Bahrain	
 Comoros	
 Djibouti	
 Egypt	Based on Islamic law and French civil law system
 Eritrea	
 Indonesia	Based on civil law of Holland and adat (cultural law of Indonesia)
 Jordan	Mainly based on French Civil Code and Ottoman Majalla, Islamic law applicable to family law
 Morocco	Based on Islamic law and French and Spanish civil law system
 Oman	
 Qatar	Based on Islamic law and Egyptian civil law system (after the French civil law system)
 Syria	Based on Islamic law and French civil law system
 United Arab Emirates	Based on Islamic law and Egyptian civil law system (after the French civil law system)

Common law and religious law

Country	Description
 Bangladesh	
 Brunei	
 Gambia	
 Malaysia	based on English common law, personal law based on sharia law applies to Muslims
 Nigeria	Sharia is applied in some northern states
 Pakistan	based on English Common Law, some Islamic law applications in inheritance. Tribal Law in FATA

Hybrid law

The most prominent example of a hybrid legal system is the Indian legal system. India follows a mixture of civil, common law and customary or religious law. Separate personal law codes apply to Muslims, Christians, and Hindus. Decisions by the Supreme Court of India and High Courts are binding on the lower courts. Further, most of the laws are statutory and it also has a constitution which signifies the Civil nature of law in India.

Systems by geography

Despite the usefulness of different classifications, every legal system has its own individual identity. Below are groups of legal systems, categorised by their geography. Click the "show" buttons on the right for the lists of countries.

See also

- Comparative law
- English common law
- Rule of law
- Rule According to Higher Law
- Islamic law
- Socialist law
- Soviet law
- Tribal sovereignty
- Western law
- Anarchy

External links

- World Legal Systems (<http://www.droitcivil.uottawa.ca/world-legal-systems/eng-monde.php>) , Website of the Faculty of Law of the University of Ottawa
- Australian Institute of Comparative Legal Systems (<http://ausicl.com>)

- Factbook list of legal systems (<https://www.cia.gov/library/publications/the-world-factbook/fields/2100.html>)
- International & Foreign Law Community (<http://www.lexisnexis.com/community/international-foreignlaw/>)

References

1. ^{a b} Badr, Gamal Moursi (Spring, 1978), "Islamic Law: Its Relation to Other Legal Systems", *The American Journal of Comparative Law* **26** (2 [Proceedings of an International Conference on Comparative Law, Salt Lake City, Utah, February 24–25, 1977]): 187–198 [196–8], doi:10.2307/839667 (<http://dx.doi.org/10.2307%2F839667>)
 2. ^{a b c} Makdisi, John A. (June 1999), "The Islamic Origins of the Common Law", *North Carolina Law Review* **77** (5): 1635–1739
 3. ^a Andorra (11/07) (<http://www.state.gov/t/pa/ei/bgn/3164.htm>)
 4. ^{a b} <https://www.cia.gov/library/publications/the-world-factbook/fields/2100.html>
 5. ^a "Magna Carta" (<http://www.fordham.edu/halsall/source/magnacarta.html>) . <http://www.fordham.edu/halsall/source/magnacarta.html>. Retrieved 2006-11-10.
 6. ^a <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>
 7. ^a El-Gamal, Mahmoud A. (2006), *Islamic Finance: Law, Economics, and Practice*, Cambridge University Press, p. 16, ISBN 0521864143
 8. ^a Badr, Gamal Moursi (Spring, 1978), "Islamic Law: Its Relation to Other Legal Systems", *The American Journal of Comparative Law* **26** (2 - Proceedings of an International Conference on Comparative Law, Salt Lake City, Utah, February 24–25, 1977): 187–198, doi:10.2307/839667 (<http://dx.doi.org/10.2307%2F839667>)
 9. ^a Makdisi, George (April–June 1989), "Scholasticism and Humanism in Classical Islam and the Christian West", *Journal of the American Oriental Society* **109** (2): 175–182 [175–77], doi:10.2307/604423 (<http://dx.doi.org/10.2307%2F604423>)
 10. ^a *E.g.*, see the work of Menachem Elon and Nahum Rakover.
- Moustaira Elina N., *Comparative Law: University Courses (in Greek)*, Ant. N. Sakkoulas Publishers, Athens, 2004, ISBN 960-15-1267-5
 - Moustaira Elina N., *Milestones in the Course of Comparative Law: Thesis and Antithesis (in Greek)*, Ant. N. Sakkoulas Publishers, Athens, 2003, ISBN 960-15-1097-4

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Categories: Legal systems | Comparative law | Law by country

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Karen Sawyer

From: David Gallagher [denaldave2@gmail.com]
Sent: Saturday, March 26, 2011 3:16 PM
To: Rep. Carl Gatto
Cc: Rep. Steve Thompson; Rep. Wes Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: "Foreign Law" bill HB-88
Categories: KAREN

Honorable Members of the Judiciary Committee,

Please be advised, as your constituent, I strongly urge YOU to support the "Foreign Law" bill HB-88.

And for your support of HB-88, I will remember you at the Ballot Box.

Thank You
Dave Gallagher
3141 E. 112th Ave.
Anchorage, Alaska
99516

Karen Sawyer

From: Chris & Jennie Grimwood [chris7grim@ctcak.net]
Sent: Monday, March 21, 2011 12:04 PM
To: Rep. Carl Gatto
Subject: re: HB 88
Categories: KAREN

To Rep. Gatto:

I am the new state president for Eagle Forum. Debbie Joslin was our former president. We support HB 88 and would like information on when to testify for this bill and when would be the most helpful.

Jennie Grimwood

Karen Sawyer

From: Albert Hamby [todd@milepost22@gmail.com]
Sent: Sunday, March 27, 2011 4:11 PM
To: Rep. Carl Gatto
Categories: KAREN

Regarding HB88

I and a number of my friends, your constituents, want HB88 passed. We live according to the laws written in the Constitution of the United States and the laws of the state Alaska. We don't want ANY!!!!!! foreign laws to have any influence on our laws or judges.

Respectfully

Al Hamby

Karen Sawyer

From: Katherine Hicks [katherine_l_hicks@yahoo.com]
Sent: Monday, March 28, 2011 8:57 AM
To: Rep. Carl Gatto
Subject: HB 88
Categories: KAREN

Chairman Gatto,

Thank you for sponsoring HB 88. Thank you for attempting to protect Alaskans from the influence of foreign laws and keeping our Constitution as written. I am very concerned with the direction our courts are taking and think this bill is a necessity.

Thanks again,
Katherine Hicks

Karen Sawyer

From: Ron Hightower [ron@lonelymountainjewelry.com]
Sent: Sunday, March 27, 2011 7:58 AM
To: Rep. Carl Gatto
Subject: HB 88
Categories: KAREN

Representative Carl Gatto

Dear Sir,

I strongly support HB088!

Thank you,

Ron Hightower

Ron Hightower
Lonely Mountain Jewelry
Custom Wedding Sets
7321 Bulen Drive
Anchorage, Alaska 99507
907-562-7464 (RING)
www.lonelymountainjewelry.com
product@lonelymountainjewelry.com

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Karen Sawyer

From: hillmer@mtaonline.net
Sent: Sunday, March 20, 2011 8:07 PM
To: Rep. Carl Gatto
Subject: Islamic Sharia law;
Categories: KAREN

I read your article in the paper and just wanted to let you know, we need more people like you doing the right think...thank you cari..dale hillmer, wasilla ak..

Karen Sawyer

From: Steve [hovenden3@alaska.com]
Sent: Friday, March 18, 2011 8:51 AM
To: Karen Sawyer
Subject: HB 88
Categories: Blue Category

Hooray for all of you! Please add my name to the list of enthusiastic supporters! Steve Hovenden, 360 Terrace Drive, Fairbanks, 99712. 457-8624.

Karen Sawyer

From: housemajority_email@housemajority.org
Sent: Wednesday, March 16, 2011 9:25 PM
To: Rep. Carl Gatto
Subject: HB 88

+-----+
DO NOT REPLY DIRECTLY TO THIS EMAIL: your reply will go to enews@housemajority.org To
correspond with the author Hit 'Reply' or 'Forward'.
Then change the TO: address to garydkearney@hotmail.com If suspected Spam please forward to:
support@housemajority.org
+-----+

From: garydkearney@hotmail.com

HB 88 will be needed more as time goes by. It is essential that our constitution cannot be
set aside by groups or individuals having laws contrary to our own.

~ gary d kearneyt
Zip Code: 99928
Voter ID: MUD BAY DISTRICT...KETCHIKAN

+-----+
DO NOT REPLY DIRECTLY TO THIS EMAIL: your reply will go to enews@housemajority.org To
correspond with the author Hit 'Reply' or 'Forward'.
Then change the TO: address to garydkearney@hotmail.com If suspected Spam please forward to:
support@housemajority.org
+-----+

Karen Sawyer

From: David & Susan Kilpatrick [dskilpat@acsalaska.net]
Sent: Monday, March 21, 2011 11:21 AM
To: Rep. Carl Gatto
Subject: Sharia Law

Categories: KAREN

Sir, I am 64 years of age and now have the ability to say I have witnessed a lot of change within our country. Words absolutely cannot express my disappointment in individuals who call themselves "American" who first would allow any form of "Law" outside of that equated to the United States Constitutionally based expression of law.

I will not debate with anyone the personal basis early lawmakers based their conclusions, I.e, the Bible, Hammurabi, as that is just stupid argument.

My wife and I as well as most persons I call friends support your and Rep. Bob Lynn's effort to prohibit Sharia Law. Keep up this good fight.

Sincerely,
David

David & Susan Kilpatrick
632-4443

Karen Sawyer

From: John Lopetrone [jptrnak@acsalaska.net]
Sent: Saturday, March 19, 2011 7:38 PM
To: Rep. Carl Gatto
Subject: sharia law

Categories: KAREN

Rep. Gatto, I just finished reading "Infidel" by Ayaan Hirsi Ali. It was a real eye opener for me. I think most people in this country have no idea what dangerous times we are living in. We are at war with Islam. Their whole objective is to destroy the west and all nonbelievers. We have our laws and they should be forced to obey them or get out of the country. If we are not careful and vigilant we will be in the same situation Europe finds itself in. Good luck in your efforts and we will pray for your success. Barbara Lopetrone

Karen Sawyer

From: Mike Madar [madar@gci.net]
Sent: Thursday, March 10, 2011 11:44 AM
To: Karen Sawyer
Subject: HB 88

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Blue Category

I support HB 88 100% Mike Madar; 1270 Woodstock Dr; Palmer, Alaska 99645 (907) 746 6667

Karen Sawyer

From: Larry McPhee [skiguy11@hotmail.com]
Sent: Friday, March 18, 2011 7:46 AM
To: Rep. Carl Gatto
Subject: Nice work
Categories: KAREN

Thanks for standing up for the Constitution and the American court system

L McPhee
Fairbanks, AK

Karen Sawyer

From: Ray Phelps [rphelps@matsumail.com]
Sent: Friday, March 18, 2011 12:42 PM
To: Rep. Carl Gatto
Subject: note of support

Categories: KAREN

Dear Mr. Gatto,

As a constituent and a voting supporter, I want to voice my whole-hearted support of your bill prohibiting our state courts from honoring foreign laws. This is an important issue of national and state sovereignty. Keep up the good work! God bless.

Ray Phelps
Wasilla

Karen Sawyer

From: William Rome [WRome@webtv.net]
Sent: Sunday, March 27, 2011 2:09 PM
To: Rep. Carl Gatto
Subject: HB - 88
Categories: KAREN

Dear Rep Gatto,
I strongly support the foreign Law bill HB88.
Bill Rome

Karen Sawyer

From: Vicki Schneibel [schneibekdale@gci.net]
Sent: Saturday, March 19, 2011 10:04 AM
To: Rep. Carl Gatto
Subject: One of Your Proposed Bills

Follow Up Flag: Follow up
Flag Status: Completed

Categories: KAREN

Hello Rep. Gatto,

My name is Vicki and I'm not a constituent, but I'm very interested in a bill you're bringing to the Legislature.

I recently read that you've proposed a bill that will eliminate foreign law being honored in Alaska. Bravo! How can I help you with that? I hope your bill is successful. From what I've been reading it seems our state should be out a head of any problems that may come our way over this issue. If we're proactive(like the State of Virginia and the ObamaCare bill) it seems to me our standing is much stronger.

Please let me know what I can do. I don't know what the bill number is or any details in order to contact my Rep. and Senator about it.

Thanks for looking out for us Alaskans!

Vicki Schneibel
4811 E. 112 Avenue
Anchorage, AK 99516

907/349-5505

Karen Sawyer

From: Rod & Vickie [randvalaska@mtaonline.net]
Sent: Friday, March 25, 2011 9:47 AM
To: Karen Sawyer
Subject: Thanks!

**Just wanted to thank Mr.Gatto for his stand to protect the people of Alaska from "sharia law".
Hopefully, the judges won't intervene to stop his attempt! Sincerely, Vickie Schultz**

Karen Sawyer

From: Rodney and Shelly [fishingtools@alaska.net]
Sent: Sunday, March 27, 2011 4:42 PM
To: Rep. Carl Gatto
Cc: Rep. Steve Thompson; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chénaut; Rep. Wes Keller
Subject: Fwd: HB-88
Categories: KAREN

Dear Sir,
Please approve HB-88 (American Law for American Courts). This approval of this bill will prohibit Alaska Courts from using any law other than the U.S. Constitution and the Alaska Constitution.
Thank You
Rodney and Shelly Small
Nikiski, Alaska.

Karen Sawyer

From: Bob & Connie Weel [weel@clearwire.net]
Sent: Saturday, March 19, 2011 4:58 PM
To: Rep. Carl Gatto
Subject: Islamic Sharia Law

Categories: KAREN

Dear Representative Gatto,

I saw a story on page A-3 of this morning's ADN and fully support your bill prohibiting state courts from honoring foreign law such as the Islamic Sharia Law. For other members of the State House who have any doubt about passing this bill, I would ask that you share the following message and video.

I am currently reading a book titled CRUEL AND USUAL PUNISHMENT - The terrifying global implications of Islamic Law written by Nonie Darwish. If you think what the video states are not true, I encourage you to read this woman's book.

A group calling themselves "White Roses" created a video to inform non-Muslims about Islam. The name of this video is Three Things About Islam. White Roses is headquartered in Sweden. The name "White Roses" is based on a student resistance group "Die weiße Rose" in Nazi Germany. The group became known for an anonymous leaflet campaign, from June 1942 until February 1943, which called for active opposition to Adolf Hitler's regime.

I urge you to view this video and forward it to your email list. You may be familiar with the points made in this video, but many Americans are too dumb to pull their heads out of the sand to avoid confronting the problem or just simple ignorance of the crisis we face. It may not be possible to get all the Dramatis Persona to acknowledge this Islamic road to perdition but those Americans, who just do not know, out of ignorance, just might find the learning experience worth while.

As a person who has spent time studying Islam I can tell you this video is one of the best I have seen. It's short and to the point and all those points are right on!

http://www.youtube.com/watch?v=Ib9rofXQI6w&feature=player_embedded
God Bless Alaska and America,

Robert C. Weel

Help us END POLIO NOW: www.rotary.org/endorpolio

"You have not lived a perfect day until you have done something for someone who will never be able to repay you."

P.O. Box 3915
Palmer, AK 99645

The Honorable Carl Gatto
State Capitol, Room 118
Juneau, AK 99801-1182

9 March, 2011

Subject: House Bill 88, Use of Foreign Law

Dear Representative Gatto:

It appears to me that the effect of House Bill 88 is to preclude within the borders of the State of Alaska the subjugation of Alaskans to the whims of laws practiced by foreign entities that conflict with rights guaranteed to us by our laws and Constitution. Particularly, it will shield Alaskans from the depredations of Islamic Sharia law. I fully support its' adoption.

