Dear Legislator,
Please see my original note at the end of this (long...sorry for the length) email; but a 31 page 'bill', i.e., ***SB1067*** *leaves no option. I have highlighted interesting portions. The Hague provides for* ***"free" services in these "family disputes"*** *(if you have never had the experience of divorce or child custody perhaps you do not appreciate the amount of hours and dollars potentially involved) and with* ***Obama shipping-in entire families of illegal aliens (they will ALL require "free" services), this will be astronomical!*** *I also find* ***especially troubling the lack of definition of "tribunal".*** *I understand that throughout the world "tribunal" is a common term - but I wonder if that is because "tribunals" are easily created and dismantled at the whim of dictators.* ***Will the term "tribunal" be strictly functional*** *(in the USA accommodation of this agreement under the direction of the United Nations Court)* ***as Constitutionally created "courts"****? Will the term* ***"tribunal" be a proviso that will accommodate a Sharia-tribunal a Hindu-caste-tribunal or some flavor of an International-tribunal*** *to also be granted authority? PLEASE READ THIS ARTICLE THAT OUTLINES THE ARGUMENT:*

https://lawyerssecularsociety.wordpress.com/2015/02/16/the-arbitration-act-1996-does-it-allow-religious-tribunals-to-make-rulings-that-can-be-enforced-by-the-civil-courts/

The Arbitration Act 1996: does it allow religious tribunals to make rulings that can be enforced by the civil courts?

By LSS member Daniel Anderson

"We realised that under the Arbitration Act we can make rulings which can be enforced by county and high courts. The Act allows disputes to be resolved using alternatives like tribunals. This method is called alternative dispute resolution, which for Muslims is what the sharia courts are."

— Sheikh Faiz-ul-Aqtab Siddiqi, founder of the Muslim Arbitration Tribunal Panels

It certainly has been widely believed that the Arbitration Act 1996 allows for rulings made by religious tribunals to be enforced in the civil courts (for example, see **this**). And, in fact, even opponents of parallel legal systems seem to reluctantly accept that this is the case. But does the Arbitration Act 1996 *actually* allow for rulings made by religious tribunals to be enforced in the civil courts?

In this article I wish to guide you through the relevant parts of the Arbitration Act 1996 because, with respect to all the people who agree with the above quote from Mr. Siddiqi, I either think they have not actually read the Act or that they have simply misunderstood it. And.....

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BACKGROUND:
http://www.ncsea.org/wp-content/uploads/2011/12/Resolution-Supporting-Ratification-of-The-Hague-Convention-on-the-International-Recovery-of-Child-Support-and-Other-Forms-of-Family-Maintenance....pdf

National Child Support Enforcement Association

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Resolution Supporting Ratification of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and Supporting Conforming Changes to the Uniform Interstate Family Support Act

Introduction:

The National Child Support Enforcement Association (NCSEA) recognizes that with the globe getting ever smaller as families of the world cross international boundaries at an extraordinary rate as compared to just a few years ago, **international child support** enforcement is more important than ever. NCSEA supports the leadership and initiative of the US Departments of State and Health and Human Services (HHS) in their role in the successful negotiation of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted by The Hague Conference on Private International Law on November 23, 2007. NCSEA is committed to working with the State Department and HHS to obtain the ratification and implementation of the Convention by the United States and the necessary conforming changes to the Uniform Interstate Family Support Act.

THEREFORE, the National Child Support Enforcement Association (NCSEA) resolves to:

1. Urge the President of the United States to submit to the United States Senate a resolution seeking its advice and consent to the ratification by the President of The Hague Convention

on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted by The Hague Conference on Private International law on November 23, 2007.

2. Urge the President of the United States to submit to the Congress for its enactment legislation to amend Title IV, Part D, of the Social Security Act, as necessary to enable the United States to comply with the provisions of the Convention, including an amendment to section 466(f) of the Social Security Act to **require every state** to enact the 2008 version of the Uniform

Interstate Family Support Act as a condition of receiving federal funding for the state's Title IV-D child support enforcement program.

3. Urge the United States Senate to promptly grant its advice and consent to the ratification by the President of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.

4. Urge the Congress to act promptly to amend the Social Security Act as necessary to comply with the provisions of the Convention, including an amendment to section 466(f) of the Social Security Act to require every state to enact the 2008 version of the Uniform Interstate Family Support Act as a condition of receiving federal funding for the state's Title IV-D child support enforcement program.

