

**NEW YORK
CITY BAR**

**THE UNCONSTITUTIONALITY OF
OKLAHOMA REFERENDUM 755 –
THE “SAVE OUR STATE AMENDMENT”**

Committee on Foreign & Comparative Law

DECEMBER 2010

NEW YORK CITY BAR ASSOCIATION
42 WEST 44TH STREET, NEW YORK, NY 10036

NEW YORK CITY BAR COMMITTEE ON FOREIGN AND COMPARATIVE LAW*

THE UNCONSTITUTIONALITY OF OKLAHOMA REFERENDUM 755 –

THE “SAVE OUR STATE AMENDMENT”

Voters in the State of Oklahoma this past November 2nd approved a Referendum Question¹ (“Question 755”), which would add the “Save Our State Amendment,”² an amendment that is likely to violate at least four cornerstone Clauses of the United States Constitution. The referendum, if certified by the Oklahoma Board of Elections, would prohibit Oklahoma courts from considering or using international law or Sharia Law. The U.S. District Court for the Western District of Oklahoma has issued a preliminary injunction barring certification of the referendum, reasoning that the plaintiff “has made a strong showing of a substantial likelihood of success on the merits of his claim asserting a violation of the Establishment Clause” of the United States Constitution. *Awad v. Ziriax*, Case No. CIV-10-1186-M, W.D. Okla, Slip op., 11/29/10, at 10-11.

The New York City Bar Association writes this report out of a concern that Question 755 might be replicated in other states. In fact, this appears to be underway already, as it has been reported that at least four other States are considering similar legislation.³ After a review, we have concluded that Question 755 violates not only the Establishment and Free Exercise

* The principal author and chair of the subcommittee that prepared the report is Robert E. Michael. The Foreign and Comparative Law Committee is chaired by Mark A. Meyer.

¹ State Question No. 755: Amends Const. Article 7, Section 1

SUBJECT: Courts to rely on federal and state laws when deciding cases forbidding courts from looking at international law or Sharia Law.

This measure amends the State Constitution. It changes a section that deals with the courts of this state. It would amend Article 7, Section 1. It makes courts rely on federal and state law when deciding cases. It forbids courts from considering or using international law. It forbids courts from considering or using Sharia Law.

International law is also known as the law of nations. It deals with the conduct of international organizations and independent nations, such as countries, states and tribes. It deals with their relationship with each other. It also deals with some of their relationships with persons.

The law of nations is formed by the general assent of civilized nations. Sources of international law also include international agreements, as well as treaties.

Sharia Law is Islamic law. It is based on two principal sources, the Koran and the teaching of Mohammed.

https://www.sos.ok.gov/gov/proposed_questions.aspx

² Enrolled House Joint Resolution 1056. See attached.

³ Arizona, Florida, South Carolina and Utah. http://www.usatoday.com/news/nation/2010-12-09-shariaban09_ST_N.htm

Clauses of the First Amendment of the federal Constitution, but also the Supremacy Clause of Article VI, the Contracts Clause of Article I and the Due Process Clause of the Fourteenth Amendment. The Question is discriminatory, counterproductive and will make conducting business and personal affairs more difficult not only for people who may choose to observe rules or principles based upon Sharia,⁴ but for all who have personal or business relationships with those people, including the more than 1.6 billion Muslims worldwide. As drafted, it will also needless reject the use of the law of other states by Oklahoma courts even in cases with no relation to Sharia law. The Question's prohibition against consideration of "international law" will confuse and complicate legal matters in Oklahoma for all those whose personal and business affairs relate to international affairs or matters in other countries. And in our globally-connected world, many of us have foreign and international involvements we are unaware of, including the entity that owns our own business or holds our mortgage. No state should so isolate its entire population, and denigrate a segment of its population that is entitled to the full protection of U.S. and State law.