I am forwarding this because the body of evidence suggests it's true that Sharia law is an affront to every person who values human rights. Already there is a shrill, galling Muslim voice in America that demands the practice of Sharia law be allowed here, and there are gullible, bleeding-heart non-Muslims who blindly and stupidly support this insidious Islamic "cause." Already, among Muslims, it is happening in our America!

I personally will not condone the imposition of Sharia law at any level of our free society, not for myself nor for anyone else in America. Those who wish to impose Sharia law in America are the enemies of my blood. Sharia law is the antithesis of every right guaranteed to Alaskans and to all people in the United States of America. This is the land of the free and our demand for equality is that which makes us great among nations. The practices and punishments inflicted by Sharia law are patently illegal in this land. Enslavement, subjugation, beating, torture, mutilation, murder, discrimination, and child abuse deprive others of their guaranteed human rights under our Constitution and are crimes, all punishable upon conviction in this country.

Anyone in Alaska or America, who harms another person or deprives another person of guaranteed rights under the auspices of Sharia law or any other alien, foreign law, including Muslims, must be held accountable under our country's laws and prosecuted to our law's fullest extent. Multiculturalism be damned. Sharia law is an abomination and a pox on anyone who seeks to practice it or condone it in these United States of America.

Champions of Sharia BEWARE! There is only one law in America, and that is American jurisprudence, established by the duly enacted legislations of those freely elected to represent us. I pledge, as a duty of my American citizenship and as the right of a human being, to seek the prosecution of anyone I find inflicting the cruel and illicit depredations of Sharia law upon anyone in my America and I expect every other American citizen to do the same.

It's time for Alaskans and all Americans to stand together, get some guts, and renounce all efforts to suborn our freedoms and subjugate us under the illusion that any discriminatory foreign law should have any sway within the boundaries the State of Alaska or of these United States of America.

Sincerely,

Jim

James B. Wood

Karen Sawyer

From: Todd Antonovich [todd.antonovich@gmail.com]
Sent: Monday, March 28, 2011 11:56 AM
To: Rep. Carl Gatto
Subject: HB-88
Categories: KAREN

I am in great support of house bill 88. Thank you for your service...

-Todd Antonovich via iPhone

Karen Sawyer

From: Mary Barr [ak031764@customcpu.com]
Sent: Monday, March 28, 2011 8:01 AM
To: Rep. Carl Gatto; Rep. Steve Thompson
Cc: Rep. Wes Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: HB 88 Use of Foreign Law
Categories: KAREN

Please support HB 88, Use of Foreign Law.

It is totally appropriate to forbid the use of foreign or religious law in Alaska courts and require our judges to adhere to the laws of the state and the nation.

Thank you for your consideration.

Mary Barr
9441 Strathmore Dr
Anchorage AK 99502

907-248-2429

Karen Sawyer

From: Lucy [Lucky8118@alaska.net]
Sent: Monday, March 28, 2011 10:31 AM
To: Rep. Carl Gatto
Subject: Bill HB-88 must be passed!
Categories: KAREN

Please vote to pass this bill into law !

Thanks, Lucy Bishop,,,,337-3145



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Karen Sawyer

From: housemajority_email@housemajority.org
Sent: Friday, March 25, 2011 6:52 AM
To: Rep. Carl Gatto
Subject: Sharia Bill

+-----+
DO NOT REPLY DIRECTLY TO THIS EMAIL: your reply will go to enews@housemajority.org To correspond with the author Hit 'Reply' or 'Forward'. Then change the TO: address to akdougjr@gmail.com If suspected Spam please forward to: support@housemajority.org
+-----+

From: akdougjr@gmail.com

Dear Rep Gatto,

Thank you for your service to the people and State of Alaska and for your work to get Sharia Law blocked from Alaska's courts. As you know, Sharia law is totally at odds with our Constitution and I applaud you for taking that stand.

Doug Briney
4040 E 66th Ave
Anchorage, AK 99507
(907) 229-5028

~ Doug Briney
Zip Code: 99507

+-----+
DO NOT REPLY DIRECTLY TO THIS EMAIL: your reply will go to enews@housemajority.org To correspond with the author Hit 'Reply' or 'Forward'. Then change the TO: address to akdougjr@gmail.com If suspected Spam please forward to: support@housemajority.org
+-----+

Karen Sawyer

From: Rich Chamberlain [div10inc@alaska.net]
Sent: Sunday, March 27, 2011 9:56 PM
To: Rep. Carl Gatto
Subject: HB-88
Categories: KAREN

Representative Gatto,

Thank you for getting out ahead of this issue.

No foreign law in any shape or form should be of influence in the Alaska Courts.
You have the support of myself and my wife in this issue.

Rich Chamberlain
Jean Kennedy
Anchorage 345-6662

Karen Sawyer

From: JChuckwuk [brisybay@nushitel.net]
Sent: Friday, March 25, 2011 3:35 PM
To: Karen Sawyer
Subject: CS for HB #88(STA)

Honorable Representative Gatto & et al

Just a short note to show my support on the subject matter captioned above.

Certainly, any legislation that strengthens and supports the Alaskan or U.S. constitutional laws benefits all citizens of the state or national citizens.

I appreciate the vision and foresight of the committee and legislature on behalf of all its citizens.

Thank you for all your work and effort!

Joseph Chuckwuk
P.O. Box 8
Dillingham, Ak 99576

Karen Sawyer

From: A. J. Clark [aj@lea.com]
Sent: Sunday, March 27, 2011 9:22 PM
To: Rep. Carl Gatto
Subject: HB-88
Attachments: faint_grain.jpg
Categories: KAREN

Honorable Representative Carl Gatto,
I would like you to know as an Alaskan of over 20 years I strongly support the "Foreign Law Bill" HB-88 and request you do all in your power to support and pass this bill

Thank you.
Ms. A. J. Clark
Anchorage



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Karen Sawyer

From: housemajority_email@housemajority.org
Sent: Saturday, March 19, 2011 9:15 AM
To: Rep. Carl Gatto
Subject: Email to Rep. Gatto

Categories: KAREN

+-----+
DO NOT REPLY DIRECTLY TO THIS EMAIL: your reply will go to enews@housemajority.org To correspond with the author Hit 'Reply' or 'Forward'. Then change the TO: address to [near and far17@hotmail.com](mailto:near_and_far17@hotmail.com) If suspected Spam please forward to: support@housemajority.org
+-----+

From: near_and_far17@hotmail.com

Dear Mr. Gatto,

Thank you very much for protecting our Alaskan laws and pushing to prevent other foreign laws from being used in our justice system. It makes no sense whatsoever to use sharia or even just another country's system of law when we have our own.

God Bless you for standing for what's right.

Jayne Cupples

~ Jayme
Zip Code: 99654

+-----+
DO NOT REPLY DIRECTLY TO THIS EMAIL: your reply will go to enews@housemajority.org To correspond with the author Hit 'Reply' or 'Forward'. Then change the TO: address to [near and far17@hotmail.com](mailto:near_and_far17@hotmail.com) If suspected Spam please forward to: support@housemajority.org
+-----+

Karen Sawyer

From: cush [mmcushman@hotmail.com]
Sent: Friday, March 18, 2011 10:52 AM
To: Karen Sawyer
Subject: Thanks to Rep. Gatto
Categories: Blue Category

Thanks for Alaskan people intelligence for watching to protect American freedoms with State House Bill #88. Where the United Nations would force the U.S.A. to abandon our sovereignty. Thank you Rep Gatto.

Sincerely,
Rev. Mark Cushman

Karen Sawyer

From: John Wm. Foster [jfoster@gci.net]
Sent: Monday, March 28, 2011 7:08 AM
To: Rep. Carl Gatto
Subject: House Bill 88

Categories: KAREN

Dear Representative Gatto:

I am writing to urge you and your committee to support HB 88. Alaska and the United States has no need for our system of laws and judiciary to be corrupted by outside influences, most especially Sharia Law. I consider the backing of Sharia Law by groups such as CAIR and the Muslim Brotherhood to be a sure sign of the intention by these groups to impose their doctrine and ultimately destroy our culture, otherwise known as "creeping jihad". Our laws must be based only on the constitutions of Alaska and the USA.

Thank you for your sponsorship of HB 88.

Sincerely yours,
John Wm. Foster
Juneau
jfoster@gci.net

Karen Sawyer

From: salam@gci.net on behalf of Salam [salam@gci.net]
Sent: Tuesday, March 29, 2011 9:09 AM
To: Rep. Carl Gatto
Subject: HB 88 - Supporting
Attachments: HB 88 letter.docx; ATT00001.htm

March 25, 2011

Dear Representative Gatto:

This letter is in regard to HB-88, specifying that no individual citizen's Constitutional rights may be violated by the application of foreign laws, rules or provisions. I am in favor of the bill and urge you to vote in favor of it.

Law is a form of communication within a society. The clearer the communication, the better. When two or more contradictory legal systems operate within a single society, there is confusion and insecurity. For example, after the fall of the Ottoman Empire, European colonial powers brought their own judicial systems into the Middle East, which had been governed for centuries by Islamic law (Shari'ah). The result was two incompatible legal systems operating side-by-side in the same locale. In some cases, aggrieved individuals would complain to the system they thought most likely to give them the desired result, and if they lost would appeal to the other system. The result was confusion and expense rather than justice.

There must be clarity about which source of law carries ultimate authority. In Alaska, the Constitution of Alaska is the predominant and overarching source of law. If that ever changes, it should be as a result of an open and public process, not as a result of individuals or judges altering things bit by bit.

Different legal systems can rest on entirely different foundations, as do the two systems mentioned previously (Western law and Shari'ah). Because they appeal to different sources of ultimate authority, they are *fundamentally* incompatible and cannot be adopted piecemeal or cobbled together into a cohesive whole. Such incompatibility is stressed again and again by Muslim writers. The following quotes are from books recently purchased at a prominent California mosque:

Islam is an original genuine system with its own unique bases and an integral comprehensive plan, not mere adjustments to current outstanding conditions. —Sayyid Qutb in Islam: The Religion of the Future

Islam and Western civilization, being built on diametrically opposed conceptions of life, are not compatible. —Muhammad Asad in Islam at the Crossroads

Islam should either be adopted and applied as a whole or wholly abandoned. As a system of life it can bear fruit only if all its demands and its instructions are followed and complied with in toto. —Muhammad Qutb in Islam: The Misunderstood Religion

Allah alone is entitled to prescribe laws and regulations for making things lawful or unlawful, pure and impure; consequently all laws imposed by others must be abolished. —Sayyid Abul A'la Al-Mawdudi

Islam and democracy can never coexist. In Islam, every decision is based on the demands of Allah. Democracy is based on what the people want. Allah holds the ultimate power. He does not require the people's consent. —Abu Bakr Bashir

Karen Sawyer

From: Diane Sanderlin [dougdiene70@yahoo.com]
Sent: Tuesday, March 29, 2011 9:20 AM
To: Rep. Carl Gatto
Subject: HB 88

We are behind you on this bill

Doug and Diane Sanderlin

Karen Sawyer

From: Richard Shear [badbushhog@att.net]
Sent: Tuesday, March 29, 2011 8:02 AM
To: Rep. Carl Gatto
Subject: HB88

Rep Gatto

I wish to pass my strong support for this bill along to you . This is just acommon sense vote, There should never be any law to consider other than US Constitution or Alaska law .

Rick Shear , Talkeetna AK

Karen Sawyer

From: M R Spikes [mrspikesak@gmail.com]
Sent: Tuesday, March 29, 2011 9:54 AM
To: Rep. Carl Gatto
Subject: HB 88

Mr. Gatto. This bill needs to pass. I am counting on you to help see that the does pass. Please do not disappoint me. Thanks Hank Spikes.

Karen Sawyer

From: amythom@mtaonline.net
Sent: Tuesday, March 29, 2011 8:21 AM
To: Rep. Carl Gatto
Subject: HB-88

I am behind you 100% on HB-88. Please do not be swayed by the lobbyists who are doing their best to destroy our judicial system.
Amy Thomas

Karen Sawyer

From: R T [highflytimm@yahoo.com]
Sent: Tuesday, March 29, 2011 8:11 AM
To: Rep. Carl Gallo
Cc: Rep. Bob Lynn; Rep. David Guttanberg; Rep. Lance Pruitt; Rep. Lindsey Holmes; Rep. Mike Chenault; Rep. Steve Thompson; Rep. Wes Keller
Subject: HB88

Dear Representatives,

Please consider my **strong** support for **HB88. The Foreign Law Bill.** I think it very wise, prudent and timely to enact this bill before things in this area get too out of hand, allowing for further and faster erosion of our state and national sovereignty. Thank you for considering such a bill in the first place. I think it appropriate and urgent in this political climate in which we find ourselves. Often we have judiciary who pride themselves in thinking too far out of the box and need containment. This is one of those times. Thank you for your efforts to protect the residents of Alaska with this bill,

Sincerely,
Robert Timmins

Eagle River, AK
highflytimm@yahoo.com

Karen Sawyer

From: dwest@gci.net on behalf of Dennis Weston [dwest@gci.net]
Sent: Tuesday, March 29, 2011 5:26 AM
To: Rep. Carl Gallo
Cc: Rep. Steve Thompson; Rep. Wes Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: HB 88

I am very much in support of HB 88 and urge its passage.

Central to Alaskan and American justice is the idea of equality of individual citizens before the law, irrespective of group identity. Though we do not always reach that ideal, it should remain the standard toward which we strive. For that fundamental idea to be upheld, there must be only ONE standard of law in Alaskan courts.

Thank you for your service to the state. Please vote in favor of this bill.

Dennis H. Weston

Karen Sawyer

From: Sandi Williams [knikhusky@mtaonline.net]
Sent: Tuesday, March 29, 2011 9:10 AM
To: Rep. Carl Gallo
Cc: Rep. Steve Thompson; Rep. Was Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: HB-88 (Foreign Law)

Hello!

I wanted to take a moment to let all of you know that I STRONGLY SUPPORT the passing of HB-88. This bill would prohibit Alaska courts from using any law other than the US Constitution or the Alaska Constitution. Courts would not be allowed to consider European Law, International Law or Sharia Law while adjudicating in Alaska.

The US Constitution is the supreme law of our nation. Our Alaska Constitution is the supreme law for our state. No other type of law should be considered when litigating cases in our state and federal courts.

Please do what is right for our state and our nation by passing HB-88. Protect our nation and our state by protecting our courts from Foreign Law. It is the right thing to do.

Thank you,
Sandra Williams
Wasilla, Alaska

Karen Sawyer

From: Paul Baertschiger [chig@mtaonline.net]
Sent: Tuesday, March 29, 2011 8:34 AM
To: Rep. Carl Gatto
Subject: HB 88

I support HB 88. Please continue to support HB 88.

Thanks
Paul Baertschiger
chig@mtaonline.net

Karen Sawyer

From: Gerry Bailey [gerryb@mtaonline.net]
Sent: Tuesday, March 29, 2011 8:27 AM
To: Rep. Carl Gatto
Subject: "Foreign Law" bill HB-88

Dear Representative Gatto,

I support the "Foreign Law" bill HB-88 and hope that you will vote for the bill.

Yours truly,

Gerald Bailey

Karen Sawyer

From: Mary Barr [ak031764@customcpu.com]
Sent: Monday, March 28, 2011 8:01 AM
To: Rep. Carl Gatto; Rep. Steve Thompson
Cc: Rep. Wes Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: HB 88 Use of Foreign Law
Categories: KAREN

Please support HB 88, Use of Foreign Law.

It is totally appropriate to forbid the use of foreign or religious law in Alaska courts and require our judges to adhere to the laws of the state and the nation.

Thank you for your consideration.