Background:

The Hague Convention on Child Support

On November 23, 2007, after four years of deliberation, The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance was adopted at the conclusion of the Twenty-First Diplomatic Session of The Hague Conference on Private International Law at The Hague, The Netherlands. On that same date, with the authorization of Secretary of State Condoleezza Rice, Commissioner Margot Bean of the federal Office of Child Support Enforcement signed the Convention on behalf of the United States, as the first step toward bringing the Convention forward for ratification by the United States.

This Convention contains procedures for processing international child support cases that are uniform, simple, efficient, accessible, and inexpensive. It is founded on the agreement of contracting countries to recognize and enforce each other's support orders. It is based on a system of administrative cooperation among central authorities of contracting countries to facilitate the transfer of documents and case information – using electronic technology where feasible – so that the necessary information is available for expeditious resolution of international child support matters. Similar procedures are already in place in the United States for processing interstate child support cases. Indeed, many provisions of the Convention were drawn from the US experience with the Uniform Interstate Family Support Act, adopted by all states as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PROWRA).

The major benefit to the United States from joining this Convention will be obtaining reciprocity from other contracting countries. For many international

cases, US courts and state Title IV-D child support enforcement agencies already recognize and enforce child support obligations, whether or not the United States has a reciprocal agreement with the other country. However, many foreign countries will not enforce US support orders in the absence of a treaty obligation. Ratification of the Convention by the United States will mean that more children residing in the United States will receive financial support from their parents residing in countries that are also signatories to the Convention.

Another significant benefit to joining the Convention will be the ability to effectively coordinate the enforcement of international child support cases with contracting countries through communication with central authorities designated to receive and transmit applications for services and to facilitate case processing. In addition, the ability to use uniform forms for transmitting information and uniform protocols for transferring child support payments in different currencies will minimize delays in enforcing orders and delivering payments, while reducing transaction costs for both parents.

The Convention effectively addresses jurisdictional barriers that have prohibited the United States from joining other child support conventions. Existing maintenance conventions base jurisdiction to order support on the habitual residence of the creditor (custodial parent or child) rather than on minimum contacts with the debtor (non-custodial parent), as required by US constitutional standards of due process. The Convention provides flexibility for a court of the United States having jurisdiction over the non-custodial parent to establish a new order in circumstances where US jurisdictional requirements were not met in the country issuing the initial order that is sought to be enforced.

The Convention also provides for access to cost-free services for US citizens needing assistance with child support enforcement in a contracting country, an important element of reciprocity for US citizens. The small number of countries that may be required by their own internal procedures to assess fees must use a means test based on the income of the child, not the parents, with the result that any fees will be minimal as compared to current practice where custodial parents must often retain local private counsel in order to establish or enforce a support order.

The Convention and the conforming amendments to the Uniform Interstate Family Support Act will not affect intrastate or interstate cases in the United States. It will apply only to cases where the custodial parent and child live in one contracting country and the non-custodial parent lives in another contracting country. Similarly, the Convention does not affect substantive child support law, which is generally left to the individual states. Its primary focus is on uniform procedures for enforcement of decisions and for cooperation among countries. While HHS will be the central authority for the United States under the

Convention, it is expected that **HHS will designate state Title IV-D child support enforcement agencies as the public bodies responsible** for carrying out, under its supervision, many of its central authority functions, such as transmitting and receiving applications for services, and initiating and facilitating proceedings.

States will receive federal reimbursement at the rate of 66 percent for the cost of these activities. Because the cases will be processed just like other instate and interstate cases and the number of international cases is expected to be small, any additional costs to the federal and state governments will be minimal.

Uniform Interstate Family Support Act

With respect to the proposed conforming amendments to the Uniform Interstate Family Support Act (UIFSA), the Uniform Law Commission (formerly known as the National Conference of Commissioners on Uniform State Laws or NCCUSL) has worked closely with the State Department and HHS as well as with a wide variety of organizations with expertise in child support enforcement – including NCSEA – to ensure that state law will conform to the requirements of the Convention. Because it is critical that all states have the same procedures for handling interstate and international cases, NCSEA supports legislation requiring all states to adopt the 2008 version of UIFSA. It is important to note, however, that the 2008 version of UIFSA includes the amendments adopted by NCCUSL in 2001. Under a waiver permitted by HHS, about half the states have adopted UIFSA 2001 without a federal mandate. As a result, not all states have the same version of UIFSA. It is therefore important for Congress to extend the mandate contained in PROWRA to require all states to adopt the 2008 version of UIFSA, to restore the necessary uniformity in interstate and international procedures.

