



Australian Government
Refugee Review Tribunal

Country Advice

Kuwait

Kuwait – KWT38627 – Apostasy – Failed
asylum seekers

28 April 2011

1. What (a) legal penalties and (b) societal punishment apply to Kuwaiti converts from Islam to Christianity in Kuwait?

It is not clear what legal penalties apply to Kuwaitis for converting from Islam to Christianity in Kuwait. Although the US State Department reported that there are laws against apostasy in Kuwait, a 2002 journal article indicated that apostasy is not considered a crime under the Constitution or Penal Law. The article noted, however, that apostates may lose personal status rights under the Family Code (law 51/1984)¹. It has also been reported that apostasy is punishable by Kuwait's religious courts. Penalties for apostasy could include a jail sentence or the payment of costs for the lawsuit. Conversion may affect an apostate's marriage, parental rights of children and succession. Concerns have been raised that Kuwaiti converts may lose their nationality, but the US State Department notes that the government cannot revoke the citizenship of a person who is born a Kuwaiti citizen, unless he/she has obtained a second nationality. Societal punishments faced by converts could include harassment, ostracism, difficulties in employment and attack by radical groups. If a conversion is not made public, however, it appears that no such difficulties are faced by the convert.

According to the *US State Department's International Religious Freedom Report 2010* the Kuwaiti constitution allows for the "absolute freedom" of belief and the freedom of religious practice in line with established customs, provided that there is no conflict with public policy or morals. It also stated that there are laws against apostasy, proselytising and blasphemy. The Kuwait government enforced the laws, particularly proselytising, although the number of situations to which they applied were limited.² The Voice of the Martyrs (VOM), a Christian group reporting on Christian human rights around the world, stated in its *Global Report 2011* that "Kuwaitis who openly convert to Christianity face harassment and arrest".³

A 2002 journal article,⁴ written by an Associate Professor in Social Anthropology at a Norwegian university, covers apostasy law in Kuwait particularly in relation to the mid-1990s case of Husayn Ali Qambar; this case is often cited by other sources as an example of an individual converting from Islam to Christianity in Kuwait. Briefly the Qambar case began in

¹ Law 51/1984 is also known as the Kuwaiti Personal Status Law and an English translation is available at: Al Awadi, Badria et al. 2009, 'Appendix No. 1: Kuwaiti Personal Status Law of 1984 and Amendments' in *Women's Rights in the Kuwaiti Personal Status Law and Bahraini Shari'a Judicial Rulings*, Freedom House, pp.15/footnote 5,198-283 <http://www.freedomhouse.org/uploads/specialreports/WRAGTheoreticalPortion-ENGLISH-full.pdf> – Accessed 21 April 2011 – Attachment 1.

² US Department of State 2010, 'Legal/Policy Framework' in *International Religious Freedom Report – Kuwait*, 17 November – Attachment 2.

³ Voice of the Martyrs (undated), *Global Report 2011*, p.16 http://www.persecution.com.au/imagesDB/paragraph/VOM_Global_Report_2011.pdf – Accessed 19 April 2011 – Attachment 8.

⁴ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, pp.257-282 – Attachment 3.

1994 when Qambar, a Shi'i, secretly left Islam to join the [National] Evangelical Church, a recognised Christian denomination in Kuwait⁵. The conversion became publicly known a year later, creating much commotion as such an event was practically unheard of in Kuwait. Following unsuccessful attempts to reconvert Qambar, an Islamist Deputy in the National Assembly called for legal sanctions to be taken against him. Consequently, an Islamist lawyer sued Qambar for apostasy and thereafter a number of people suing him for apostasy grew. Defence lawyer after defence lawyer withdrew from the case. In 1996 the Shi'i Court of First Instance tried the case and officially declared Qambar an apostate. The judge, however, warned against killing him, emphatically declaring that this would be a violation of Kuwaiti law. The men who sued Qambar assured the court they had no intention of killing the apostate, only wanting to revoke various rights, including the right to nationality. Although Qambar appealed against the hearing, he was granted a visa by the US Embassy in Kuwait and left the country before the appeal was heard. A year later it was reported that he had converted back to Islam and returned to Kuwait with all his rights.⁶ The article also mentioned that Qambar was occasionally harassed and verbally abused, however, his life was never threatened.⁷

The journal article noted that neither the constitution nor the penal law considered apostasy a crime. It also noted that tension was defused in the Qambar case when he was granted a US visa and removed from Kuwaiti jurisdiction:⁸

... Throughout the 'crisis', **the Kuwaiti authorities did not know how to deal with a citizen who has been stripped of his basic rights by the Family Law as the result of an act which neither the Penal Law nor the Constitution considers a crime.** The authorities kept a very low profile, neither acting as an aggrieved party (they never issued any judgmental pronouncements against the convert), nor intervening actively in defence of his rights (e.g. providing him with police protection against harassment and legal defence in court). When it finally acted, the state opted for the time-honoured solution of removing the apostate from the national territory and jurisdiction. In doing so, the authorities succeeded in defusing the tension and prevented a difficult situation from coming to a head; but it did not address the heart of the matter which is the conflict between European-inspired, secular public law and Shariah-based, religious personal status law...⁹

The Council on Foreign Relations (CFR) reported in 2007 that a vast majority of Muslim countries no longer prescribe the death penalty for apostates but provide a lesser form of punishment. It noted that in Kuwait, as well as in Jordan and Egypt, converts may serve time in prison.¹⁰ According to the CFR, an Islamic law expert stated in such politically

⁵ US Department of State 2010, 'Introduction' in *International Religious Freedom Report – Kuwait*, 17 November – Attachment 2.