The New York City Bar Association is one of the oldest lawyers associations in the U.S., with over 23,000 members nationwide and worldwide. It was founded in 1870 in large part to fight political interference with an independent and fair judiciary. Of almost equally longstanding tradition is the Association's commitment to the Rule of Law and to the fundamental principle that our free courts must be able to make their determinations with regard only to the facts and law relevant to the dispute at hand. This fundamental principle is violated by Question 755.

The First Amendment's Free Establishment and Free Exercise Clauses

The District Court's decision to issue a preliminary injunction was based on a First Amendment challenge to Question 755. The First Amendment of the federal Constitution provides that "Congress shall make no law respecting an establishment of religion, or

⁴ As discussed below, the term "Sharia Law" used in the Question is both inaccurate and a tautology. The Shari'a or Shariah, the preferred transliterations from Arabic, includes both law (*fiqh*, in Arabic), jurisprudence (*usul al-fiqh*), and moral and religious tenets.

prohibiting the free exercise thereof..."⁵ The court found, and we agree, that the plaintiff made a "strong showing of a substantial likelihood of success" in demonstrating that Question 755 violates both the Establishment and Free Exercise Clauses of the First Amendment. *Awad v. Ziriax*, slip op. at 13. The court held that the Question's language singles out Sharia Law, "conveying a message of disapproval of the plaintiff's faith." Slip op. at 11. Question 755 would not only bar Oklahoma courts from considering "Sharia Law," but would allow Oklahoma courts to use or consider the law of any other state only if "the other state does not include Sharia Law."

The court correctly noted that "Sharia Law" to a substantial extent "lacks a legal character" and rather comprises religious traditions that "provide guidance to plaintiff and other Muslims regarding the exercise of their faith." Slip op. at 11. The court therefore found that a prohibition on "Sharia Law" has the effect of inhibiting plaintiff's religion.

The Free Exercise Clause is similarly violated by the singling out of the law of one religion for prohibition. The plaintiff's will could not be fully probated in Oklahoma if Question 755 were to become law, the court noted, because the will "incorporates by reference specific elements of Islamic prophetic traditions." Id. at 13. The court also said that Muslims would "be unable to bring actions in Oklahoma state courts for violations of the Oklahoma Religious Freedom Act and for violations of their rights under the United States Constitution if those violations are based upon their religion." Id.

Question 755 is clearly designed to inhibit, and would have the effect of inhibiting, members of a particular religion from utilizing or relying on any aspect of the religious law and tradition that underpins their faith if there is a possibility that such an action would eventually be a part of a case in the Oklahoma courts. No other religion would be subject to this stricture, as no other religion has been so burdened since the founding of this country. Question 755 clearly tramples on the religious freedom of individuals who have the full right to conduct their lives in Oklahoma free from that interference.

⁵ While the First Amendment speaks only about Federal law, it is well-established that the Fourteenth Amendment extends its prohibition to State Governments. See, e.g., *West Virginia State Board of Education v. Barnette*, 319 U.S. 624; 63 S. Ct. 1178; 87 L. Ed. 1628 (1943); *Elrod, Sheriff v. Burns*, 427 U.S. 347; 96 S. Ct. 2673; 49 L. Ed. 2d 547 (1976).

Though the District Court case was brought on First Amendment grounds and focused on the prohibition relating to “Sharia Law,” there are other grounds upon which to find Question 755 unconstitutional both with regard to its treatment of Islamic law and international law.

The Supremacy Clause⁶

While there is an ongoing dispute in the highest levels of judicial and academic thought as to the proper use of non-U.S. law in U.S. courts, as exemplified in the conflicting opinions in *Roper v. Simmons*, 543 US 551 (2005)⁷, Question 755 is not framed to reflect the bona fide issues of such dispute. The critical distinction it ignores is that between foreign law and international law.. The Question only expressly prohibits the use or consideration of “international law” and “Sharia Law.” However, the full Amendment language precedes that with a more general prohibition that: “[t]he courts shall not look to the legal precepts of other nations or cultures.” The official pronouncements by the Attorney General and Governor of Oklahoma that explain Question 755 also ignore the general statement and focus exclusively on “international law” and “Sharia Law.” It is the Attorney General’s letter to the Oklahoma legislature that claimed to have corrected the inadequacies of the Enrolled House Joint Resolution that produced the final language used in the Ballot⁸:

International law is also known as the law of nations. It deals with the conduct of international organizations and independent nations, such as

⁶ This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; **and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land;** and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding. [Emphasis added] US Const. Art. VI, §1, Cl. 2.