Role of National Child Support Enforcement Association

For more than 30 years, even though the US was not a party to existing international child support treaties, NCSEA has provided leadership and initiative to develop relationships with child support professionals in other countries and to advocate for the United States to be a part of international reciprocal agreements for enforcing child support orders when parents live in different countries. NCSEA members have also worked closely with the State Department and HHS in negotiating and implementing reciprocal bilateral agreements authorized by PROWRA.

NCSEA's members have been involved in the development of The Hague Convention on the International Child Support and Other Forms of Family Maintenance from the very beginning, encouraging The Hague Conference on

Private International Law to undertake a complete review of existing conventions to make a new global instrument that would be more flexible, more effective, and more universal. Once the deliberations of the Special Commission on the International Recovery of Child Support and Other Forms of Family Maintenance began, NCSEA had official status as a nongovernmental organization, providing important substantive contributions at critical junctures to ensure that any resulting provisions would be compatible with US judicial and administrative procedures for enforcing child support orders.

NCSEA therefore supports the ratification of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. NCSEA also supports legislation to require states to adopt the 2008 version of UIFSA, which contains the amendments necessary to comply with the requirement of the Convention.

Adopted by the Board of Directors of the National Child Support Enforcement Association on the 2nd day of August, 2008, at San Francisco, California.

NCSEA serves the child support community worldwide through professional development, communications, public awareness, and advocacy to enhance the financial, medical, and emotional support that parents provide for their children.

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http://www.aaml.org/sites/default/files/MAT105_3.pdf

Journal of the American Academy of Matrimonial Lawyers

Vol. 24, 2011 The Uniform Interstate Family Support Act (UIFSA) 2008 ENFORCING INTERNATIONAL OBLIGATIONS THROUGH COOPERATIVE FEDERALISM

by Eric M. Fish

pg. ?

Cooperative federalism allows states autonomy of choice

within a framework delineated by federal law. The federal government

cannot simply direct the states to administer policy.[47]

However, Congress can provide "a variety of methods, short of

outright coercion, by which Congress may urge a State to adopt a legislative program consistent with federal interests."[48] Cooperative federalism establishes the federal government as the central agent that possesses incentives that can be used to reward the cooperative behavior of the states and if substantial enough, ensure quick realization of a national goal. It is, in its purest sense, a partnership between the federal and state government that accomplishes a national goal while respecting state autonomy and insuring uniformity of compliance.

While cooperative federalism has been widely used in domestic affairs to achieve national policy objectives,[49] its use to implement an international obligation was less tested. The inte

of

treaty implementation "[t]he faith, the reputation, the peace of the whole Union are thus continually at the mercy of the prejudices, the passion, and the interest of every member of which it is composed." THE FEDERALIST NO. 22 at 113 (Alexander Hamilton) (Ian Shapiro, ed. 2009).

[46] Montana, Nevada, North Dakota, and Texas do not hold legislative sessions during even numbered years. *See* Annual versus Biennial Legislative Sessions, NATIONAL CONFERENCE OF STATE LEGISLATURES, *available at* http://www.ncsl.org/default.aspx?tabid=17541.

[47] New York v. United States, 505 U.S. 144, 188 (1992).

[48] *Id.* at 166.

[49] *E.g.*, Federal Water Pollution Control Act ("Clean Water Act"), 33

U.S.C. §§ 1251-1387 (2008); Occupational Safety and Health Act of 1970, 29

U.S.C. §§ 651-678 (2006).

gration of international law into the rubric of cooperative federalism was colored by the applicability of two prior approaches that involved uniform acts. Federal and state officials rejected an approach that relied upon conditional preemption. Instead, they preferred the use of conditional spending because it caused little disruption to the balance of state and federal law and had been utilized previously to harmonize state law on family support. Conditional preemption is predicated on states acting out of self interest to pass laws consistent with federal legislation. Federal law would take effect in those states that did not opt out. Federal and state law covering the same subject are allowed to coexist throughout the country as long as the state law does not undermine the central purposes of the federal legislation.[50] This approach provides both uniformity and instantaneous implementation when utilized in a treaty context. However, this approach can only be applied in situations when the federal government has power to legislate in the area covered by the treaty. Moreover, this approach could have created a bifurcated jurisdiction

for child support cases brought under the Hague Convention. In states that opted to pass state based implementation, cases would be heard in state courts. In those states preempted by the federal legislation, such cases could involve the federal court system.