Mary Barr
9441 Strathmore Dr
Anchorage AK 99502

907-248-2429

Karen Sawyer

From: LAVONNE BOYD [lavonnekmbq@gmail.com]
Sent: Tuesday, March 29, 2011 9:32 AM
To: Rep. Carl Gatto
Cc: Rep. Steve Thompson; Rep. Wes Koller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: RE:Foreign Law bill
Attachments: image001.gif; image008.jpg; image009.jpg; image010.jpg

Dear Mr. Gatto and Committee,
I strongly support the passage of the Foreign Law Bill. I feel it is one of the most important laws you can pass. I hear about Sharia Law creeping into many decisions and many states. I am fearful about the many losses to liberty that are happening and this bill is very important to see that are judicial system in Alaska stays strong.
Thank you for your consideration.
Sincerely, LaVonne

*LaVonne Boyd, Account Representative
Spirit of Alaska Broadcasting
373-0222 ext 18, Cell 907-841-6951
Fax: 376-1575
lavonnekmbq@gmail.com*

REMEMBER.....RADIO IS ALWAYS ON!!
RADIO IS NEVER FOLDED UP OR THROWN OUT.
SOMEONE ALWAYS HEARS.



Karen Sawyer

From: Kath Carlson [kath009@hotmail.com]
Sent: Monday, March 28, 2011 10:33 PM
To: Rep. Bill Stoltze; Rep. Bill Thomas; Rep. Anna Fairclough; Rep. Mia Costello; Rep. Bryce Edgmon; Rep. Reggie Joule; Rep. Mark Neuman; Rep. Tammie Wilson; Rep. Mike Doogan; Rep. Les Gara; Rep. David Guttenberg; Rep. Carl Gatto; Rep. Steve Thompson; Rep. Mike Chenault; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Lance Pruitt; Rep. Bob Lynn; Rep. Wes Keller
Subject: House Bills

Please support House Bills 80 and 88.

Thanks muchly!

Kath McCubbins-Carlson

Karen Sawyer

From: Barbara Clinton [iufan@ak.net]
Sent: Tuesday, March 29, 2011 9:35 AM
To: Rep. Carl Gatto
Subject: HB88
Attachments: image001.jpg

Dear Chairman Gatto and Members of the Judiciary Committee.

I would like to encourage your support of HB 88. Both The Us Constitution and the Alaska Constitutions have served this country well for many years. The laws of this land should be American laws.

Sincerely,

Barbara Clinton

4121 North Point Drive

Anchorage, Alaska 99502

243-6885

iufan@ak.net

Karen Sawyer

From: Amanda Compton [arazien@yahoo.com]
Sent: Tuesday, March 29, 2011 10:36 AM
To: Karen Sawyer
Cc: Pamela Geller
Subject: Keep Pamela Geller in foreign law hearings, please.

Good afternoon, Karen!

I'm writing to ask you to please not exclude Pamela Geller – per CAIR's request – from the legislation hearings regarding your state's foreign law legislation. In these hearings, you will need people like Pamela who are willing to take on CAIR (who we know is linked to the Muslim Brotherhood) and not shy away from the facts out of fear of offending someone. It is time we have this conversation – openly and candidly.

Sincerely,

-Amanda Compton, a concerned American citizen, St. Louis, Mo.

Karen Sawyer

From: Rodger Dodger [lindy125@hotmail.com]
Sent: Tuesday, March 29, 2011 8:50 AM
To: Rep. Carl Gatto
Subject: HB88

I as well as any true American am in complete support of HB 88. Any court that would support anything other than American laws and American justice would have my support to move to whatever country is aligned to their fantasy laws and rules. Now more than ever we need to take back our country and clean up our judiciary.

Roland

Sent via iToy

Karen Sawyer

From: Dorothy Dory [denaidot@yahoo.com]
Sent: Tuesday, March 29, 2011 8:51 AM
To: Rep. Carl Gatto
Subject: HB-88

Representative Gatto:

I strongly support the foreign law bill HB-88. I want Alaska courts to use the U.S. Constitution and Alaska's Constitution as the basis of legal decisions.

Thank you,

Dorothy Dory
2750 S. Desires Cir.
Wasilla, AK 99654

Karen Sawyer

From: Ilona Farr [afmc4045@yahoo.com]
Sent: Tuesday, March 29, 2011 8:31 AM
To: Rep. Carl Gatto; Rep. Steve Thompson
Cc: Rep. Wes Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: Ilona Farr MD re HB 88

Representatives;

Please pass this legislation HB 88. We do not need any foreign or religious law here in Alaska. There should be one set of laws, one set of standards for all Alaskans. England is dealing with over 90 Sharia law courts now and it is creating chaos. Shariah law permits caning of women, marriage of girls as young as 6, limb amputations for minor crimes, and killing of nonbelievers or believers who convert from Islam to other faiths.

International law is now removing Christian home schooled children from their families and forcing them into public institutions which is unethical and against our freedom of speech, religion and violates our rights as parents. There are hundreds of other examples but this bill is very important to retain our freedoms here in Alaska and America. The judge in Florida by agreeing to use Shariah law in an American court is setting a very dangerous precedent. We need to pass this legislation before it becomes an issue here.

Ilona Farr MD

Karen Sawyer

From: Lauchlan Ford [ljmah@gmail.com]
Sent: Tuesday, March 29, 2011 10:02 AM
To: Rep. Carl Gatto
Subject: HB-88

I strongly urge your support for HB-88.

L J Ford
Anchorage

Karen Sawyer

From: J Gillette [loggiemonster@hotmail.com]
Sent: Monday, March 28, 2011 11:33 PM
To: Rep. Carl Gatto; Rep. Max Gruenberg; rep. lindsay_holmes@legis.state.ak.us; Rep. Wes Keller; Rep. Mike Chenault; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Steve Thompson
Subject: Please Support House Bill 88

Ladies & Gentlemen of the Judiciary Committee,

Please consider passing House Bill 88, Use of Foreign Law. Rep. Gatto is correct to design a law that protects our State and US Constitutional rights as citizens. He took an oath to protect those precious documents and his constituents kept him in office knowing that he would keep his oath. It's disheartening to even need a Bill that specifically protects our citizens, but what is even more disheartening is someone voting against this protection.

Too many countries have been too "tolerant" and allowed laws and courts that conflict with theirs to be introduced. I have read a lot of regrets about this. I've also spent a little time in Saudi Arabia and saw first hand how women are treated. I experienced some of that as well.

We have the opportunity to keep our freedoms afforded to us by our Constitutions now. Please do what is right for the people of Alaska. Vote Yes on HB 88. I have included an in depth report from Great Britain on this subject and the challenges it has posed. Here are some excerpts:

Sharia law is being exercised in Great Britain. "Sharia has been operating here, in parallel to the British legal system, since 1982. Work includes issuing fatwas - religious rulings on matters ranging from why Islam considers homosexuality a sin to why two women are equivalent to one male witness in an Islamic court."

Under Muslim law, a man can divorce his wife simply by uttering the word 'talaq', yet a woman cannot be granted a divorce without the consent of her husband or winning a dissolution of the marriage from the imam. Even if the couple is divorced under British law, they remain married under Islam until divorced under the religious law, too.

Read more: <http://www.dailymail.co.uk/news/article-1197478/Sharia-law-UK--How-Islam-dispensing-justice-side-British-courts.html#ixzz1HyBqhx5f>

Respectfully,

Julle Gillette

4301 S. Well Site Rd

Karen Sawyer

From: Leone Harris [leone@mtaonline.net]
Sent: Tuesday, March 29, 2011 8:11 AM
To: Rep. Carl Gatto
Subject: HB-88

Representative Gatto,

I am asking you to please vote, YES, on HB-88. It is extremely important to our sovereignty that we not allow our courts to follow any other laws other than our own State constitution and the United States Constitution. In fact, you could make this bill even better by adding language to it, that if any court in this land, attempts to use any other guide for their basis of law, besides our State or the US constitution, the judge presiding over that court should stand trial and face prison time, for violating either constitution.

We could be the example to the rest of our country and encourage other states to follow suit. The only way we will ever win back our freedoms is to start taking a stand.

PLEASE take that stand on not only on our behalf, but for our ancestors and what they fought and died for.

Sincerely,
Leone Harris
907-775-0226

Karen Sawyer

From: John Smith [naherr@gmail.com]
Sent: Tuesday, March 29, 2011 9:58 AM
To: Rep. Carl Gatto
Cc: Rep. Steve Thompson; Rep. Wes Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chonault
Subject: HB 88- Foreign Law

Sir, et al, I would first like to introduce myself. My name is LTC(Ret) Nick Herrera and I am resident of Wasilla. I served in the United States Army for over 22 years and deployed on numerous occasions. I have served in over 70 countries, many of which were Muslim countries, and I can tell you that no country is greater than the United States of America. I fought to defend our Constitution, rights, and the people of this great country of ours, often leaving my family for long periods of time (as long as two years) at great cost to my family, but I did it willingly and with pride in the service of our country. Its also important for you to note that I have extensive background in the Muslim culture, religion, and dealing with Muslim sensitivities as I also lived (and grew up) in the Middle East for 12 years living among the Muslim population and even practicing their customs, traditions, and learning their language. In fact, prior to entering service into the Army, I had spent half of my life living in the Middle East. My parents worked in the Middle East for 33 years straight and recently retired from there. Thus, I feel I fully understand their culture and religion. Despite what anyone may say or advocate, I am a strong believer that all faiths have the God given right to practice their faith in this country, and I respect that. That said, I will tell you from personal experience from living in the Middle East, that Islam is NOT a religion of tolerance or respect. I am a practicing Catholic and have seen first hand the persecution of non-Muslim faiths in the Middle East. As a practicing Catholic, my family and I were NOT allowed to practice our faith in the Middle East. In fact, on one case, I was present when the "Mutawa" (Muslim religious police), came into the home of a Catholic priest who was holding a secret church service (since we were not permitted to openly or secretly practice our faith) for us, and burst into his home and violently subdued him, arrested him, and dragged him off during the church service and then had him deported. This is NOT a religion of tolerance!! Islam does NOT practice any form of tolerance, but only DOMINATION and submission of all non-Muslims. I was also present on numerous occasions for "public beheadings, floggings, and punishments" executed by this "tolerant religion". I personally can recount friends who were tortured merely because of a "Ministry of Vice and Virtue" had received "confessions (aka tortured)". I could go on about how, while on active duty, as an American soldier in Bosnia I witnessed the results of what Islam, this religion of tolerance, did to other faiths in the name of "Allah", but I will stop here.

I strongly urge you to pass HB 88. I am NOT alone in STRONGLY SUPPORTING this bill. This bill does NOT restrict our Constitutional Rights. In fact, it protects us from becoming SUBJECTS to a FOREIGN LAW in our OWN COUNTRY. Failing to pass HB 88 signals victory for Islam and our enemies who would seek to subjugate us, within our own country, to a foreign law. We have our Constitution which protects us, and you, our representatives, are our "first line of defense", and much like our Armed Services fight to protect us, we/I, rely on YOU to protect us. PLEASE pass this bill and protect us, your citizens here in Alaska. Much like you relied on me to defend your rights and this country, now I depend on YOU to protect me and my family for foreign laws and invaders.

God bless you all, guide you, and the United States of America.

Sincerely,
Nick Herrera
LTC (Ret), USA

Karen Sawyer

From: Fritz Hoffman [fritz@rockridgeservices.com]
Sent: Tuesday, March 29, 2011 9:06 AM
To: Rep. Carl Gatto
Cc: Rep. Wes Keller
Subject: HB 88 support

Thank you Carl for seeing the big picture and protecting my children's future enacting your Foreign Law bill.

A few thoughts...

AS the national economy slows and AK's P fund appears as a easy ride to new arrivals.....
I'd like to see new families with another state's welfare history - with any miners having repeated criminal history - contract to re- pay the state with the families permanent fund money for state expenses.
Alaska should appear un-friendly to non-productive individuals. Let the moms and dads be motivated to raise their children to be productive self sufficient adults.
Do not enable (through the P fund) adults to be dead beat parents.

Also...

I suggest you find a way for children / miners to have meaningful trade work site experience. Most kids do not see the use for their HS education, few goals are set beyond the discharge diploma.

Today, the only way a miner can learn and understand gainful employment experience is if he/she is working in their family's business.

The child labor laws are to restrictive and do not allow exposure to work site tasks and challenges that train for a trade's entry position.

Few businesses can afford to "carry a kid" that cannot legally have a productive job task.

Thank you.

—
Fritz Hoffman, project manager
Rock Ridge Services
PO Box 875436
Wasilla, Alaska 99687

office 907-357-1556
fax 907-357-8550
cell 907-354-1568

Karen Sawyer

From: Bill Hutchison [billh@gci.net]
Sent: Tuesday, March 29, 2011 9:53 AM
To: Rep. Carl Gallo
Subject: HB

HB-88

This is a great idea! Thanks for your help with it!

Bill Hutchison
Anchorage

Politically Correct is Objectively Wrong.
Gun Control: Best achieved using both hands.

Karen Sawyer

From: Aimee Kopp [yukonaimae@yahoo.com]
Sent: Tuesday, March 29, 2011 10:06 AM
To: Rep. Cari Gatto
Cc: Rep. Steve Thompson; Rep. Wes Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: HB-88

I am writing to encourage your support of HB-88 or the "Foreign Law" bill." Thank you for taking a stand to protect the laws and sovereignty of the United States.

Sincerely,
Aimee Kopp
Houston, Alaska

"Though you have not seen Him, you love Him: and even though you do not see Him now, you believe in Him and are filled with an inexpressible and glorious joy, for you are receiving the goal of your faith, the salvation of your souls." 1Peter 1:8-9

Karen Sawyer

From: jclehman@gci.net
Sent: Tuesday, March 29, 2011 10:24 AM
To: Rep. Carl Gatto
Subject: "Foreign Law" HB-88

I strongly support "Foreign Law" HB_88.

J. Lehman

Karen Sawyer

From: David Gallagher [denaldave2@gmail.com]
Sent: Saturday, March 26, 2011 3:16 PM
To: Rep. Carl Gatto
Cc: Rep. Steve Thompson; Rep. Wes Keller; Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mike Chenault
Subject: "Foreign Law" bill HB-88
Categories: KAREN

Honorable Members of the Judiciary Committee,

Please be advised, as your constituent, I strongly urge YOU to support the "Foreign Law" bill HB-88.

And for your support of HB-88, I will remember you at the Ballot Box.

Thank You
Dave Gallagher
3141 E. 112th Ave.
Anchorage, Alaska
99516

Karen Sawyer

From: tammyargend@aol.com
Sent: Tuesday, March 29, 2011 8:39 AM
To: Rep. Carl Gatto
Subject: HB 88

Dear Rep. Gatto:

As one of your constituents I hope you strongly consider voting for HB88.

I don't know how we could ever think about using a law except the laws of our state and country.

Thank You
Tammy Leslie

Karen Sawyer

From: Mike Madera [materamike@gmail.com]
Sent: Tuesday, March 29, 2011 9:59 AM
To: Rep. Carl Gatto
Subject: HB88

Dear Sir,

As an Alaska resident and a proud United States Citizen and Combat Veteran I would encourage you to strongly support HB 88.

Thank You,
Mike Madera

Karen Sawyer

From: Christopher Nugent [cnugentak@gmail.com]
Sent: Tuesday, March 29, 2011 10:32 AM
To: Rep. Carl Gallo
Subject: HB-88

Representative Carl Gallo

Please support HB-88. Our US and Alaskan Constitutions are the supreme law of the land, and should remain so. This is America, let's keep it American.

Christopher Nugent, Maj, USAF (Ret)
4851 S Eagle Bay Drive
Wasilla, AK 99654-9428
907-376-4114

Karen Sawyer

From: Marj Oines [marjo@gci.net]
Sent: Monday, March 28, 2011 5:33 PM
To: Rep. Carl Gatto
Subject: HB 88 Use of Foreign Law

I am so pleased that you are bringing up the issue of using foreign law in the USA. I support your efforts in this matter. Thank you.
The USA should never have to be subject to foreign law.