⁷ In *Roper*, the Court, per Justice Kennedy, over a strong dissent by Justice Scalia, held it was a violation of the Eighth Amendment to execute an offender who was under 18 years old at the time he committed a capital crime. Justice Kennedy reasoned that the Court had, at least since its decision in *Trop v. Dulles*, 356 U.S. 86 (1958), referred to the law of other countries and international authorities as “instructive” for its interpretation of the Eighth Amendment’s prohibition on cruel and unusual punishment. Justice Kennedy also looked to Article 37 of the United Nations Convention on the Rights of the Child, and the fact that only 7 countries in the world, other than the United States, executed juvenile offenders.

Justice Scalia accused the majority of asserting that American law should conform to the laws of the rest of the world. He pointed out that many fundamental principles of Constitutional law, such as the Exclusionary Rule, have, in fact, been rejected by courts of other countries. He also pointedly accused the majority of the “sophistry” of relying on foreign law when it suits it, but rejecting it in other instances when it does not. *Roper, supra*, 543 U.S. at 627.

⁸ See attached letter of the Attorney General dated June 24, 2010.

countries, states and tribes. It deals with their relationship with each other. It also deals with some of their relationships with persons.

The law of nations is formed by the general assent of civilized nations. Sources of international law also include international agreements, as well as treaties.⁹

This exposition seems to ignore the explicit reference to “legal precepts of other nations,” which must be understood to be foreign law. Foreign law is simply the law in effect in non-U.S. jurisdictions. It includes foreign legislation; jurisprudential law of the highest courts of the country concerned, and/or lower courts if the lower court decision were considered significant or there were an absence of jurisprudential law from the court of last resort of the country concerned; law as interpreted by the multinational tribunals of which the United States is NOT a party, such as the European Court of Justice; and international conventions to which the United States is NOT a party to the extent those conventions are incorporated into domestic law or interpreted or construed by the courts of foreign nations.

If the Question 755 prohibition only covered the general statement in the Amendment about “legal precepts of other nations” and did not refer to “international law,” it could arguably be construed to apply only to foreign law. In that event, its repugnance to the Constitution might be limited to (1) the issue of the ambit of the Contracts Clause to choice of foreign law provisions, as discussed below; and (2) finite Supremacy Clause issues with respect to those relatively few treaties that require U.S. courts to give effect to foreign law judgments and arbitral awards. Since there is a wide and longstanding body of law that imposes limits on exactly those foreign law obligations, primarily over due process and other public policy concerns,¹⁰ by itself it might not be patently unconstitutional. However, neither the proposed Amendment nor, *a fortiori*, Question 755 permit any such interpretation. As noted above, the official explanatory text unambiguously defines “international law” explicitly as the “law of nations” and expressly identifies “treaties” as a principal source thereof.

⁹ Executive Proclamation, Governor Brad Henry, August 9, 2010; Letter from W.A. Drew Edmondson, Attorney General of the State of Oklahoma, to M. Susan Savage, Secretary of State, et. al, June 4, 2010.

¹⁰ See, e.g., *Small v. United States*, 544 U.S. 385 (2005) (Court refused to consider conviction by Japanese court as within the phrase “convicted in any court” In a Congressional statute); *Societe Internationale Pour Participations v. Rogers*, 357 U.S. 197 (1958) (failure of company to produce records for fear of violating foreign law was insufficient basis for non-production as such a result would undermine the policy behind the Trading with the Enemy Act).