While such an approach potentially complicates questions of forum, it may remain preferable if deviation on forum does not cause sufficient problems for implementation of the substance of the treaty.

The second approach to cooperative federalism utilizes the ability of Congress to condition receipt of federal funding on

50 The Uniform Law Commission dealt with questions of conditional preemption when E-Sign was approved by Congress and signed into law by President Clinton. Prior to federal action, the ULC promulgated the Uniform Electronic Transactions Act (UETA). Both acts validate the use of electronic records and signatures and provide that electronic contracts and signatures are enforceable despite existing electronically. Under Section 102 of E-Sign, states can avoid federal preemption if UETA or a similar legislation is enacted to give legal effect to electronic records or electronic signatures. *See* Electronic Signatures in Global and National Commerce Act (E-Sign), 15 U.S.C. §§ 7001-7006 (2000). *See also* UNIF. ELECTRONIC TRANSACTIONS ACT (1999), *available at* http://www.nccusl.org/Act.aspx?title=electronic%20Transactions%20Act.

state adoption of certain laws.[51] Congress has historically employed this spending power "to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives.[52] This approach is deemed constitutional if the spending program abides by four factors. First, the exercise of the spending power must be in pursuit of the general welfare. Second, Congress must exercise the spending power unambiguously, allowing states to exercise their choice independently but with full cognizance of the repercussions of the choice. Third, the conditions must be related to the federal interest in particular national projects and programs. Fourth, the terms of conditional spending must not run afoul of other constitutional provisions.[53]

The conditional spending approach is successful only if the funds under condition are important enough to force modification of a state's law. Conditional funding may influence a state's legislative choices, but is by no means determinative of statutory change.[54] Congress is merely an architect of choice, directing the states toward a decision that effectuates federal policy without infringing upon state sovereignty.[55] Use of a financial incentive that is both significant and related to important state programming pacifies the calls within a state to interpose on a federal

objective through an expression of state sovereignty.

pg. 54

However, the merging of civil law and common law complicates refusals based on jurisdiction. As noted earlier, the jurisdictional bases used throughout the globe for recognition and enforcement of child support orders were the greatest obstacle for American accession to the terms of the treaty, and such bases will create similar difficulties for practitioners utilizing UIFSA2008. UIFSA2008 incorporates the severability clause of the Hague Convention; even if the entirety of a convention support order cannot be enforced within the United States because of one of the challenges found in section 708, courts must enforce those parts that are enforceable.[78]

Furthermore, private support agreements are entitled to enforcement by a tribunal. In the United States, such agreements are treated as a form of a contract.[79] The UIFSA2008 requires a tribunal to enforce and recognize private support agreements.[80] To be enforceable, the agreement must be enforceable as a decision in the country of origin.

[75] *Id.*

C. *Non-signatory Countries*

The vast majority of international child support cases in the

courts of the United States involve Canada, Mexico, and countries of the European Union. It is anticipated that these countries will become signatories to the Hague Convention and thus, cases from these countries will come to be governed by Article 7 of the UIFSA2008. However, it is inevitable that orders issued by nonsignatory countries will end up in courts across the United States. The recognition and enforcement of child support orders from non-signatory countries will continue to be governed by principles of comity. Sections 601 to 608 of UIFSA2008 constitute the procedures for recognition and enforcement of these orders. Modification of orders issued by non-signatory countries can occur if the foreign tribunal lacks or refuses to exercise jurisdiction to modify the order.[83]Additionally, a tribunal in the United States can modify an order if both parties are subject to personal jurisdiction because of an obligee's submission to the jurisdiction and the obligor's residence in the state.[84]

[81] *Id.*

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http://www.acf.hhs.gov/programs/css/resource/uifsa-procedural-guidelines-handbook

(small portion of...) **UIFSA Procedural Guidelines Handbook**

LONG-ARM PERSONAL JURISDICTION (LA) [See the Uniform Act, 201.]

LA1

Q: Must a case be routed to another State for necessary action if the obligor does not reside in my

State?

A. Under UIFSA, a "two-state" process can be avoided and a State can proceed directly against the nonresident parent if the State can assert personal jurisdiction over that nonresident under its long-arm statute.

LA2

Q. What is "personal jurisdiction"?

A. Simply stated, "personal jurisdiction" means that a **State tribunal** has the legal authority to make decisions which directly affect an individual.