Marj Oines
Box 591
Petersburg, Ak
99833
marjo@gci.net

PHONE CALLS re: CSHB 88 (STA)

as of March 29, 2011

21 support calls – Alaska

8 support calls – outside Alaska

2 oppose call - Alaska

About Janet Levy

Janet Levy, MSW, MBA, is a political activist, writer, public speaker and world traveler. She has contributed to American Thinker, Pajamas Media, FrontPage Magazine, Family Security Matters, and other publications and has served as an investigative reporter for Full Disclosure Network. Ms. Levy has been a guest on several radio programs, including Tammy Bruce, General Valley's Stand-up America, Pundit Review, the Center for Individual Freedom, and Alan Jones.

As a staunch advocate for the preservation of constitutional freedoms, Ms. Levy has worked with various organizations and government representatives to stem the incursion of Islamic Shariah law into the American justice system. She has presented seminars on the effect of shariah law on women, the global jihad, the Islamist infiltration of American society and institutions and illegal immigration. In 2007, Ms. Levy was a media guest of the Joint Task Force - Guantanamo Bay detention facility in Cuba.

She blogs at www.womenagainstshariah.com.

Biography of Nonie Darwish: Director



Nonie Darwish is an American human rights activist, writer, public speaker and founder of Arabs For Israel. She is the author of the book Now they Call Me Infidel; Why I Renounced Jihad for America, Israel and the War on Terror. Her second book is Cruel And Usual Punishment: The Terrifying Global Implications of Islamic Law. Her speech topics cover human rights, with emphasis on women's rights and minority rights in the Middle East.

Born in Egypt, Darwish is the daughter of an Egyptian Army lieutenant general, who, when assassinated by the Israeli army in 1956, was called a "shahid" by the Egyptian president Gamal Abdel Nasser, although Darwish blames "the Middle Eastern Islamic culture and the propaganda of hatred taught to children from birth" for the assassination. In 1978, she moved with her husband to the United States, and converted to Christianity there. After September 11, 2001 she has written on Islam-related topics.

Born in Cairo, Egypt, Darwish moved to Gaza in the 1950s when her father, Lt. General Mustafa Hafez, was sent by Gamal Abdel Nasser to serve as commander of the Egyptian Army Intelligence in Gaza, which was under supervision of Egypt. Hafez founded the fedayeen who launched raids across Israel's southern border, that between 1951 and 1956, killed some 400 Israelis. In July 1956 when Nonie was eight years old, her father became the first targeted assassination carried out by the Israeli Defense Forces in response to Fedayeen's attacks, making him a shahid. During his speech announcing the nationalization of the Suez Canal, Nasser vowed that all of Egypt would take revenge for Hafez's death. Darwish claims that Nasser asked her and her siblings, "Which one of you will avenge your father's death by killing Jews?"

Biography of Pam Geller



Pamela Geller is the founder, editor and publisher of [Atlas Shrugs.com](http://AtlasShrugs.com), bringing you the news you will not hear from the mainstream media, providing original reportage, covering little-reported events of great import, and giving an unblinkingly honest examination of global affairs. She is also the executive director of Freedom Defense Initiative (FDI)/Stop Islamization of America (SIOA), and is a regular columnist for Andrew Breitbart's *Big Government* and *Big Journalism*, the *American Thinker*, and other publications. Pamela Geller is the author of the book *The Post-American Presidency: The Obama Administration's War on America* with Robert Spencer (foreword by Ambassador John Bolton), published by Simon & Schuster. Pamela Geller the 2010 recipient of the [Annie Taylor Award for Courage](#), presented by the David Horowitz Freedom Center.

Pamela Geller was the subject of a profile on *60 Minutes* and has been profiled in a cover story in the Sunday *New York Times* Metro section. The Times conducted an [in-depth interview of Geller's views](#) as well. She has made appearances on NBC Nightly News, ABC, CNN, AP, Reuters, Hannity, Red Eye, Geraldo, the Mike Huckabee show, and other shows on the Fox News channel. She has appeared in the New York Times, the Washington Post, the LA Times, the Daily Mail and the Telegraph. She made an acclaimed appearance on the Joy Behar Show in February 2010, engaging in an impromptu debate with Ron Reagan about Sarah Palin and the Tea Party Movement. She is a frequent guest on talk radio and has regular segments on two radio shows, The Jaz McKay Show and Jamie Allman in the Morning. Geller was a featured speaker at the David Horowitz Freedom Center's Restoration Weekend in 2009 and was the featured speaker for the Collin County, Texas, Conservative Republicans in November 2009. She speaks regularly to political and activist organizations, synagogues and other groups across this nation.

Pamela Geller's interviews on a wide range of current events have won enthusiastic acclaim, as have her exclusive Atlas interviews with internationally renowned authorities on jihad, terrorism, and related issues, including [John Bolton](#), Geert Wilders, Bat Ye'or, Benjamin Netanyahu, Mark Steyn, Steve Emerson, [Christopher Hitchens](#), [Natan Sharansky](#), and many others. (Videos of many of these interviews are available at AtlasShrugs.com.) She routinely confers with leading scholars on the Middle East, Islam, [Eurabia](#), China and Russia.

Pamela Geller has broken numerous important stories -- notably the questionable and illegal foreign sources of some of the financing of the Obama campaign, the anti-Semitic posts on Obama's website, Obama's political organizing in public school classrooms, ACORN's destruction of Republican voter registrations, and many more. Her articles and op-eds have been published in the *Guardian*, Fox News, *The Washington Times*, *Big Government*, *Big Journalism*, *Human Events*, *The American Thinker*, *Newsmax*, the Hudson Institute, NY, Pajamas Media, Israel National News, World Net Daily, FrontPage magazine, New Media Journal, and Canada Free Press, among other publications.

Pamela Geller began her publishing career at [The New York Daily News](#) and subsequently took over operation of [The New York Observer](#) as Associate Publisher. AtlasShrugs.com won the 2005 "Best New Blog" [Jewish & Israeli Blog Award](#), was a finalist in the [2005 Weblog Awards](#), and finished in third place for "Best Conservative Blog" in the 2008 Weblog Awards. She also won the ["Grande Conservative Blogress Diva" Award for 2008](#) and for 2009.

About Robert Spencer



ROBERT SPENCER is the director of Jihad Watch, a program of the David Horowitz Freedom Center, and the author of ten books, including the *New York Times* bestsellers *The Truth About Muhammad* and *The Politically Incorrect Guide to Islam (and the Crusades)* (both Regnery). He is coauthor, with Pamela Geller, of *The Post-American Presidency: the Obama Administration's War on America* (Threshold Editions/Simon & Schuster). Spencer is a weekly columnist for *Human Events* and *FrontPage Magazine*, and has led seminars on Islam and jihad for the United States Central Command, United States Army Command and General Staff College, the U.S. Army's Asymmetric Warfare Group, the FBI, the Joint Terrorism Task Force, and the U.S. intelligence community.

Spencer has also written eleven monographs and well over three hundred articles about jihad and Islamic terrorism. In addition to the above books, he is the author of *Islam Unveiled: Disturbing Questions About the World's Fastest Growing Faith* (Encounter); *Onward Muslim Soldiers: How Jihad Still Threatens America and the West* (Regnery); *Religion of Peace? Why Christianity Is and Islam Isn't* (Regnery), a refutation of moral equivalence and call for all the beneficiaries and heirs of Judeo-Christian Western civilization, whatever their own religious or philosophical perspective may be, to defend it from the global jihad; *Stealth Jihad: How Radical Islam is Subverting America without Guns or Bombs* (Regnery), an expose of how jihadist groups are advancing their agenda in the U.S. today by means other than terrorist attacks; and *The Complete Infidel's Guide to the Koran* (Regnery). He is coauthor, with Daniel Ali, of *Inside Islam: A Guide for Catholics* (Ascension), and editor of the essay collection *The Myth of Islamic Tolerance: How Islamic Law Treats Non-Muslims* (Prometheus). Spencer's books have been translated into many languages, including Spanish, Italian, Finnish, Korean, and Bahasa Indonesia.

Along with his weekly columns, Spencer has completed a weekly Qur'an commentary at Jihad Watch, *Blogging the Qur'an*, which has been translated into Czech, Danish, German, Italian, Spanish and Portuguese. He is a contributing writer to Steven Emerson's Investigative Project on Terrorism. His articles on Islam and other topics have appeared in the *New York Post*, the *Washington Times*, the *Dallas Morning News*, the UK's *Guardian*, Canada's *National Post*, *Middle East Quarterly*, *WorldNet Daily*, *First Things*, *Insight in the News*, *National Review Online*, and many other journals.

Spencer has discussed jihad, Islam, and terrorism at a workshop sponsored by the U.S. State Department and the German Foreign Ministry. He has also appeared on the BBC, ABC News, CNN, FoxNews's O'Reilly Factor, the Sean Hannity Show, the Glenn Beck Show, Fox and Friends, and many other Fox programs, PBS, MSNBC, CNBC, C-Span, France24 and Croatia National Television (HTV), as well as on numerous radio programs including Bill O'Reilly's Radio Factor, The Laura Ingraham Show, Bill Bennett's Morning in America, Michael Savage's Savage Nation, The Sean Hannity Show, The Alan Colmes Show, The G. Gordon Liddy Show, The Neal Boortz Show, The Michael Medved Show, The Michael Reagan Show, The Rusty Humphries Show, The Larry Elder Show, The Barbara Simpson Show, Vatican Radio, and many others. He has been a featured speaker at Dartmouth College, Stanford University, New York University, Brown University, the University of North Carolina at Chapel Hill, the University of Virginia, the College of William and Mary, Washington University of St. Louis, the University of Wisconsin at Madison, the University of Wisconsin at Milwaukee, and many other colleges and universities.

Spencer (MA, Religious Studies, University of North Carolina at Chapel Hill) has been studying Islamic theology, law, and history in depth since 1980. As an Adjunct Fellow with the Free Congress Foundation in 2002 and 2003, he wrote a series of monographs on Islam: *An Introduction to the Qur'an*; *Women and Islam*; *An Islamic Primer*; *Islam and the West*; *The Islamic Disinformation Lobby*; *Islam vs. Christianity*; and *Jihad in Context*. More recently he has also written monographs for the David Horowitz Freedom Center: *What Americans Need to Know About Jihad*; *The Violent Oppression of Women In Islam* (with Phyllis Chesler); *Islamic Leaders' Plan for Genocide*; and *Muslim Persecution of Christians*.



March 15, 2011

**AMERICAN CIVIL
LIBERTIES UNION OF
ALASKA**

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STUDENT ADVISOR

The Honorable Bob Lynn, Chair
The Honorable Wes Keller, Vice-Chair
House State Affairs Committee
Alaska State House of Representatives
State Capitol, Room 106
Juneau, AK 99801

via email: [Representative Bob Lynn@legis.state.ak.us](mailto:Representative_Bob_Lynn@legis.state.ak.us);
[Representative Wes Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)

Re: House Bill 88
ACLU Review of Legal Issues

Chair Lynn, Vice-Chair Keller:

Thank you for the opportunity to submit written testimony regarding House Bill 88, relating to the application of international law.

The American Civil Liberties Union of Alaska represents thousands of members and activists throughout the State of Alaska who seek to preserve and expand individual freedoms and civil liberties guaranteed under the United States and Alaska Constitutions. We have several concerns with the proposed legislation, outlined in greater detail below, **and urge a DO NOT PASS vote by Members of the Committee.**

Attack on Separation of Powers and Judicial Independence

Fundamentally, HB 88 is counterproductive legislation. This bill represents an attack on the separation of powers, an unwarranted mistrust of the state judiciary and an unnecessary interference in the function of Alaska's legal system.

It is a core function of both state and federal courts to determine what law is at issue in a given matter. The Alaska Legislature should not seek to legislate what law the courts can and cannot consider when deciding cases. By doing so, the Legislature violates the fundamental principle of judicial independence and the constitutional principle of separation of powers.

Negative Impacts on Alaska Citizens and Businesses

Passage of HB 88 would harm the rights of Alaska citizens and businesses who travel and transact across international borders, and would also negatively impact the United States' standing in the global community.

In the normal course of business, organizations may voluntarily choose to waive certain constitutional rights. For instance, an individual generally retains the constitutional right to say what she thinks without restraint. U.S. Const., Amdt. I; Alaska Const., Art. I, Sec. 5. However, individuals regularly contract away their constitutional right to speak freely, for instance, by engaging in nondisclosure agreements. While the ACLU of Alaska strongly values constitutional rights, there are certainly legitimate and appropriate reasons why an informed, non-coerced waiver of such rights should be permitted and legally respected.

Contrary to these principles, the language of HB 88 presumes to disregard **all** waivers of constitutional rights, in any contract that contains a choice of law clause preferring the law of a foreign jurisdiction. For instance, proposed AS 09.68.140(b) states that if a contract contains a choice of law clause preferring foreign law and "if the interpretation or enforcement of the agreement would violate an individual's [constitutional] right," the contract **must** be read to preserve the constitutional right, not to waive it. The effect of the statute – by its literal terms – appears to be to nullify *any waiver* of constitutional right where made in conjunction with a foreign choice of law provision.

Other examples of commonly waived constitutional rights include the right of medical privacy permitting medical records to be shared with a foreign medical provider, or a due process right to an official hearing or trial, such as a provision mandating that disputes go to an arbitrator. The Alaska Legislature risks sweeping up a wide variety of commonplace waivers of constitutional rights in the bill as currently drafted.

HB 88 is structurally flawed in that it is not narrowly tailored to prevent coerced or uninformed waiver of rights. Its only *caveat* is that the contract must have a foreign choice of law provision. This overbreadth would result – should the bill pass – in exposing foreign partners to the potential that Alaska businesses may unilaterally *and improperly* evade their contractual obligations by using the Bill's provisions. This obvious legal flaw would make it highly problematic for Alaskans to conduct business with foreign individuals or organizations.

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Choice of Forum Provision

A similar problem attends subsections (c) and (d), which prohibit the application of choice of forum or venue contractual provisions, and the granting of motions to dismiss on the grounds of *forum non conveniens*, where a constitutional right could be impaired.

In the case of subsection (c), a business or person may have a valid, legally appropriate and commercially necessary reason to waive certain constitutional rights. But, the extremely broad language of the legislation would invalidate the contractual provisions.

An example of a problem with this language is presented by the Seventh Amendment to the United States Constitution, which guarantees the right to trial by jury in any civil case addressing a matter in value of at least twenty dollars. U.S. Const., Amdt. VII.

The United States jury system does not necessarily have a corollary in judicial proceedings in other countries. Not all countries apply a common law system, and fewer still have regular jury trials. HB 88 could thus be used to prevent the enforcement of any choice of venue or forum clause *in any contract with a foreign company*, or any *forum non conveniens* action, if the foreign court at issue does not guarantee a jury trial for civil action where \$20 or more was at stake. This would seriously deter foreign individuals or corporations from doing business in Alaska.

U.S. and Alaska Standing in Foreign Relations

HB 88 would generally strain our relations and standing with other nations. Opportunistic businesses and individuals could thwart efficient judicial enforcement by filing suit in Alaska and then demanding that the defendant respond in Alaska.

For example, a person with a contractual dispute with a Spanish oil services company¹ could (assuming that the matter had sufficient minimal Alaska contacts to establish personal and subject matter jurisdiction), file a suit for declaratory relief in Anchorage, even where all the evidence, witnesses, and items at issue were in Spain.

Even where such a suit would normally be dismissed as *forum non conveniens* and then re-filed in Spain, an Alaska court could be obliged to hear the case in Alaska, since the plaintiff would be deprived of her Seventh Amendment right to a jury trial if the case were heard in Spain.

While there may be foreign jurisdictions whose legal systems are so deeply unfair as to offend fundamental American values of fairness, there are many – such as Spain’s – that do not. One should also note that the doctrine of *forum non conveniens* is **one of mutual respect**, which may

¹ <http://www.businessweek.com/ap/financialnews/D9LRODGO0.htm>.

be undermined where one nation flouts the respect owed to other nations. Passage of HB 88, along with similar bills in sister states, could result in many American litigants finding themselves sued in foreign jurisdictions and unable to remove their cases to Alaska or other US state courts.