Question 755 thus expressly includes treaties within the scope of international law that Oklahoma courts are barred from considering or using.¹¹ However, treaties are expressly made the supreme Law of the Land by Article VI, Section 1, Clause 2 of the federal Constitution.

The United States is party to many treaties that have impact domestically. A strong example of the immediate conflict between a treaty and Oklahoma law should Question 755 become law is the United Nations Convention on Contracts for the International Sale of Goods (CISG).¹² Article 1 of the CISG shows the difference between it and other treaties, which generally establish obligations between or among States:

(1) This Convention applies to contracts of sale of goods between parties whose places of business are in different States:

- (a) when the States are Contracting States; or
- (b) when the rules of private international law lead to the application of the law of a Contracting State.

Therefore, by its terms, the CISG applies directly to all of the citizens and residents of Oklahoma who enter into contracts for the sale or purchase of goods with a party in another Contracting State -- which includes such likely trading partners as Canada, Mexico and China.¹³ In addition, the CISGs application is mandatory unless the parties expressly opt out of it. CISG Article VI.

Accordingly, any and all disputes between, for example, an Oklahoma purchaser of goods from Mexico brought in an Oklahoma Court would be required by the Supremacy Clause to apply the CISG – an essential part of international law..

Therefore, it is inescapable that Question 755, if it becomes law in Oklahoma, would constitute a direct affront to and violation of the Supremacy Clause.

The Contracts Clause

Article I, Section 10 of the federal Constitution states: “No State shall ... pass any ... Law impairing the Obligation of Contracts, ...”¹⁴ This elevation of the freedom of private parties to contract to a constitutionally protected right obviously includes the right to choose

¹¹ See Executive Proclamation, Governor Brad Henry, August 9, 2010.

¹² <http://www.cisg.law.pace.edu/cisg/text/treaty.html>

¹³ http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1980CISG_status.html

¹⁴ US Const. Art. I, §10, Cl. 1.

what law governs the contract.¹⁵ This raises two issues under Question 755: (1) whether contracts which choose to apply “Sharia” are valid, and (2) the impact on choice of law clauses that choose the law of foreign nations whose law includes international law.

It is not uncommon in religiously observant communities for its members to wish to have their internal disputes, primarily but not exclusively familial and matrimonial, governed by religious law and adjudicated by a religious tribunal. While on its face Question 755 does not apply to religious courts, since they are not enumerated in the Oklahoma Constitution as Courts of the State,¹⁶ it certainly would appear to apply to any such dispute brought into a State court, or any arbitral award sought to be enforced in such a court. This certainly raises freedom of religion issues, as discussed below, but also Contract Clause concerns.

The choice of foreign law is more clearly impacted. Whether a court reviewing the constitutionality of Question 755 could assume such a conflict or would have to wait for a specific case or controversy is a valid question; but we believe the high likelihood of such a conflict should allow it to do so in the absence of a specific contract. The likely impact is highlighted by the possibility of there being Oklahoma citizens with contracts including a choice of law clause that would apply the law of any European Union Member State, such as France, Germany or the United Kingdom. The internal law of each of those nations includes European Union treaty obligations — "international law" under Question 755 which is unquestionably not part of U.S. or Oklahoma law. The Contracts Clause should protect all of the parties to those contracts from impairment by Question 755.

¹⁵ See, e.g., *Educ. Employees Credit Union v. Mut. Guar. Corp.*, 50 F.3d 1432, 1438 (8th Cir. 1995).

¹⁶ Section VII-1: Courts in which judicial power vested.