⁶ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, pp.261-262 – Attachment 3.

⁷ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, p.269 – Attachment 3.

⁸ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, p.278/footnote 21 – Attachment 3.

⁹ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, p.278/footnote 21 – Attachment 3.

¹⁰ Beehner, Lionel 2007, 'Religious Conversion and Sharia Law', *Backgrounder*, 8 June, Council on Foreign Relations <http://www.cfr.org/malaysia/religious-conversion-sharia-law/p13552> – Accessed 19 April 2011 – Attachment 4.

embarrassing cases the authorities usually find a way not to deal with them. The report also noted that vigilante groups may take action and kill converts.¹¹

An earlier 2002 *Agence France-Presse* news article reported, in the context of two Kuwaiti prisoners converting to Christianity, that although apostasy is punishable in the country's religious courts, "a conviction carries no penalties, except to pay costs of the lawsuit". The article also reported that the prisoners' requests to see a priest were refused by a prison officer who threatened to kill them.¹²

Personal status penalties

The 2002 journal article on the Qambar case states that under Family Code of Kuwait converts lose personal status rights.¹³ The article notes that conversion under the Family Code could affect an apostate's marriage (Art. 18,145),¹⁴ parental rights of children (Art. 192)¹⁵ and succession (Art. 294).¹⁶

On the loss of nationality, the United Nations Human Rights Committee raised concerns that "the legal consequence of a conversion from Islam to another religion may result in the loss of Kuwaiti nationality".¹⁷ The US State Department indicated in its most recent human rights report, however, that the government cannot revoke the citizenship of a person who is born a Kuwaiti citizen, unless he/she has obtained a second nationality.¹⁸

Societal punishment

Christian Solidarity World (CSW), another Christian organisation working on Christian human rights, reported in 2008 that in countries such as Kuwait where shari'a law is used for personal status matters "apostates face serious penalties, such as the annulment of marriage,

¹¹ Beehner, Lionel 2007, 'Religious Conversion and Sharia Law', *Backgrounder*, 8 June, Council on Foreign Relations <http://www.cfr.org/malaysia/religious-conversion-sharia-law/p13552> – Accessed 19 April 2011 – Attachment 4.

¹² 'Kuwaitis convert to Christianity because bin Laden killed children: report' 2002, *Agence France-Presse*, 14 January – Attachment 5.

¹³ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, p.269 – Attachment 3.

¹⁴ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, pp.260-261 – Attachment 3; Al Awadi, Badria et al. 2009, 'Appendix No. 1: Kuwaiti Personal Status Law of 1984 and Amendments' in *Women's Rights in the Kuwaiti Personal Status Law and Bahraini Shari'a Judicial Rulings*, Freedom House, pp.201/Art. 18, 228/Art.145

<http://www.freedomhouse.org/uploads/specialreports/WRAGTheoreticalPortion-ENGLISH-full.pdf> – Accessed 21 April 2011 – Attachment 1.

¹⁵ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, p.261 – Attachment 3; Al Awadi, Badria et al. 2009, 'Appendix No. 1: Kuwaiti Personal Status Law of 1984 and Amendments' in *Women's Rights in the Kuwaiti Personal Status Law and Bahraini Shari'a Judicial Rulings*, Freedom House, p.240/Art. 192 <http://www.freedomhouse.org/uploads/specialreports/WRAGTheoreticalPortion-ENGLISH-full.pdf> – Accessed 21 April 2011 – Attachment 1.

¹⁶ Longva, Anh Nga 2002, 'The Apostasy Law in Kuwait and the Liberal Predicament', *Cultural Dynamics*, Vol. 14, No. 3, p.261 – Attachment 3; Al Awadi, Badria et al. 2009, 'Appendix No. 1: Kuwaiti Personal Status Law of 1984 and Amendments' in *Women's Rights in the Kuwaiti Personal Status Law and Bahraini Shari'a Judicial Rulings*, Freedom House, p.267/Art. 294 <http://www.freedomhouse.org/uploads/specialreports/WRAGTheoreticalPortion-ENGLISH-full.pdf> – Accessed 21 April 2011 – Attachment 1.

¹⁷ Human Rights Council 2010, 'Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 – Kuwait', *General Assembly*, A/HRC/WG.6/8/KWT/2, 3-14 May, p.9/para.5, UNHCR REFworld website <http://www.unhcr.org/refworld/pdfid/4c6142072.pdf> – Accessed 19 April 2011 – Attachment 6.