NOTE: Generally, State tribunals have personal jurisdiction over all individuals residing within their State boundaries.

LA3

Q. How does a State assert personal jurisdiction over a nonresident?

A. In limited situations a State tribunal can extend its authority over nonresidents. The most common way a State tribunal asserts personal jurisdiction over a nonresident is through the use of "long-arm" jurisdiction.

LA4

Q. When can one use "long-arm" jurisdiction to retain and locally work a case involving a nonresident obligor?

A. UIFSA allows a State to avoid a "two-state" process and serve the individual directly if one or more (long-arm) circumstances exist in the case. [See Exhibit 3.1 (page 3LA-4) for a check-list of eight circumstances recognized by UIFSA.]

LA5

Q. How does one learn of the existence of one or more of the grounds for asserting long-arm jurisdiction in a given case?

A. Most of the grounds supporting an assertion of long-arm jurisdiction are factually based. That is, whether the alleged father previously resided with the child in the State; sent the child to live in the State; or engaged in sexual intercourse in the State (which might have resulted in the child's

conception) are all questions of fact. A case-by-case determination is required to determine if long-arm jurisdiction is available.

From: rlinsenmann@hotmail.com
Subject: SB1067
Date: Fri, 3 Apr 2015 00:04:34 -0600

"The price of liberty is eternal vigilance."
Thomas Jefferson

"In the world's broad field of battle, In the bivouac of Life, Be not like dumb, driven cattle! Be a hero in the strife!"
HW Longfellow, A Psalm of Life

Greetings,
I was asked if some of us might have time to look over this bill SB1067. I skimmed most of it and found the references that make me wonder if this is opening a door to Sharia law for child custody; but also any other country to have the upper-hand as well? However, this law is currently in effect and this new bill appears to just be modifying language. It would be good to know when it was first put on the books and who sponsored it then. And after I looked up the word 'tribunal', I thought it strange that in our 'laws' we could in anyway provide for 'tribunals'...seems so 'outside of our Constitutional government structure. (and here I give a commendation to Vicky because she pointed out that we are using the word 'governance' instead of 'government'...so I spent a little time reviewing that twist. It seems to me that 'governance' allows for anyone or anything to be provided to "steer-the-boat" and the structure of 'government' doesn't have to be the foundation.) And now that I see 'tribunal', it almost has the same connotation...they are just 'groups' that are called together; not having to follow any particular guidelines/laws...and then be granted the power to act as an independent operator. But I am certainly not a lawyer and read words as I see them - not as fancy lawyer-speak.

I was told it was voted out of the Senate by a 100%.
Thanks,
Ronalee

(small portion of) http://www.legislature.idaho.gov/legislation/2015/S1067.pdf

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015
IN THE SENATE
SENATE BILL NO. 1067
BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT;
pg 20
7-1046. CHOICE OF LAW. (1) Except as otherwise provided in subsection

(4) of this section, the law of the issuing state or foreign country governs:
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pg 23
(3) Except as otherwise provided in section 7-1057, Idaho Code, a A tribunal of this state may not modify any aspect of a child-support order that may not be modified under the law of the issuing state,
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pg 23
precludes imposition of a
further obligation of support by a tribunal of this state.
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pg24
7-1059. DEFINITIONS. As used in sections 7-1059 through 7-1071, Idaho

Code:

(1) "Application" means a request under the convention by an obligee or

obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United

States or a foreign country described in section 7-1002(5)(d), Idaho Code,

to perform the functions specified in the convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in section 7-1002(5)(d), Idaho Code.

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in section 7-1002(5)(d), Idaho Code, to perform the functions specified in the convention.

(6) "Foreign support agreement" means:

(a) An agreement for support in a record that:

(i) Is enforceable as a support order in the country of origin;

(ii) Has been:

1. Formally drawn up or registered as an authentic instrument by a foreign tribunal; or

2. Authenticated by, or concluded, registered or filed with a foreign tribunal; and

(iii) May be reviewed and modified by a foreign tribunal; and

(b) Includes a maintenance arrangement or authentic instrument under the convention.

(7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.

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7-1061. RELATIONSHIP OF DEPARTMENT OF HEALTH AND WELFARE TO UNITED STATES CENTRAL AUTHORITY. The Idaho department of health and welfare is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

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support order drawn up by the issuing foreign tribunal, which may be in the form recommended by The Hague conference on private international law;

(b) A record stating that the support order is enforceable in the issuing country;