The judicial power of this State shall be vested in the Senate, sitting as a Court of Impeachment, a Supreme Court, the Court of Criminal Appeals, the Court on the Judiciary, the State Industrial Court, the Court of Bank Review, the Court of Tax Review, and such intermediate appellate courts as may be provided by statute District Courts, and such Boards, Agencies and Commissions created by the Constitution or established by statute as exercise adjudicative authority or render decisions in individual proceedings. Provided that the Court of Criminal Appeals, the State Industrial Court, the Court of Bank Review and the Court of Tax Review and such Boards, Agencies and Commissions as have been established by statute shall continue in effect, subject to the power of the Legislature to change or abolish said Courts, Boards, Agencies, or Commissions. Municipal Courts in cities or incorporated towns shall continue in effect and shall be subject to creation, abolition or alteration by the Legislature by general laws, but shall be limited in jurisdiction to criminal and traffic proceedings arising out of infractions of the provisions of ordinances of cities and towns or of duly adopted regulations authorized by such ordinances.

The Due Process Clause¹⁷

Question 755 is patently too vague to be the basis of governmental action that qualifies as due process of law, as it provides no guidance with regard to what constitutes “Sharia Law.”

As discussed in the District Court decision, there is no judicially cognizable body of law that is Shari'a. Literally meaning the way or the path, in classical Islamic law, Shari'a is, as noted above, not just law or jurisprudence, but above all is a process of ascertaining divine will to provide guidance as to the best actions or omissions to comply with the divine will. And this applies in all aspects of life-- whether it is a commercial transaction, a divorce settlement or one's relationship with parents and children. In that regard, it is comparable to Jewish Halakhic law and Christian Ecclesiastical and Canonical law. But unlike Jewish and Christian law, there is not now, nor has there ever been, either a single authoritative compilation (no Justinian Code, for example, of Roman law) of Shari'a; nor any judicial or legislative body with jurisdiction over anything remotely constituting even a majority of Muslims – no Supreme Court, *Cours de Cassation*, Privy Council, Papal *Curia*, or *Sanhedrin*; nor any Parliament, Congress, Politburo, College of Cardinals, or Synod of Bishops.

As a legal matter, therefore, there is no such body of law as “Sharia Law,” nor has there been since there has been a United States of America. In fact, what is properly referred to as Shari'a has not been a true body of law for over six centuries. The official explanatory text of the Referendum Question describes it as “Islamic law. It is based on two principal sources, the Koran and the teaching of Mohammed.” That is analogous to saying that American law is based on the Constitution, the Federalist Papers and the Judiciary Act of 1789 – true, but sufficiently incomplete to be of no use in determining how to conduct oneself consistent with law today.

While no U.S. court has addressed this precise issue in any reported opinion, the Court of Appeal in the United Kingdom has ruled on this exact question in *Shamil Bank of Bahrain v. Beximco Pharmaceuticals Ltd.*¹⁸ As that court held (at ¶55):

Finally, so far as the “principles of ... Sharia” are concerned, it was the evidence of both experts that there are indeed areas of considerable controversy and difficulty arising not only from the need to translate into propositions of modern law texts which centuries ago were set out as

¹⁷ US Const. Amdmt. XIV, §1.

¹⁸ Court of Appeal (Civil Division), [2004] EWCA CIV 19. [2004] All ER (D) 280 (Jan), (Approved judgment).

religious and moral codes, but [also] because of the existence of a variety of schools of thought with which the court may have to concern itself in any given case before reaching a conclusion upon the principle or rule in dispute. ... [I]f the Shari'a law proviso were sufficient to incorporate the principles of Sharia law into the parties' agreements, the defendants would have been likely to succeed. However, since I would hold that the proviso is plainly inadequate for that purpose, the validity of the contract and the defendants' obligations thereunder fall to be decided according to English law.

Thus, any governmental prohibition of "Sharia Law" *per se* should be found to be too vague to be of any valid application as a matter of due process.