¹⁸ US Department of State 2011, 'd. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons' in *Country Reports on Human Rights Practices for 2010 – Kuwait*, 8 April – Attachment 7.

termination of citizenship, confiscation of identity papers and the loss of further social and economic rights.”¹⁹ It noted that there are “only a handful of known converts from Islam to Christianity in Kuwait.”²⁰ According to CSW, one such convert interviewed for the report indicated that a convert would not face difficulties if the conversion is kept quiet, however, there could be problems if the conversion is made public. The possibility of ostracism is reflected by the convert stating that his family and friends were not aware of his conversion. In the interview the convert stated that because the conversion was not made public, he was able to continue in his government employment. The CSW report states:

...One such convert, Musa*, told CSW in an interview in Kuwait City that as long as a convert keeps quiet about his faith he will be able to remain a Christian. Musa had converted from Islam some six years previously, and because none of his friends or relatives knew about his conversion, he had been able to continue in his job at a government office without difficulty. He does, however, fear that if his conversion becomes known and attracts attention from local media and devout clerics, he would have no option but to leave the country, as he may face official apostasy charges or be physical attacked by radical groups.²¹

In addition, a February 2011 interview with a pastor of the National Evangelical Church, indicated that there are lines which are not crossed when converting Muslims to Christians:

Do you win souls, do you go out to convert Muslims to Christians?

Remember I told you that this is an Islamic country that has agreed to allow us practice Christianity. There are rules guiding what we do and it is not allowed for us to do that and we have this understanding and we will not cross our boundaries.

Since you became a pastor, how many Muslims have crossed over to become Christians?

You see, I just told you there are certain things we can do and we are guided by law. Sorry, I cannot answer this question.²²

2. Are converts to evangelical forms of Christianity treated differently?

No information was found on whether converts to evangelical forms of Christianity are treated differently.

3. How are failed asylum seekers treated on return to Kuwait?

In December 2010 the Department of Foreign Affairs and Trade (DFAT) advised that UNHCR “is not aware of any law imposing a penalty or of any instance in which failed asylum seekers (including Bidoons) have been penalised by the Kuwaiti authorities.” DFAT

¹⁹ Christian Solidarity Worldwide 2008, *No place to call home: Experiences of Apostates from Islam Failures of the International Community*, p.4 – Attachment 9.

²⁰ Christian Solidarity Worldwide 2008, *No place to call home: Experiences of Apostates from Islam Failures of the International Community*, p.46 – Attachment 9.

²¹ Christian Solidarity Worldwide 2008, *No place to call home: Experiences of Apostates from Islam Failures of the International Community*, p.46 – Attachment 9.

²² Adesida, Abayomi 2011, ‘Law And Order Can Stem Religious Crises – Kuwaiti Pastor’, *All Africa*, source: Vanguard, 21 February – Attachment 10.

also noted that “A greater risk for a failed asylum seeker would be being denied re-entry to Kuwait, especially if he/she had travelled on an illegally obtained passport”.²³

4. Are failed asylum seekers who sought protection on the grounds of their religious conversion treated differently?

No information was found on whether failed asylum seekers who sought protection on the grounds of their religious conversion are treated differently.

Attachments

1. Al Awadi, Badria et al. 2009, ‘Appendix No. 1: Kuwaiti Personal Status Law of 1984 and Amendments’ in *Women’s Rights in the Kuwaiti Personal Status Law and Bahraini Shari’a Judicial Rulings*, Freedom House
<http://www.freedomhouse.org/uploads/specialreports/WRAGTheoreticalPortion-ENGLISH-full.pdf> – Accessed 21 April 2011.
2. US Department of State 2010, *International Religious Freedom Report – Kuwait*, 17 November.
3. Longva, Anh Nga 2002, ‘The Apostasy Law in Kuwait and the Liberal Predicament’, *Cultural Dynamics*, Vol. 14, No. 3, pp.257-282.
4. Beehner, Lionel 2007, ‘Religious Conversion and Sharia Law’, *Backgrounder*, 8 June, Council on Foreign Relations <http://www.cfr.org/malaysia/religious-conversion-sharia-law/p13552> – Accessed 19 April 2011.
5. ‘Kuwaitis convert to Christianity because bin Laden killed children: report’ 2002, *Agence France-Presse*, 14 January. (FACTIVA)
6. Human Rights Council 2010, ‘Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 – Kuwait’, *General Assembly*, A/HRC/WG.6/8/KWT/2, UNHCR REFworld website <http://www.unhcr.org/refworld/pdfid/4c6142072.pdf> – Accessed 19 April 2011.
7. US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – Kuwait*, 8 April.
8. Voice of the Martyrs (undated), *Global Report 2011*
http://www.persecution.com.au/imagesDB/paragraph/VOM_Global_Report_2011.pdf – Accessed 19 April 2011.
9. Christian Solidarity Worldwide 2008, *No place to call home: Experiences of Apostates from Islam Failures of the International Community*.
10. Adesida, Abayomi 2011, ‘Law And Order Can Stem Religious Crises – Kuwaiti Pastor’, *All Africa*, source: Vanguard, 21 February. (FACTIVA)
11. Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1226 – MRT/RRT Information Request: KWT37848*, 21 December.

²³ Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1226 – MRT/RRT Information Request: KWT37848*, 21 December – Attachment 11.