HB 88 signals to the rest of the world that Alaska believes that our judges have “little to learn from their counterparts in other nations This wholesale rejection of the value of consulting international law or foreign decisions in certain circumstances evokes years of ‘American exceptionalism,’ during which the U.S. was internationally criticized for exempting itself from human rights standards that were otherwise universal.”²

A vote for HB 88 would have the effect of alienating U.S. allies and the commercial partners of Alaska companies, putting at risk U.S. interests at home and abroad. Indeed, the simple perception that the United States is ignoring its legal obligations puts Alaskan citizens and Alaskan companies seeking to do business internationally at risk. If potential foreign business partners believe that Alaska’s courts will not enforce foreign judgments or adhere to the businesses’ choice of law in their contracts, international companies may simply be unwilling to contract with Alaska businesses or establish commercial ties to our state. Given the ambiguity surrounding which laws Alaskan courts may consider, foreign investors may be wary of ever consenting to jurisdiction in our state courts.

Conclusion

In sum, HB 88 is unnecessary, and its passage would cause real harm to Alaska’s citizens, businesses, and judicial system. **We urge you to oppose HB 88.**

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² Martha Davis & Johanna Kalb, *Oklahoma State Question 755 and an Analysis of Anti-International Law Initiatives*, American Constitution Society Issue Brief, 5 (2011).

House State Affairs Committee
Legal Analysis of H.B. 88
March 15, 2011
Page 5

Please feel free to contact the undersigned should you require any additional information. We are happy to reply to any questions which Members of the Committee may have.

Thank you again for the opportunity to share our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "J. A. Mittman", with a long horizontal flourish extending to the right.

Jeffrey Mittman
Executive Director
ACLU of Alaska

cc: Representative Paul Seaton, [Representative Paul Seaton@legis.state.ak.us](mailto:Representative_Paul_Seaton@legis.state.ak.us)
Representative Peggy Wilson; [Representative Peggy Wilson@legis.state.ak.us](mailto:Representative_Peggy_Wilson@legis.state.ak.us)
Representative Max Gruenberg; [Representative Max Gruenberg@legis.state.ak.us](mailto:Representative_Max_Gruenberg@legis.state.ak.us)
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Representative Kyle Johansen; [Representative Kyle Johansen@legis.state.ak.us](mailto:Representative_Kyle_Johansen@legis.state.ak.us)
Sponsor, Representative Carl Gatto, [Representative Carl Gatto@legis.state.ak.us](mailto:Representative_Carl_Gatto@legis.state.ak.us)

Karen Sawyer

From: Neil O'Donnell [n.odonnell@gci.net]
Sent: Sunday, March 20, 2011 1:40 PM
To: Rep. Carl Gatto
Subject: Comment on HB No. 88

Categories: KAREN

Dear Representative Gatto:

I reviewed HB 88 after reading the recent ADN article about the bill. Having practiced law in Alaska for 28 years, I believe this bill is a "solution" in search of a problem. The bill – reflecting the lack of any real problem – is extremely vague and overbroad. It is very hard to predict what effect this bill would have if passed. What if an Alaskan company wants to work as a subcontractor for a Canadian company building a gas line across Alaska and Canada? Under HB 88, the Canadian general contractor and the Alaska subcontractor apparently cannot choose Canadian law or a Canadian forum to the extent that any dispute might be affected by the U.S. or Alaska Constitutions if the dispute were instead heard in Alaska under Alaska law. Maybe the Canadian company will just pass on hiring the Alaskan company and avoid this vague legal morass.

And if this bill is really directed against "Sharia law," as stated in the ADN article, then it seems even more pointless and counterproductive. I have never seen, heard, or have anyone ever suggest that "Sharia law" applied to any legal dispute in Alaska. Since the U.S. Constitution has unquestionably been the supreme law in the land since the United States Supreme Court decided Marbury v. Madison in 1803, I also cannot conceive of how "Sharia law" could possibly "violate an individual's right under . . . the United State Constitution" as stated in the bill's legislative "findings" provision. Absent a real problem, the only remaining purpose of the bill is simply to pander to anti-Muslim sentiment.

We have hosted several exchange students over the years including two Muslim students. Through them we have met several members of the small Anchorage Muslim community, including an Egyptian engineer working for a major oil company and several successful small business owners. The world is becoming more interconnected. Unless there is some real problem that needs to be addressed, I think it is a bad idea to be passing legislation intended to mark one religious group as dangerous outsiders whose alleged practices need to be carefully watched and guarded against.

As sponsor of HB 88, can you please include this e-mail as part of the official comments on this bill and any companion Senate bill.

I appreciate your consideration.

Neil O'Donnell
8537 Cormorant Cove Cr.
Anchorage, Alaska 99507

Karen Sawyer

From: John Feero [johnfeero@yahoo.com]
Sent: Friday, March 25, 2011 2:00 PM
To: Rep. Carl Gatto
Cc: Rep. Max Gruenberg
Subject: HB 88

Mr. Gatto:

Sharia Law, Christian Law, Jewish Law. I choose none of the above.

I choose Constitutional Law.

Please stop your fear-mongering and get on with REAL legislative business. You owe that to you direct constituents and the rest of the people of Alaska.

Thank you.

John Feero
2715 Arlington Drive
Anchorage, AK 99517

www.DiscoverTheNetwork.org

Date: 3/29/2011 2:01:36 PM

COUNCIL ON AMERICAN-ISLAMIC RELATIONS (CAIR)

453 New Jersey Avenue SE
Washington, DC
20003

Phone :202-488-8787
Fax :202-488-0883
URL :<http://www.cair-net.org/>

- Civil rights group partially funded by the Saudi Wahhabi establishment
- Has numerous ties to extremist Islamic organizations

The Council on American-Islamic Relations (CAIR) describes itself as a "non-profit, grassroots membership organization ... established to promote a positive image of Islam and Muslims in America," to protect Muslims from hate crimes and discrimination, and to present "an Islamic perspective on issues of importance to the American public." According to the Council's Director of Communications, Ibrahim Hooper, "We are similar to a Muslim NAACP." As of June 2007, CAIR claimed 32 branch affiliates in the United States and one in Canada.

CAIR was co-founded in 1994 by Nihad Awad and Omar Ahmad, both of whom had close ties to the Islamic Association for Palestine (IAP), which was established by senior Hamas operative Mousa Abu Marzook and functioned as Hamas' public relations and recruitment arm in the United States. Awad and Ahmad previously had served, respectively, as IAP's Public Relations Director and President. Thus it can be said that CAIR was an outgrowth of IAP.

CAIR opened its first office in Washington, DC, with the help of a \$5,000 donation from the Holy Land Foundation for Relief and Development (HLF), a self-described charity founded by Mousa Abu Marzook. In May 1996, CAIR coordinated a press conference to protest the decision of the U.S. government to extradite Marzook for his connection to terrorist acts performed by Hamas. CAIR characterized the extradition as "anti-Islamic" and "anti-American." When President Bush closed HLF in December 2001 for collecting money "to support the Hamas terror organization," CAIR decried his action as "unjust" and "disturbing."

From its inception, CAIR has sought to portray itself as a moderate, mainstream organization, and as early as 1996 its officials became frequent guests at State Department and White House events. In the aftermath of 9/11, when the Bush administration tried to reassure American Muslims that Islam was not the target of the war on terrorism, CAIR officials were prominent among the invitees. CAIR was the main Islamic group to gain U.S. media access in the post-9/11 period, providing the "Muslim view" of the terrorist attacks and of America's response to them. As self-acclaimed Muslim spokesmen, CAIR officials typically refused to "simplify the situation" by blaming Osama bin Laden for the attacks on America. Moreover, while they eventually were induced by journalists to condemn Palestinian

suicide terror in a *pro forma* manner, they hedged their disavowals by describing it as an understandable response to Israeli brutality.

Contending that American Muslims are the victims of wholesale repression, CAIR has provided sensitivity training to police departments across the United States, instructing law officers in the art of dealing with Muslims respectfully.

CAIR further claims that U.S. foreign policy is dictated largely by Zionist extremists. As Evan McCormick of the Center for Security Policy puts it: "By convincing moderate Muslims that they are being targeted unfairly by the Bush administration's [anti-terror] policies, CAIR incites fear in members of that demographic. If innocent Muslims are then convinced that they will be the target of government action, then they have no incentive to reject an extremist ideology that resists the government's anti-terror policies. ... This is the essence of CAIR's strategy: shock moderate Muslims about the motivations of the U.S. Government, turn them into post-[9/11] victims, and then recruit them as supporters for your political agenda when they are ripe for the taking."

Along the same lines, a civil suit filed by the estate of 9/11 victim and former high-ranking FBI counter-terrorism agent John O'Neill, Sr. asserted that CAIR's goal "is to create as much self-doubt, hesitation, fear of name-calling, and litigation within police departments and intelligence agencies as possible so as to render such authorities ineffective in pursuing international and domestic terrorist entities."

CAIR endorsed an October 22, 2002 "National Day of Protest" whose premise was: "Since September 11th thousands of Muslims, Arabs and South Asians have been rounded up, detained and disappeared. ... Hard-won civil liberties and protections have been stripped away as part of the government's 'war on terrorism.' The USA-PATRIOT Act brings in a new set of repressive laws and restrictions on people and grants even greater power to law enforcement agents of all kinds." Moreover, this document explicitly defended the convicted murderers Mumia Abu-Jamal and Leonard Peltier, as well as Lynne Stewart and Jose Padilla, who were convicted on terrorism-related charges -- depicting all four as persecuted political prisoners of a repressive American government.

CAIR was a signatory to a February 20, 2002 document, composed by C. Clark Kissinger's radical group Refuse & Resist, condemning military tribunals and the detention of immigrants apprehended in connection with post-9/11 terrorism investigations. The document lamented that "the denial of any due process for Arab[s], Muslim[s], South Asians and others" bore "chilling similarities to a police state."

In February 2003, CAIR joined the American Muslim Council, the American Muslim Alliance, and the Muslim Public Affairs Council in forming a coalition to repeal and amend the Patriot Act -- alleging that it violated the civil liberties of Americans, particularly Muslims. CAIR also endorsed the Civil Liberties Restoration Act of 2004, which was designed to roll back, in the name of protecting civil liberties, vital national-security policies that had been adopted after

the 9/11 terrorist attacks.

CAIR promotes a radical Islamic vision, as evidenced by the fact that its co-founder Omar Ahmad told a Fremont, California audience in July 1998: "Islam isn't in America to be equal to any other faith, but to become dominant. The Koran ... should be the highest authority in America, and Islam the only accepted religion on Earth." In a similar spirit, co-founder Ibrahim Hooper told a reporter in 1993: "I wouldn't want to create the impression that I wouldn't like the government of the United States to be Islamic sometime in the future." In 2003 Hooper stated that if Muslims ever become a majority in the United States, they will likely seek to replace the U.S. Constitution with Islamic law, which they deem superior to man-made law. In the late 1980s, Ihsan Bagby, who would later become a CAIR Board member, stated that Muslims "can never be full citizens of this country," referring to the United States, "because there is no way we can be fully committed to the institutions and ideologies of this country."

In 2003 CAIR invested, according to its own Form 990 filed with the Internal Revenue Service, \$325,000 from its California offices with the North American Islamic Trust (NAIT). According to Newsweek, authorities say that over the years "NAIT money has helped the Saudi Arabian sect of Wahhabism -- or Salafism, as the broader, pan-Islamic movement is called -- to seize control of hundreds of mosques in U.S. Muslim communities." A recent study by the Center for Religious Freedom found that a very large number of American mosques teach hatred of Jews and Christians, coupled with doctrines of Islamic supremacism.

Writes Islam scholar Stephen Schwartz: "CAIR should be considered a foreign-based subversive organization, comparable in the Islamist field to the Soviet-controlled Communist Party USA, and the Cuban-controlled front groups that infiltrated 'Latin American solidarity' organizations in the U.S. during the 1980s. It has organized numerous community branches and has had immense success in gaining position as an 'official' representative of Islam in the U.S."

Notable facts about CAIR's *pas de deux* with Islamic extremism and terrorism include the following:

- Co-founder Nihad Awad asserted at a 1994 meeting at Barry University, "I am a supporter of the Hamas movement." Awad wrote in the *Muslim World Monitor* that the 1994 trial which had resulted in the conviction of four Islamic fundamentalist terrorists who had perpetrated the previous year's World Trade Center bombing was "a travesty of justice."
- On February 2, 1995, U.S. Attorney Mary Jo White named CAIR Advisory Board member and New York imam Siraj Wahhaj as one of the "unindicted persons who may be alleged as co-conspirators" in Islamic Group leader Omar Abdel Rahman's foiled plot to blow up numerous New York City monuments.
- On June 6, 2006, CAIR's Ohio affiliate held a large fundraiser in honor of Siraj Wahhaj. Following the event, CAIR-Ohio issued a press release heralding the more than \$100,000 that Wahhaj had helped raise that evening for the organization's "civil

- liberties work.”
- In October 1998, CAIR demanded the removal of a Los Angeles billboard describing Osama bin Laden as "the sworn enemy." According to CAIR, this depiction was "offensive to Muslims."
 - In 1998, CAIR denied bin Laden's responsibility for the two al Qaeda bombings of American embassies in Africa. According to Ibrahim Hooper, the bombings resulted from "misunderstandings of both sides."
 - In September 2003, CAIR's former Community Affairs Director, Bassem Khafagi, pled guilty to three federal counts of bank and visa fraud and agreed to be deported to Egypt. Federal investigators said that a group Khafagi founded, the Islamic Assembly of North America, had funneled money to activities supporting terrorism and had published material advocating suicide attacks against the United States. Khafagi's illegal activities took place while he was employed by CAIR.
 - In July 2004, Ghassan Elashi, a founding Board member of CAIR's Texas chapter, was convicted along with his four brothers of having illegally shipped computers from their Dallas-area business, InfoCom Corporation, to Libya and Syria, two designated state sponsors of terrorism. That same month, Elashi was charged with having provided more than \$12.4 million to Hamas while he was running HLF. In April 2005, Elashi and two of his brothers were also convicted of knowingly doing business with Hamas operative Mousa Abu Marzook, who was Elashi's brother-in-law. Elashi's illegal activities took place while he was employed by CAIR, whose Dallas-Fort Worth chapter depicted the Elashis' indictment as "a war on Islam and Muslims."
 - On September 6, 2001, the day that federal agents first raided Infocom's headquarters, CAIR Executive Director Nihad Awad denounced the U.S. government for "tak[ing] us back to the McCarthy era."
 - FBI wiretap evidence which was introduced during the 2007 trial of the Holy Land Foundation (a trial that explored HLF's financial ties to Hamas), proved that Nihad Awad had attended a 1993 Philadelphia meeting of Hamas leaders and operatives who collaborated on a plan to disguise funding for Hamas as charitable donations.
 - CAIR co-founder and Chairman Emeritus Omar Ahmad was named, in the same 2007 Holy Land Foundation trial, as an unindicted co-conspirator with HLF. During the trial, evidence was supplied proving that Ahmad had attended, along with Nihad Awad, the aforementioned 1993 Philadelphia meeting of Hamas leaders and operatives. Moreover, prosecutors described Ahmad as a member of the Muslim Brotherhood's "Palestine Committee" in America.

- The home of Muthanna al-Hanooti, one of CAIR's directors, was raided in 2006 by FBI agents in connection with an active terrorism investigation. FBI agents also searched the offices of Focus on Advocacy and Advancement of International Relations, al-Hanooti's Michigan- and Washington DC-based consulting firm that investigators suspect to be a front supporting the Sunni-led insurgency in Iraq.

Al-Hanooti is an ethnic Palestinian who, according to a 2001 FBI report, "collected over \$6 million for support of Hamas" and attended, along with CAIR and Holy Land Foundation officials, the previously cited Hamas fundraising summit in Philadelphia in 1993. Currently a prayer leader at a Washington-area mosque that aided some of the 9/11 hijackers, he is a relative of Shiek Mohammed al-Hanooti, an unindicted co-conspirator in the 1993 World Trade Center bombing. Muthanna al-Hanooti formerly helped run an organization called LIFE for Relief and Development, a suspected Hamas terror front whose Michigan offices were raided by the FBI in September 2006, and whose Baghdad office was raided by U.S. troops in 2004.