An additional vagueness concern emanates from Question 755's provision that Oklahoma courts may use or consider the law of another of the United States "provided the law of the other state does not include Sharia Law." We are at a loss to understand how an Oklahoma court, faced with a question involving the law of a sister state, can determine that another state's law "does not include Sharia Law" barring that state's passage of a constitutional amendment similar to Question 755. As a state's law includes statutes, regulations and judicial decisions and administrative determinations, some aspect of Shari'a – which as we noted is largely not law at all but rather traditions Muslims are required to use to guide the conduct of their entire lives – may well have become incorporated or suggested in a law, rule, case or administrative action, and often might not have been labeled Shari'a, or Islamic, at all. In other words, the necessary and direct conclusion from the clear and express language of the "Save Our State Amendment" to be added to the Oklahoma State constitution by Question 755 is that once any American State adopts any law that recognizes a Muslim's rights (separately or AS PART OF THE RIGHTS OF ALL RELIGIOUS GROUPS) to follow any part of his or her religious obligations under Shari'a, or arguably even issues a divorce decree which incorporates a settlement involving a Shari'a tradition, thenceforth and forever more and for any purpose whatsoever, regardless of whether the Oklahoma case in point has anything to do with "Sharia Law," all of the Oklahoma courts would be precluded from looking to the law of that state.

This obviously is not only a serious issue of Due Process, but an apparent direct violation of the Full Faith and Credit Clause of the U.S. Constitution as well.¹⁹

ADDITIONAL COMMERCIAL CONCERNS

¹⁹ "Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof." US Const. Art. IV, §1.

One can also make a preemption argument against Question 755 based on the second sentence of the Clause in that the Constitution granted Congress, not the states, the right to "prescribe ... the effect" of one state's laws and judicial proceedings in each other state.

In addition to these purely legal issues, we must also consider the potentially enormous impact on our international trade caused by a widespread adoption, or the adoption by only a single commercially important state, of laws like the Save Our State Amendment.

Many of our trading partners have a reciprocity requirement in honoring foreign judgments. This is particularly true of countries in the Middle East. Customarily, these countries, including some of our largest exporters of oil, accept the choice of U.S. law and U.S. courts to all major contracts. Since these countries generally incorporate at least some elements of Shari'a in their law, they could properly refuse to accept U.S. law and U.S. courts going forward. This would result in a needless and costly breakdown of the existing mechanism for the resolution of cross-border trade disputes.

CONCLUSION

For all these reasons, the Association of the Bar of the City of New York urges the rejection of Question 755 by all appropriate means, and that other states reject calls for any similar legislation.

ENROLLED HOUSE JOINT RESOLUTION 1056
ENACTED BY THE SECOND REGULAR SESSION OF THE
52ND LEGISLATURE OF THE STATE OF OKLAHOMA
NUMBERED BY THE SECRETARY OF STATE

STATE QUESTION NUMBER 755
LEGISLATIVE REFERENDUM NUMBER 355

RECEIVED: May 25, 2010

Resolution

ENROLLED HOUSE

JOINT

RESOLUTION NO. 1056

By: Duncan, Reynolds, Coody,
Tibbs, Derby, Kern,
Terrill, Enns, Christian,
Faught, Moore and Key of
the House

and

Sykes and Brogdon of the
Senate

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 1 of Article VII of the Constitution of the State of Oklahoma; creating the Save Our State Amendment; requiring the courts of this state to uphold and adhere to the law as provided in federal and state constitutions, established common law, laws, rules and regulations; prohibiting consideration of certain laws; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 2ND SESSION OF THE 52ND OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 1 of Article VII of the Constitution of the State of Oklahoma to read as follows:

Section 1. A. The judicial power of this State shall be vested in the Senate, sitting as a Court of Impeachment, a Supreme Court, the Court of Criminal Appeals, the Court on the Judiciary, the State Industrial Workers' Compensation Court, the Court of Bank Review,

the Court of Tax Review, and such intermediate appellate courts as may be provided by statute, District Courts, and such Boards, Agencies and Commissions created by the Constitution or established by statute as exercise adjudicative authority or render decisions in individual proceedings. Provided that the Court of Criminal Appeals, the ~~State Industrial Workers' Compensation~~ Court, the Court of Bank Review and the Court of Tax Review and such Boards, Agencies and Commissions as have been established by statute shall continue in effect, subject to the power of the Legislature to change or abolish said Courts, Boards, Agencies, or Commissions. Municipal Courts in cities or incorporated towns shall continue in effect and shall be subject to creation, abolition or alteration by the Legislature by general laws, but shall be limited in jurisdiction to criminal and traffic proceedings arising out of infractions of the provisions of ordinances of cities and towns or of duly adopted regulations authorized by such ordinances.

B. Subsection C of this section shall be known as the "Save Our State Amendment".

C. The Courts provided for in subsection A of this section, when exercising their judicial authority, shall uphold and adhere to the law as provided in the United States Constitution, the Oklahoma Constitution, the United States Code, federal regulations promulgated pursuant thereto, established common law, the Oklahoma Statutes and rules promulgated pursuant thereto, and if necessary the law of another state of the United States provided the law of the other state does not include Sharia Law, in making judicial decisions. The courts shall not look to the legal precepts of other nations or cultures. Specifically, the courts shall not consider international law or Sharia Law. The provisions of this subsection shall apply to all cases before the respective courts including, but not limited to, cases of first impression.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the State Constitution. It would change a section that deals with the courts of this state. It would make courts rely on federal and state laws when deciding cases. It would forbid courts from looking at international law or Sharia Law when deciding cases.

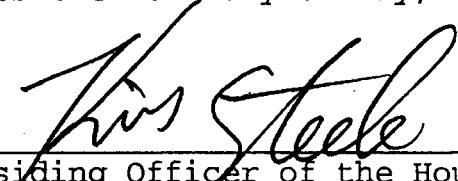
SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

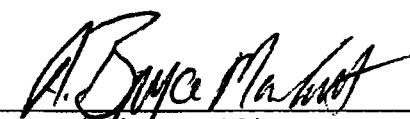
SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 18th day of May, 2010.



Presiding Officer of the House of
Representatives

Passed the Senate the 24th day of May, 2010.



Presiding Officer of the Senate

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
25th day of May, 20 10,
at 11:40 o'clock A.M.

By: M. Hasan Faruqi



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

June 24, 2010

FILED

JUN 24 2010

OKLAHOMA SECRETARY
OF STATE

M. Susan Savage, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, OK 73105-4897

The Honorable Glenn Coffee
Senate President Pro Tempore
State Capitol, Room 422
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

The Honorable Chris Benge
Speaker of the House of Representatives
State Capitol, Room 401
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

Re: Final Ballot Title for State Question No. 755, Legislative Referendum No. 355

Dear Secretary Savage, Senator Coffee, and Speaker Benge:

Having found that the proposed ballot title for the above referenced state question did not comply with applicable laws, we have, in accordance with the provisions of 34 O.S.Supp.2009, § 9(C), prepared the following Final Ballot Title. As a Title 34 Ballot Title review, the following does not constitute an Attorney General Opinion on the merits or constitutionality of the underlying proposed changes in the law, nor on the ability of federal law to preempt the changes in the law. The Final Ballot Title reads as follows:

FINAL BALLOT TITLE FOR STATE QUESTION NO. 755

This measure amends the State Constitution. It changes a section that deals with the courts of this state. It would amend Article 7, Section 1. It

makes courts rely on federal and state law when deciding cases. It forbids courts from considering or using international law. It forbids courts from considering or using Sharia Law.

International law is also known as the law of nations. It deals with the conduct of international organizations and independent nations, such as countries, states and tribes. It deals with their relationship with each other. It also deals with some of their relationships with persons.

The law of nations is formed by the general assent of civilized nations. Sources of international law also include international agreements, as well as treaties.

Sharia Law is Islamic law. It is based on two principal sources, the Koran and the teaching of Mohammed.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

Respectfully submitted,



W.A. Drew Edmondson
Attorney General

WAE/ab