In March 2011, al-Hanooti was sentenced to a year in federal prison for violating U.S. sanctions against Iraq. According to the FBI, al-Hanooti also raised more than \$6 million for support of Hamas and was present with CAIR and Holy Land Foundation officials at a secret Hamas fundraising summit held in Philadelphia during the 1990s.

- Randall Todd Royer, who served as a communications specialist and civil rights coordinator for CAIR, trained with Lashkar-I-Taiba, an al Qaeda-tied Kashmir organization that is listed on the State Department's international terror list. He was also indicted on charges of conspiring to help al Qaeda and the Taliban battle American troops in Afghanistan. He later pled guilty to lesser firearm-related charges and was sentenced to twenty years in prison. Royer's illegal activities took place while he was employed by CAIR.
- Onetime CAIR fundraiser Rabih Haddad was arrested on terrorism-related charges and was deported from the United States due to his subsequent work as Executive Director of the Global Relief Foundation, which in October 2002 was designated by the U.S. Treasury Department for financing al Qaeda and other terrorist organizations.
- During the 2005 trial of Sami Al-Arian, who was a key figure for Palestinian Islamic Jihad in the United States, Ahmed Bedier of CAIR's Florida branch emerged as one of Al-Arian's most vocal advocates.
- In the aftermath of 9/11, federal agents raided the Washington-area home of CAIR civil rights coordinator Laura Jaghlit as part of a probe into terrorist financing, money laundering and tax fraud. Her husband Mohammed Jaghlit, a

director of the Saudi-backed SAAR Foundation, is a suspect in the still-active (as of January 2008) investigation.

- Abdurahman Alamoudi, one of CAIR's former directors, is a supporter of both Hamas and Hezbollah, and is currently serving a 23-year prison sentence for terrorism-related convictions.
- Current CAIR board member Nabil Sadoun co-founded, along with Mousa Abu Marzook, the United Association for Studies and Research (UASR), which investigators consider to be a key Hamas front in America. Sadoun now sits on UASR's board.
- Current CAIR research director Mohamed Nimer previously served as a Board Director for UASR.
- One of CAIR's founding directors, Rafeeq Jaber, is a supporter of Hezbollah and served as the longtime President of the Islamic Association for Palestine.
- CAIR Board member Hamza Yusuf was investigated by the FBI shortly after 9/11 because, just two days before the attacks, he had told a Muslim audience: "This country [the U.S.] is facing a terrible fate and the reason for that is because this country stands condemned. It stands condemned like Europe stood condemned because of what it did. And lest people forget, Europe suffered two world wars after conquering the Muslim lands."

The foregoing affiliations have drawn the notice of numerous commentators:

- Steven Pomerantz, the FBI's former chief of counter-terrorism, has stated that "CAIR, its leaders and its activities effectively give aid to international terrorist groups."
- WorldNetDaily quotes an FBI veteran as saying: "Their [CAIR's] offices have been a turnstile for terrorists and their supporters."
- The family of John P. O'Neill, Sr., the former FBI counter-terrorism chief who died at the World Trade Center on 9/11, named CAIR in a lawsuit as having "been part of the criminal conspiracy of radical Islamic terrorism" responsible for the September 11 attacks.
- Terrorism expert Steven Emerson, citing federal law enforcement sources and internal documents, characterizes CAIR as "a radical fundamentalist front group for Hamas."
- U.S. Senator Richard Durbin has said, "CAIR is unusual in its extreme rhetoric and its associations with groups that are suspect."

- On September 17, 2003, U.S. Senator Charles Schumer stated that CAIR co-founders Nihad Awad and Omar Ahmad have "intimate links with Hamas." He later remarked that "we know [CAIR] has ties to terrorism."
- According to U.S. Rep. Sue Myrick (R - North Carolina), co-founder of the House Anti-Terrorism/Jihad Caucus: "Groups like CAIR have a proven record of senior officials being indicted and either imprisoned or deported from the United States."
- During September 2003 hearings held by the Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security, Chairman Jon Kyl noted the connections between such groups as CAIR and the Saudi government, stating: "A small group of organizations based in the U.S. with Saudi backing and support is well advanced in its four-decade effort to control Islam in America -- from mosques, universities and community centers to our prisons and even within our military. Moderate Muslims who love America and want to be part of our great country are being forced out of those institutions."

A number of American Muslims have made similar observations:

- The late Seifeldin Ashmawy, who published *Voice of Peace*, called CAIR the champion of "extremists whose views do not represent Islam."
- Tashbih Sayyed of the Council for Democracy and Tolerance (CDT) called CAIR "the most accomplished fifth column" in the United States. Jamal Hasan, also of CDT, said that CAIR's goal is to spread "Islamic hegemony the world over by hook or by crook."
- According to Kamal Nawash of the Free Muslim Coalition Against Terrorism, CAIR and similar groups "condemn terrorism on the surface while endorsing an ideology that helps foster extremism," and adds that "almost all of their members are theocratic Muslims who reject secularism and want to establish Islamic states."

In 1998, CAIR co-hosted a rally at Brooklyn College where Islamic militants exhorted the attendees to carry out "*jihad*" and described Jews as "pigs and monkeys." The crowd chanted: "No to the Jews, descendants of the apes." Referring to Israel as a "racist country and state," CAIR was a signatory to a MAY 20, 2004 "Joint Muslims/Arab-American Statement on Israeli Violence in Gaza," which "strongly condemn[ed]" Israel's "indiscriminate killings of innocent Palestinians, including many children," and its "demolition of Palestinian homes." In August 2006 CAIR accused Israel of practicing state terrorism in its war against the Lebanese terrorist organization Hezbollah. Said CAIR Communications Director Ibrahim Hooper, "Our [American] government must end its support for Israel's campaign of terror in Lebanon and join an international effort to protect and bring humanitarian aid to the civilian population of that devastated

nation."

CAIR officials have displayed a double standard for denouncing violence. For example, Ibrahim Hooper in a *Pittsburg Post-Gazette* interview refused to denounce the terrorism of Hamas and Hezbollah, stating, "we're not in the business of condemning." By contrast, when Israeli troops killed Hamas leader Ahmed Yassin, CAIR condemned "the assassination of a wheelchair-bound Palestinian Muslim religious leader," calling the operation "an act of state terror."

According to terrorism expert Steven Emerson: "Hussam Ayloush, the Executive Director of the Southern California chapter of [CAIR] ... is known to use the term 'Zionazi' to refer to Israelis, and [he] compare[s] Zionism to Nazism, once writing in an e-mail, 'Indeed, the Zionazis are a bunch of nice people; just like their Nazi brethren!'"

CAIR chose not to endorse or participate in the May 14, 2005 "Free Muslims March Against Terror," an event whose stated purpose was to "send a message to the terrorists and extremists that their days are numbered ... [and to send] a message to the people of the Middle East, the Muslim world and all people who seek freedom, democracy and peaceful coexistence that we support them."

CAIR states that it "works in close cooperation with other civic and civil liberties groups such as the American Civil Liberties Union, Amnesty International, NAACP, Hispanic Unity, Organization of Chinese Americans, Japanese American Citizens League, Sikh Mediawatch and Resource Task Force, among many others." CAIR also identifies the National Council of Churches as a "partner" organization.

On December 12, 2006, CAIR Board Chairman Parvez Ahmed called the war in Iraq a "pure unadulterated projection of raw power" and said the U.S. should withdraw its forces immediately.

Another notable CAIR official is Altaf Ali, the organization's Florida Director. Ali alleges that America responded to the 9/11 attacks by trampling on the civil liberties of all Muslims, and he has wavered on the question of whether or not the victims who died in the World Trade Center on 9/11 could be classified as innocents whose killings were unjustified.

In 2007 CAIR became involved in the infamous "flying imams" lawsuit, a case that centered around six Muslim clerics aboard a November 2006 US Airways flight from Minneapolis to Phoenix. Shortly before takeoff, they began engaging in bizarre behaviors eerily reminiscent of those that had been used by the 9/11 hijackers: shouting slogans in Arabic; leaving their assigned seats to position themselves in different places; requesting seat belt extenders that they positioned on the floor, rather than using them to secure themselves. Responding to the concerns of alarmed passengers and the flight crew, authorities removed the imams from the plane. Soon thereafter the imams filed a lawsuit against US Airways, claiming that they had been removed from the flight for no

reason other than anti-Muslim discrimination. The lawyer representing the imams was Omar T. Mohammedi, who as of 2006 was President of CAIR's New York chapter.

In February 2007, CAIR endorsed a call by the American Muslim Taskforce for Civil Rights and Elections, for a worldwide "rolling fast" in support of the incarcerated Sami Al-Arian, who had initiated a hunger strike on January 21 to protest his detention and treatment by federal authorities. Participants in the campaign agreed to fast every Monday, Wednesday, and Friday for as long as Al-Arian continued his hunger strike.

On June 4, 2007, the *New York Sun* reported that CAIR had been named as an unindicted co-conspirator in an alleged criminal conspiracy to support both Hamas and the Holy Land Foundation for Relief and Development (HLF). The federal prosecution document, in naming CAIR as an unindicted co-conspirator, described the organization as a present or past member of the U.S. Muslim Brotherhood's Palestine Committee.

Also named as unindicted co-conspirators in the HLF trial were groups such as Hamas, INFOCOM, the Islamic Association for Palestine, the Islamic Society of North America, the Muslim Arab Youth Association, the United Association for Studies and Research, and the North American Islamic Trust. The list also included many individuals affiliated with the Muslim Brotherhood and/or Hamas. Among these were Omar Ahmad, Abdurahman Alamoudi, Jamal Badawi, Yousef al-Qaradawi, Abdallah Azzam, Mohammad Jaqhlit, Mousa Abu Marzook, Abdel Aziz Rantisi, and Ahmed Yassin.

Two weeks after the Justice Department had named CAIR as an unindicted co-conspirator in the HLF trial, the organization legally changed its name to "Council on American-Islamic Relations Action Network."

In the summer 2007 Holy Land Foundation trial, it was learned that CAIR's parent organization, the Islamic Association for Palestine, had been named in a May 1991 Muslim Brotherhood memorandum as one of the Brotherhood's likeminded "organizations of our friends" who shared the common goal of conducting "a kind of grand Jihad in eliminating and destroying the Western civilization from within and 'sabotaging' its miserable house by their hands ... so that ... God's religion [Islam] is made victorious over all other religions."

According to a June 2007 *Washington Times* report, CAIR's membership had declined more than 90 percent since the September 11, 2001 terrorist attacks, from approximately 29,000 in the year 2000, to fewer than 1,700 six years later. As a result, CAIR's annual income from dues dropped from \$732,765 in 2000 (when yearly dues cost \$25 per person), to \$58,750 in 2006 (when dues cost \$35). As of 2007, the majority of CAIR's \$3 million annual budget derived from about two dozen individual donors.

M. Zuhdi Jasser, Director of the American-Islamic Forum for Democracy, said in June 2007 that the decline in CAIR's membership contradicted the organization's claim that it represents the interests

and concerns of 7 million American Muslims. "This is the untold story in the myth that CAIR represents the American Muslim population," said Jasser. "They only represent their membership and donors."

CAIR has received funding from the Community Foundation for Greater Atlanta, the New York Foundation, and the Tides Foundation.

CAIR also receives considerable funding from Saudi Arabia, whose Washington embassy in 1999 announced a \$250,000 grant by the Saudi-based Islamic Development Bank to help CAIR purchase some land in Washington, DC -- to be used in the construction of "an education and research center." In 2002 the World Assembly of Muslim Youth, which is bankrolled by the Saudi government, financed CAIR's distribution of books on Islam and CAIR's immensely expensive advertising campaign in a number of American publications -- including a weekly ad in *USA Today* which cost approximately \$1.04 million over the course of the year. In 2003, Saudi Prince Alwaleed bin Talal donated \$500,000 to help CAIR distribute the Koran and other Islam-related books throughout the United States. Two years later, a Saudi Arabian named Adnan Bogary gave CAIR's Washington branch a donation of more than \$1.36 million.

In 2006 Sheikh Hamdan bin Rashid Al Maktoum, Deputy Ruler of Dubai, financed the building of a property in the United States to serve as an endowment for CAIR. That property now generates some \$3 million annually for CAIR.

According to the Investigative Project on Terrorism, CAIR in 2006 sent delegations to Saudi Arabia and the United Arab Emirates in an effort to procure millions of dollars in donations from wealthy Gulf donors.

According to the Investigative Project on Terrorism, in September 2009 CAIR executive director Nihad Awad (along with CAIR national spokesman Ibrahim Hooper and chairman Larry Shaw) praised Libyan dictator Muammar Gaddafi for his "leadership" and his "continuing efforts for world peace," and asked him to underwrite a CAIR program to distribute a million copies of the Quran to American government officials and the general public. "We want to assure you that Muslims in America are your brothers and supporters," Shaw said. "They share with you your interests and aspirations." The CAIR officials also asked Gaddafi for financial assistance to help them run an entity known as the Muslim Peace Foundation, founded in 2008 ostensibly to help repair American-Muslim relations. One of the foundation's founders was a man named Winslow Seale, a Muslim convert who later changed his name to Johari Abdul Malik. Malik's *Dar al-Hijrah* mosque is believed to be "associated with Islamic extremists" and "has been linked to numerous individuals linked to terrorism financing."

In October 2010, CAIR announced that it was forming a new "Islamophobia" department that would produce an annual report tracking "trends in rhetorical attacks on Islam and Muslims and ... offer accurate and balanced information to be used in the struggle for tolerance and mutual understanding."

In November 2010, Muneer Awad, director of CAIR's Oklahoma state chapter, [filed a federal lawsuit](#) challenging a measure -- approved by 70 percent of Oklahoma voters -- that barred the state's judges from considering Sharia, or Islamic law, in formulating their rulings. According to Awad, the measure not only violated the First Amendment right to "free exercise" of religion, but also singled out Islam for "profound stigma."

IBRAHIM HOOPER

- Spokesman and co-founder of the Council on American Islamic Relations
- Wants “government of the United States to be Islamic sometime in the future”
- Downplays threat of Islamic extremism and declined to condemn Islamic terrorist groups

Ibrahim Hooper (formerly Doug Hooper) is a white American convert to Islam and one of the founders of the Council on American-Islamic Relations (CAIR). At present, he serves as a spokesman and “Director of Strategic Communications” for that organization. He holds a bachelor’s degree in history and a master’s degree in journalism & mass communication.

Hooper has candidly stated that while he does not endorse the violent tactics of Islamic radicals, he does share their desire to impose Islam on all of America. "I wouldn't want to create the impression that I wouldn't like the government of the United States to be Islamic sometime in the future," he told the *Minneapolis Star Tribune* in a 1993 interview. "But I'm not going to do anything violent to promote that. I'm going to do it through education."

Ten years later, in 2003, Hooper stated that if Muslims were ever to become a numerical majority in the U.S., they would likely seek to replace the Constitution with Islamic law (Sharia), which they view as divinely inspired and thus superior to all other legal systems.

In 1998 Hooper and CAIR denied Osama bin Laden's culpability for that year's bombings of two U.S. embassies in Africa. Despite the demonstrable links between the al Qaeda leader and the bombings, Hooper asserted that "a great deal of what happened is ... due to misunderstandings on both sides." Three years later, in the wake of the 9/11 attacks, Hooper again hedged on whether he thought bin Laden was responsible: "*If* Osama bin Laden was behind it, we condemn him by name." (Emphasis added)

Hooper attended an October 28, 2000 rally in Washington, DC, where Abdurahman Alamoudi, then-President of the American Muslim Federation, shouted to a cheering crowd: "We are all supporters of Hamas." In the event's aftermath, neither CAIR nor Hooper publicly criticized Alamoudi's comment.

On March 17, 2001, Hooper spoke at a "Conference on Palestine" held at the University of Michigan. The event was co-sponsored by a number of organizations, including the Global Relief Foundation, the International Action Center, the Islamic Association for Palestine, and CAIR. Also speaking at the event was Stephen Sosebee, head of the Palestine Children's Relief Fund. The conference began with the screening of a video titled *The New Uprising*, a reference to the Second Palestinian *Intifada* against Israel.

In June 2001, Hooper helped organize a "sit-in" where a dozen leaders of various American Muslim groups demonstrated outside the U.S. State Department. American Muslim Council Director Ali Ramadan Abu Zakouk used the occasion to declare that suicide-bombing attacks on civilian targets were a "God-given right" for Muslims. When Hooper later was asked whether Zakouk's assertion could be interpreted as a defense of terrorism, he claimed that he "did not hear" the statement. Videotape footage chronicling the event, however, clearly showed Hooper standing only a few feet away from Zakouk as he made the comments.

As the public voice of CAIR, Hooper has routinely characterized the U.S. government's counterterrorism initiatives as threats to the civil rights of American Muslims. For example, when the Justice Department asked visa holders from Middle Eastern countries to voluntarily submit to interviews by American authorities in the wake of 9/11, Hooper complained that the request sent "a chill through the community" by unjustly perpetuating "racial and religious profiling of American Muslims and Arab-Americans."

When the *Washington Post* in November 2001 asked Hooper if he would disavow the terrorist activities of Hamas and Islamic Jihad, he responded, "It's not our job to go around denouncing." He reprised the same theme in a 2002 interview with the *Pittsburg Post-Gazette*, refusing to condemn Hamas and Hezbollah because "we're not in the business of condemning." (By contrast, Hooper and CAIR have commonly condemned Israeli military strikes against Hamas and other Palestinian terrorist groups.)

When onetime Palestinian Islamic Jihad operative Sami Al-Arian was indicted by the U.S. government in 2003, Hooper appeared on the cable television program *Buchanan and Press* to defend Al-Arian's right to support "Islamic causes and the struggle of the Palestinian people to be free of Israeli occupation." He portrayed Al-Arian as the blameless victim of an organized conspiracy by "attack dogs of the pro-Israel

lobby" seeking to bring about the "Israelization of American policy and procedures."

In 2004 Hooper said that after two decades of attending services at U.S. mosques, "I've never heard violence preached [therein]; I've never heard anti-Semitism or anti-Americanism preached." On other occasions, however, he has contradicted that assertion to some degree, arguing that the extremism found in mosques, while real, is less dangerous than the threat posed by critics of radical Islam, especially those on conservative talk radio. "There is a difference with hate speech at your local mosque and talk radio that reaches millions," says Hooper.

In a similar vein, Hooper equates conservative Christian televangelists such as Pat Robertson, Jimmy Swaggart, and the late Jerry Falwell with Islamic terrorists -- claiming that if given the opportunity, such individuals would commit mass murder against Muslims.

During Israel's 2006 war against Hezbollah (in Lebanon), Hooper said: "Our [American] government must end its support for Israel's campaign of terror in Lebanon and join an international effort to protect and bring humanitarian aid to the civilian population of that devastated nation."

In September 2006 Hooper stated publicly that CAIR did not "take money from the government of Saudi Arabia." Contrary to that claim, however, CAIR's ideological and financial connections to the Saudi Wahhabi establishment are numerous and well documented.

In late November 2006, shortly after airport police in Minneapolis had forcibly removed six Muslim imams from a U.S. Airways plane because of their bizarre behavior just before takeoff, Hooper said: "Unfortunately, this is a growing problem of singling out Muslims or people perceived to be Muslims at airports, and it's one that we've been addressing for some time." It was later learned that one of the imams was affiliated with a Hamas-linked organization and had developed a connection to Osama bin Laden during the 1990s.

In the aftermath of the U.S. Airways incident, CAIR filed a lawsuit against both the airline and the passengers who had complained about the six imams' suspicious behavior. In response to the suit, Republican congressmen Peter King and Steven Pearce crafted an amendment (which ultimately was passed by the House of Representatives) granting legal immunity to citizens who, in good faith, report suspicious behavior to authorities. Hooper nonetheless defended the CAIR lawsuit and suggested that the passengers in question had exhibited "malicious intent" by demanding that the imams be deplaned.

In December 2007, CAIR produced a media guide to "disabuse journalists of misinformation" about Islam. According to Hooper, his organization had developed this publication because the negative portrayal of Islam and Muslims in the media was "one of the hot-button issues for American Muslims and Muslims worldwide."



March 30, 2011

Representative Mike Chenault
Room 208 Alaska State Capital
Juneau, Alaska 99811

Dear Representative Chenault:

We are writing today to express our concerns on CSHB88, "An Act prohibiting a court, arbitrator, mediator, administrative agency, or enforcement authority from applying a law, rule, or provision of an agreement that violates an individual's right under the Constitution of the State of Alaska or the United States Constitution."

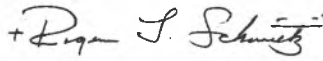
Within the Roman Catholic Church, we operate under Canon Law which could be considered "foreign law" as the bill is currently written. Passage of CSHB88 would impact decisions made by the bishops and or their canon lawyers on matters important within the church. For example, one of us could make the decision to close a parish within our jurisdiction, completely within the bounds of canon law. However, we could envision a situation where a suit gets filed by parishioners claiming the process that lead to our decision did not afford all of the constitutional protections to members of the congregation. This has happened in St Louis. A second example could be priests who could be canonically required to operate under Canon Law requirements that would have no bearing in a civil court.

However, of a larger concern is our Marriage Tribunals. The tribunals operate within the confines of Canon Law specifically in regards to marriages and divorces. The tribunal process allows for Catholic marriages, once the civil decisions are rendered, to be annulled allowing for remarriage within the Church at a future date. During the tribunal process often very personal information is shared about one person or the other in the marriage. Sometimes these people hold public positions within the community. While we respect civil law, the tribunal has nothing to do with civil law. This legislation could potentially allow for one party or the other to sue in civil court to obtain confidential information shared in the marriage tribunal office that had no bearing on a civil divorce case.

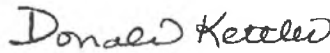
Alaska Catholic Conference of Bishops
Archdiocese of Anchorage • Diocese of Fairbanks • Diocese of Juneau
225 Cordova Street • Anchorage, AK 99501
Phone 907-297-7744 • Fax: 907-279-3885

We have contacted Bishops in other regions of the country where similar legislation has been introduced. We thought you might be interested to see the language that Arizona is currently considering within it's legislature. That link is: <http://www.azleg.gov/legtext/50leg/1r/adopted/s.2064jud.pdf> We have been assured by our lawyers that this legislation would not effect the Catholic churches ability to operate under the direction of Canon Law. We respectfully ask that you consider this language if this legislation will advance.

Sincerely,



+Roger L. Schwietz, OMI
Archbishop of Anchorage



+Donald Kettler
Bishop of Fairbanks



+Edward J. Burns
Bishop of Juneau

cc: House Judiciary Committee

Alaska Catholic Conference of Bishops
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March 30, 2011

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Re: House Bill 88
ACLU Review of Legal Issues

Chair Gatto, Vice-Chair Thompson:

Thank you for the opportunity to submit written testimony regarding House Bill 88, relating to the application of international law.

The American Civil Liberties Union of Alaska represents thousands of members and activists throughout the State of Alaska who seek to preserve and expand individual freedoms and civil liberties guaranteed under the United States and Alaska Constitutions. We have several concerns with the proposed legislation, outlined in greater detail below, **and urge a DO NOT PASS vote by Members of the Committee.**

Attack on Separation of Powers and Judicial Independence

Fundamentally, HB 88 is counterproductive legislation. This bill represents an attack on the separation of powers, an unwarranted mistrust of the state judiciary and an unnecessary interference in the function of Alaska's legal system.

It is a core function of both state and federal courts to determine what law is at issue in a given matter. The Alaska Legislature should not seek to legislate what law the courts can and cannot consider when deciding cases. By doing so, the Legislature violates the fundamental principle of judicial independence and the constitutional principle of separation of powers.¹

Negative Impacts on Alaska Citizens and Businesses

Passage of HB 88 would harm the rights of Alaska citizens and businesses who travel and transact across international borders, and would also negatively impact the United States' standing in the global community.

In the normal course of business, organizations may voluntarily choose to waive certain constitutional rights. For instance, an individual generally retains the constitutional right to say what she thinks without restraint. U.S. Const., Amdt. I; Alaska Const., Art. I, Sec. 5. However, individuals regularly contract away their constitutional right to speak freely, for instance, by engaging in nondisclosure agreements. While the ACLU of Alaska strongly values constitutional rights, there are certainly legitimate and appropriate reasons why an informed, non-coerced waiver of such rights should be permitted and legally respected.

Contrary to these principles, the language of HB 88 presumes to disregard **all** waivers of constitutional rights, in any contract that contains a choice of law clause preferring the law of a foreign jurisdiction. For instance, proposed AS 09.68.140(b) states that if a contract contains a choice of law clause preferring foreign law and “if the interpretation or enforcement of the agreement would violate an individual’s [constitutional] right,” the contract **must** be read to preserve the constitutional right, not to waive it. The effect of the statute – by its literal terms – appears to be to nullify *any waiver* of constitutional rights where made in conjunction with a foreign choice of law provision.

Other examples of commonly waived constitutional rights include the right of medical privacy permitting medical records to be shared with a foreign medical provider, or a due process right to an official hearing or trial, such as a provision mandating that disputes go to an arbitrator. *See*, pg. 3, *infra*. The Alaska Legislature risks sweeping up a wide variety of commonplace waivers of constitutional rights in the bill as currently drafted.

HB 88 is structurally flawed in that it is not narrowly tailored to prevent coerced or uninformed waiver of rights. Its only *caveat* is that the contract must have a foreign choice of law provision. This overbreadth would result – should the bill pass – in exposing foreign

¹ In this regard, we draw the Committee’s attention to the Opinion Letter of the Attorney General, dated March 21, 2011, “Re: HB 88,” signed by Mary Ellen Beardsley, Assistant Attorney General (“Beardsley, AG Opinion”), wherein she notes: “Alaska courts will not apply a foreign law if application of the law would violate an individual’s constitutional rights.” *Id.* at 2. Thus, HB 88 does not provide any positive protections, and has only negative consequences.

partners to the potential that Alaska businesses may unilaterally *and improperly* evade their contractual obligations by using the Bill's provisions. This obvious legal flaw would make it highly problematic for Alaskans to conduct business with foreign individuals or organizations.²

Choice of Forum Provision

A similar problem attends subsections (c) and (d), which prohibit the application of choice of forum or venue contractual provisions, and the granting of motions to dismiss on the grounds of *forum non conveniens*, where a constitutional right could be impaired.

In the case of subsection (c), a business or person may have a valid, legally appropriate and commercially necessary reason to waive certain constitutional rights. But, the extremely broad language of the legislation would invalidate the contractual provisions.

An example of a problem with this language is presented by the Seventh Amendment to the United States Constitution, which guarantees the right to trial by jury in any civil case addressing a matter in value of at least twenty dollars. U.S. Const., Amdt. VII.

The United States jury system does not necessarily have a corollary in judicial proceedings in other countries. Not all countries apply a common law system, and fewer still have regular jury trials. HB 88 could thus be used to prevent the enforcement of any choice of venue or forum clause *in any contract with a foreign company*, or any *forum non conveniens* action, if the foreign court at issue does not guarantee a jury trial for civil action where \$20 or more was at stake. This would seriously deter foreign individuals or corporations from doing business in Alaska.

Negative Impact on Elections to Arbitrate

Courts across the country encourage alternative dispute resolution, as an option to reduce the work-load on an often over-taxed judicial system, and as a benefit to the parties in reducing the potentially high costs of litigation. Many contracts include an arbitration clause. In some cases, parties may choose a specific arbitrator or alternate quasi-judicial forum. HB 88 would unnecessarily introduce uncertainty into the validity of these provisions, negatively impacting both the courts and the parties.³

² Again, it is instructive to note that Alaska's Attorney General has cited this problem as well. See, Beardsley AG Opinion, pg 2, "HB 88 might affect a foreign entity's willingness to do business with individuals or businesses in Alaska if it knows that provisions of the contract may be void by law"

³ Of note, attorneys in Georgia, where a bill similar to HB 88 was introduced, testified against it. "Michael J. Broyde, academic director of Emory University's law and religion program, said he thinks 'the consequences of the bill have not been well thought out' partly because its restrictions on arbitrators and choice of venue would

U.S. and Alaska Standing in Foreign Relations

HB 88 would generally strain our relations and standing with other nations. Opportunistic businesses and individuals could thwart efficient judicial enforcement by filing suit in Alaska and then demanding that the defendant respond in Alaska.

For example, a person with a contractual dispute with a Spanish oil services company⁴ could (assuming that the matter had sufficient minimal Alaska contacts to establish personal and subject matter jurisdiction), file a suit for declaratory relief in Anchorage, even where all the evidence, witnesses, and items at issue were in Spain.

Even where such a suit would normally be dismissed as *forum non conveniens* and then re-filed in Spain, an Alaska court could be obliged to hear the case in Alaska, since the plaintiff would be deprived of her Seventh Amendment right to a jury trial if the case were heard in Spain.

While there may be foreign jurisdictions whose legal systems are so deeply unfair as to offend fundamental American values of fairness, there are many – such as Spain’s – that do not. One should also note that the doctrine of *forum non conveniens* is **one of mutual respect**, which may be undermined where one nation flouts the respect owed to other nations.⁵ Passage of HB 88, along with similar bills in sister states, could result in many American litigants finding themselves sued in foreign jurisdictions and unable to remove their cases to Alaska or other US state courts.

HB 88 signals to the rest of the world that Alaska believes that our judges have “little to learn from their counterparts in other nations This wholesale rejection of the value of consulting international law or foreign decisions in certain circumstances evokes years of ‘American exceptionalism,’ during which the U.S. was internationally criticized for exempting itself from human rights standards that were otherwise universal.”⁶

‘incapacitate Georgia companies as they engage in international commerce.’ [¶] A bigger problem, he added, is that the bill ‘violates the Federal Arbitration Act and becomes an unconstitutional exercise of state authority. Arbitration is a routine business exercise by people who are prepared to sacrifice some of their constitutional rights in return for reduced cost and expediency,’ said Broyde, who also is an ordained rabbi and member of the Beth Din of America -- the largest Jewish law court in the country. Banning people from ‘willingly submitting to an ecclesiastical tribunal’ is ‘inconsistent with traditional American practice.’ *Lawyers Speak Against Ga. Bill That Bans Use of Foreign Laws in State Courts*, Kathleen Baydala Joyner, Fulton County Daily Report, February 07, 2011. http://www.law.com/jsp/article.jsp?id=1202480459397&Lawyers_Speak_Against_Ga_Bill_That_Bans_Use_of_Foreign_Laws_in_State_Courts&slreturn=1&hbxlogin=1.

⁴ <http://www.businessweek.com/ap/financialnews/D9LRODGO0.htm>.

⁵ Yet again, this analysis is shared by Alaska’s Attorney General, see, Beardsley AG Opinion, pg 3, “A party will not be sent to a jurisdiction that does not have equal protections and due process.”

⁶ Martha Davis & Johanna Kalb, *Oklahoma State Question 755 and an Analysis of Anti-International Law Initiatives*, American Constitution Society Issue Brief, 5 (2011).

A vote for HB 88 would have the effect of alienating U.S. allies and the commercial partners of Alaska companies, putting at risk U.S. interests at home and abroad. Indeed, the simple perception that the United States is ignoring its legal obligations puts Alaskan citizens and Alaskan companies seeking to do business internationally at risk. If potential foreign business partners believe that Alaska's courts will not enforce foreign judgments or adhere to the businesses' choice of law in their contracts, international companies may simply be unwilling to contract with Alaska businesses or establish commercial ties to our state. Given the ambiguity surrounding which laws Alaskan courts may consider, foreign investors may be wary of ever consenting to jurisdiction in our state courts.

Misrepresentations of American Public Policy Alliance and Others

It is important to note the misleading testimony that has been supplied at length in support of this bill by, amongst others, the American Public Policy Alliance. See, "Representative Civil Legal Cases Involving Shariah Law," November 8, 2010, American Public Policy Alliance, [HB88 Supporting Documents-Relevant Cases APPA 11-08-10.pdf](http://www.legis.state.ak.us/basis/get_documents.asp?session=27&bill=HB88), http://www.legis.state.ak.us/basis/get_documents.asp?session=27&bill=HB88, implying that Sharia law is being used in US courts to the detriment of parties' rights. See, also, [HB88 Supporting Documents-FAQ ALAC 03-14-11.pdf](#), "**2. This bill is not needed because shariah is not a threat in the US and is not in our court systems.** The Act is not simply about shariah but also transnationalism—or the documented creep of foreign and offensive laws being recognized by state and federal courts. More, shariah has already crept into the legal systems of Western Europe, including 85 shariah courts operating openly with the full authority of law in the United Kingdom. There are numerous cases in which shariah doctrines have been invoked in the US. Here is a sampling of 17 examples from 11 states."

In fact, however, the document mostly contains examples of cases where Islam was involved due to a religious freedom claim, an arbitration claim, or in connection with a discussion of comity being granted to a decision of a foreign legal system that happens to be based on Islam. Other cases merely involve reference to Islam because it bears on the facts of the case. Such references to Islam are not impermissible.

The cases cited in this report illustrate exactly why Sharia law is NOT being improperly imposed in the United States and highlight the problem with this measure and others intended to target Islam.

Courts often consider a prisoner's religious beliefs and requirements when adjudicating a claim under RLUIPA, **a law passed to protect the religious exercise rights of prisoners of all faiths.** Thus, the court's discussion of an inmate's religious views in *Allah v. Jordana-Luster*, which is the first case cited in the report, is appropriate. Were the courts to be barred from referring to religious laws in these cases, Christian and Jewish inmates (or inmates of other faiths) would be unable to provide support for their free exercise claims. In any event, the court did not accept the inmate's evidence in that case, and the inmate lost his claim for halal meat.

In other cases involving Islamic law, where it conflicts with our public policy, courts have refused to recognize it, just as they are required to do with regard to any rule that violates public policy. For example, in *Aleem vs. Aleem*, which is cited in the report, a Maryland court of appeals held that a Pakistani divorce granted in accordance with Pakistani customs (based on Islamic law) would not be recognized in Maryland because it conflicted with state public policy requiring fair and equitable division of assets.

In another case, when a New Jersey court held that a man's Islamic religious beliefs regarding sex with his spouse meant that he did not have the requisite intent to commit sexual assault, consistent with our public policy, the appeals court immediately reversed the decision and issued a restraining order to the petitioning wife.

Other cases involve courts enforcing agreements to present disputes for Islamic arbitration. *But it is not unusual for a court to enforce an arbitration agreement where the parties agree in advance that they will take any disputes to a particular type of arbitrator. The court's enforcement is based on neutral principles of law and denying courts the ability to enforce such agreements could compromise arbitration itself as a means to settle legal disputes.*

These cases show that our courts are very aware of their obligations to comply with public policy and do so when presented with any claims that may undermine that public policy, regardless of whether Islam or some other faith may be involved.

Potential for Needless Entanglement in Lengthy Litigation

Finally, we note that there are significant constitutional infirmities with respect to HB 88 and constitutional protections for the free exercise of religion and the establishment clause.

While the plain language of HB 88 refers only to "international law," in reviewing the constitutionality of HB 88 or any statute, the courts will necessarily look to legislative intent. In that regard, the Sponsor Statement will be reviewed by the courts as one element of that intent.

While the revised Statement does not reference Sharia, it is important to note that the original does so, asserting:

HB88 offers a baseline law that provides a statutory framework for precluding constitutionally objectionable foreign laws and legal systems from finding their way into the state judicial system. **One example of an offending transnational law is sharia—authoritative Islamic law that is applied as the law of the land in many countries around the world. Sharia is patently offensive to U.S. and Alaska constitutional law because it criminalizes apostasy (violation of Free Exercise of Religion) and blasphemy against Islam, Mohammed, and sharia itself (violation of**

House Judiciary Committee
H.B. 88 – Legal Issues
March 30, 2011
Page 7

Free Speech). Sharia also violates principles of due process and equal protection by discriminating against non-Muslims and women.

HB 88 Use of Foreign Law, original Sponsor Statement, dated March 9, 2011, (emphasis added).

Conclusion

In sum, HB 88 is unnecessary, and its passage would cause real harm to Alaska's citizens, businesses, and judicial system. **We urge you to oppose HB 88.**

Please feel free to contact the undersigned should you require any additional information. We are happy to reply to any questions which Members of the Committee may have.

Thank you again for the opportunity to share our concerns.

Sincerely,



Jeffrey Mittman
Executive Director
ACLU of Alaska

cc: Representative Wes Keller, [Representative Wes Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)
Representative Bob Lynn, [Representative Bob Lynn@legis.state.ak.us](mailto:Representative_Bob_Lynn@legis.state.ak.us)
Representative Lance Pruitt, [Representative Lance Pruitt@legis.state.ak.us](mailto:Representative_Lance_Pruitt@legis.state.ak.us)
Representative Max Gruenberg, [Representative Max Gruenberg@legis.state.ak.us](mailto:Representative_Max_Gruenberg@legis.state.ak.us)
Representative Lindsey Holmes, [Representative Lindsey Holmes@legis.state.ak.us](mailto:Representative_Lindsey_Holmes@legis.state.ak.us)
Representative Mike Chenault, [Representative Mike Chenault@legis.state.ak.us](mailto:Representative_Mike_Chenault@legis.state.ak.us)



April 1, 2011

Representative Carl Gatto, Chair
Members House Judiciary Committee
Alaska State Capitol
Juneau, Alaska 99811

Dear Representative Gatto and Members of the House Judiciary Committee:

Thank you for the opportunity to submit our views on HB88. We appreciate your openness to the presentation by Father Pat Travers regarding our concerns on the effect this bill might have on the legitimate application of Canon Law in the governance of the Catholic Church in our State. We hope Fr. Travers' testimony clarified that the bill could upset a complex existing legal structure that has generally worked well to govern the application of religious law in the United States. This consists of State and Federal constitutional provisions, court decisions, statutes, and regulations governing religious freedom, avoidance of government entanglement in religious affairs, contracts, and such matters as choice of law and court jurisdiction and venue. From our perspective, this legal structure has safeguarded the application of Canon Law within its legitimate sphere of the internal governance of the Catholic Church and the religious affairs of its members. At the same time, it has so limited the applicability of Canon Law and other religious law systems as to prevent them from impinging on secular affairs and the rights and freedoms of those Americans who do not freely choose to be governed by these systems.

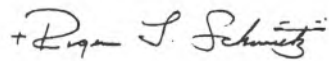
Yesterday, our counterparts in Florida, where a similar bill is being considered, brought to our attention the attached article from *The Florida Independent* of March 24, 2011. Without in any way endorsing the opinions expressed about the motivation of this or similar bills, we believe it illustrates the disruption of legitimate, useful, and freely entered legal arrangements that could result from such legislation. While the article focuses on examples involving Jewish and Islamic laws, these are quite similar to the examples we provided the Committee on ways a bill like this could disrupt such arrangements relying on Canon Law.

Alaska Catholic Conference of Bishops
Archdiocese of Anchorage Diocese of Fairbanks Diocese of Juneau
225 Cordova Street Anchorage, AK 99501
Phone 907-297-7744 Fax: 907-279-3885

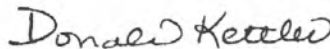
In light of these considerations, we respectfully request that HB88 not be reported out of Committee. Perhaps an immediate alternative would be a careful study, under the auspices of the Department of Law, of the current and prospective roles of religious legal systems in the lives of Alaskans. We would be very happy to cooperate in such a study. We believe it would show the current legal structures sufficiently prevent the abuses against with HB88 is directed. To the extent that further safeguards might be required, we would be ready to assist in their development.

Thank you for your consideration of our views, and for your service to the people of our State. Please feel free to contact any of us through the number below. Additionally, Fr. Pat Travers is available to answer any other concerns or questions you may have. He can be reached on his cell phone at 723-7303. Please be assured of our best wishes and prayers as you continue your service.

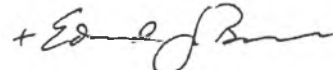
Sincerely,



+Roger L. Schwietz, OMI
Archbishop of Anchorage



+Donald Kettler
Bishop of Fairbanks



+Edward J. Burns
Bishop of Juneau

Attachment

cc: House Judiciary Committee

Alaska Catholic Conference of Bishops
Archdiocese of Anchorage Diocese of Fairbanks Diocese of Juneau
225 Cordova Street Anchorage, AK 99501
Phone 907-297-7744 Fax: 907-279-3885

27-LS0333\D
Bailey
3/30/11

CS FOR HOUSE BILL NO. 88()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES GATTO, Lynn, Keller

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting a court, arbitrator, mediator, administrative agency, or**
2 **enforcement authority from applying a law, rule, or provision of an agreement that**
3 **violates an individual's right under the Constitution of the State of Alaska or the United**
4 **States Constitution."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 FINDINGS. The legislature finds that citizens of the state should be protected from
9 the application of a foreign law if application of the foreign law would violate an individual's
10 right guaranteed by the Constitution of the State of Alaska or the United States Constitution.

11 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 LEGISLATIVE INTENT. It is the intent of the legislature that AS 09.68.140, enacted
14 by sec. 3 of this Act, does not address, directly or indirectly, any question of tribal law or the

1 application of tribal law or otherwise address the intersection between state law and tribal law.

2 * **Sec. 3.** AS 09.68 is amended by adding a new section to read:

3 **Sec. 09.68.140. Foreign law prohibited.** (a) A court, arbitrator, mediator,
4 administrative agency, or enforcement agency may not apply a foreign law if
5 application of the foreign law would violate an individual's right guaranteed by the
6 Constitution of the State of Alaska or the United States Constitution.

7 (b) If an agreement includes a choice of law provision requiring foreign law to
8 govern its interpretation or the resolution of a dispute between the parties to the
9 agreement and if the interpretation or enforcement of the agreement would violate an
10 individual's right guaranteed by the Constitution of the State of Alaska or the United
11 States Constitution, the agreement must be modified or amended as necessary to
12 preserve the constitutional right. An agreement that may not be modified or amended
13 in order to preserve the constitutional right of an individual under this section is void.

14 (c) If an agreement provides for the choice of venue or a choice of forum
15 outside of the United States or its territories and if the enforcement of the agreement
16 applying the choice of venue or choice of forum provision would result in a violation
17 of an individual's right guaranteed by the Constitution of the State of Alaska or the
18 United States Constitution, the choice of venue or choice of forum provision in the
19 agreement shall be interpreted to preserve the individual's constitutional right.

20 (d) If a person subject to personal jurisdiction in the state asserts a claim of
21 forum non conveniens in litigation in the state, and if a court, arbitrator, mediator,
22 agency, or similar enforcement authority of this state finds that granting the claim of
23 forum non conveniens or similar claim would violate an individual's right guaranteed
24 by the Constitution of the State of Alaska or the United States Constitution, the claim
25 shall be denied.

26 (e) This section applies only to an actual or foreseeable violation of an
27 individual's constitutional right caused by the application of foreign law.

28 (f) This section does not apply to a corporation, partnership, or other form of
29 business association.

30 (g) In this section, "foreign law" means a law, rule, or legal code or system
31 established and used or applied in a jurisdiction outside of the United States and the

1

territories of the United States.

Conceptional Amendment

OFFERED IN THE HOUSE
TO: CS HB 88 (STA)

BY: REPRESENTATIVE KELLER

Page2, line 28

25 (g) In this section, "foreign law" means a law, rule, or legal code or system
26 established and used or applied in a jurisdiction outside of the United States and the
27 territories of the United States, except that "foreign law" does not mean nor shall it
28 include a law currently established in Alaska statute, Case Law, or of an Alaska
29 Native or Native American tribe in the state.

27-LS0333\D.1
Keller
04/01/2011

Conceptional Amendment

OFFERED IN THE HOUSE
TO: CS HB 88 (STA)

BY: REPRESENTATIVE KELLER

Page2, line 28

25 (g) In this section, "foreign law" means a law, rule, or legal code or system
26 established and used or applied in a jurisdiction outside of the United States and the
27 territories of the United States. "Foreign law" does not mean nor shall it
28 include a law currently established in Alaska statute, or Case Law.

COMMITTEE ON JUDICIARY

SENATE AMENDMENTS TO H.B. 2064

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 12, Arizona Revised Statutes, is amended by adding
3 chapter 22, to read:

4 CHAPTER 22

5 APPLICATION OF FOREIGN LAWS

6 ARTICLE 1. GENERAL PROVISIONS

7 12-3101. Definition

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, "FOREIGN LAW"
9 MEANS ANY LAW, RULE OR LEGAL CODE OR SYSTEM OTHER THAN THE CONSTITUTION, LAWS
10 AND RATIFIED TREATIES OF THE UNITED STATES AND THE TERRITORIES OF THE UNITED
11 STATES, OR THE CONSTITUTION AND LAWS OF THIS STATE.

12 12-3102. Application

13 A. THIS CHAPTER APPLIES ONLY TO ACTUAL VIOLATIONS OF THE CONSTITUTIONAL
14 RIGHTS OF A PERSON OR ACTUAL CONFLICT WITH THE LAWS OF THIS STATE CAUSED BY
15 THE APPLICATION OF THE FOREIGN LAW.

16 B. THIS CHAPTER DOES NOT APPLY TO A CORPORATION, PARTNERSHIP OR OTHER
17 FORM OF BUSINESS ASSOCIATION.

18 12-3103. Prohibited enforcement of foreign law

19 A COURT, ARBITRATOR, ADMINISTRATIVE AGENCY OR OTHER ADJUDICATIVE,
20 MEDIATION OR ENFORCEMENT AUTHORITY SHALL NOT ENFORCE A FOREIGN LAW IF DOING
21 SO WOULD VIOLATE A RIGHT GUARANTEED BY THE CONSTITUTION OF THIS STATE OR OF
22 THE UNITED STATES OR CONFLICT WITH THE LAWS OF THE UNITED STATES OR OF THIS
23 STATE.

24 Sec. 2. Legislative intent

25 The legislature intends that the public policy of this state is to
26 protect its citizens from the application of foreign laws when the
27 application of a foreign law will result in the violation of a right

Senate Amendments to H.B. 2064

- 1 guaranteed by the constitution of this state or of the United States or
- 2 conflict with the laws of this state."
- 3 Amend title to conform

3/17/11
4:09 PM
S: GK/tf

Alaska State Legislature

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Representative Carl Gatto

Explanation of Changes from CSHB 88 (STA), version I to draft CSHB 88 () version D

March 30, 2011

CSHB 88 (STA) includes language about Alaska Native or American Native tribes.

However, we received information this week from an attorney who specializes in tribal law, Peter Putzier, with the Alaska Department of Law. We agreed with his suggestions for language change as follows:

This language will amend the uncodified law by inserting the following language on Page 1, Section 1:

“This Act is not intended directly or indirectly to address questions of tribal law or application of such tribal law, or otherwise to address the intersection between state law and tribal law.”

The language in CSHB 88 (STA) could be confusing under Section 2, (g)
Delete the following language on Page 2, Section 2, (g) Lines 27-28:

After States, [EXCEPT THAT “FOREIGN LAW” DOES NOT MEAN NOR SHALL IT INCLUDE A LAW OF AN ALASKA NATIVE OR NATIVE AMERICAN TRIBE IN THE STATE].

Peter Putzier will be available online for questions regarding this CS or tribal laws.

Contact: Karen Sawyer
465-5025