

UNIVERSAL PERIODIC REVIEW 2009

KUWAIT

NGO: European Centre for Law and Justice
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RELIGIOUS FREEDOM IN KUWAIT

SECTION 1: *Legal Framework*

I. Constitutional Provisions

The Constitution of Kuwait establishes Islam as the State religion and mandates that “Islamic Shari’a [] be a main source of legislation.”¹ The Constitution also provides, however, for the “absolute freedom of belief” and “protects the freedom of practicing religion in accordance with established customs, provided that it does not conflict with public policy or morals.”² The government in Kuwait, however, does place limitations on how those beliefs are practiced,³ as discussed below. Overall, both Kuwait’s citizens and its government are tolerant of all religious groups,⁴ and there are few reports of religious persecution. A minority does oppose the presence of non-Muslim groups, but “most observers agreed that [religious discrimination] was neither systematic nor widespread.”⁵

The United States Commission on International Religious Freedom did not list Kuwait as a country of “particular concern,” on the “watch list,” or as an “additional country to be monitored” in the Commission’s 2009 report.⁶

II. Legislation

The government of Kuwait “exercises direct control of Sunni religious institutions” through appointments of imams, monitoring sermons, and financing the staff and building of mosques.⁷ Blasphemy, apostasy, and proselytizing of Muslims by non-Muslims are all prohibited.⁸ Moreover, the government denies non-Muslim immigrants the right to naturalize in Kuwait.⁹ The government, however, “actively supports Sunni Muslim Proselytism.”¹⁰ And although the

¹ CONST. OF KUWAIT, art. 2, available at <http://www.pm.gov.kw/constitution.asp#start>.

² CONST. OF KUWAIT, art. 35, available at <http://www.pm.gov.kw/constitution.asp#start>.

³ U.S. Dep’t of State, Bureau of Democracy, Human Rights and Labor, *Int’l Religious Freedom Report 2009 – Kuwait* (Oct. 26, 2009) [hereinafter *2009 Religious Freedom Report*], available at <http://www.state.gov/g/drl/rls/irf/2009/127351.htm>.

⁴ *Id.*

⁵ *Id.*

⁶ United States Commission on Int’l Religious Freedom, *USCIRF Annual Report 2009*, May 1, 2009, available at <http://www.uscirtf.gov/images/AR2009/final%20ar2009%20with%20cover.pdf>.

⁷ *2009 Religious Freedom Report*, supra note 3.

⁸ *Id.*

⁹ *Id.* The Report did note that there is a small community of acknowledged Christian citizens, approximating 150-200. Additionally, Christian citizens are permitted to transmit their citizenship to their descendants. *Id.*

¹⁰ *Id.*

government has not recently prosecuted anyone for converting from Islam, past converts have faced harassment from police, abuse, property damage, and “would likely face legal problems in personal status and property matters.”¹¹ Furthermore, the law punishes any denigration of Islam.¹² Through such laws, the government of Kuwait clearly carries out the Constitutional provision mandating that Islam (Sunni) be the State religion.

Other religious groups, such as Shi’a Muslims, Catholics, and a few Christian denominations, are prominent in Kuwait and largely enjoy freedom to practice their religion without interference. Some groups, including Shi’a Muslims, National Evangelical, Catholic, Anglican, Coptic Orthodox, Orthodox, Greek Catholic, and Armenian Orthodox, are given the status of “official recognition” by the Ministry of Awqaf and Islamic Affairs. This status enables these groups to gain easier access to building permits, visas, and security forces.¹³ Some Shi’a Muslims, however, maintain that the government is “slow” in approving the construction of new Mosques leading to a shortage of available worship space.¹⁴ Overall, however, most religious groups found the government to be “generally supportive of their presence.”¹⁵ For example, although some Christians groups found it “impossible to gain official recognition,” and thus were forced to worship at unofficial sites, “[t]he government did not interfere with such private gatherings.”¹⁶ Other unrecognized groups include Baha’i, Buddhists, Hindus, and Sikhs.¹⁷

The government, while respecting the existence of most religions, does limit their practice.¹⁸ As mentioned above, many of the recognized groups are denied additional building permits even though their current facilities are overcrowded.¹⁹ This limitation is prevalent among Shi’a Muslims, who only have 35 Mosques compared to over 1,100 Sunni Mosques.²⁰ The government places quotas on the number of clergy and staff permitted for recognized groups to bring in from outside the country; most groups deem this number to be insufficient.²¹ Also, the establishment of non-Muslim religious publishing companies and training institutions is generally prohibited.²² Some churches, however, published religious material for their congregations, and one private company, the Book House Company, was “permitted to import Bibles and other Christian religious materials.”²³

Finally, the law prohibits Muslim women from marrying non-Muslim men, but allows Muslim men to marry non-Muslim women.²⁴ Although not required by law to convert, the non-

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ United Kingdom Home Office, *Country of Origin Information Report – Kuwait*, 34 (Feb. 18, 2008) [hereinafter *UK Report*], available at http://www.homeoffice.gov.uk/rds/country_reports.html#countries.

¹⁹ *Id.*; see also *2009 Religious Freedom Report*, *supra* note 3.

²⁰ *2009 Religious Freedom Report*, *supra* note 3.

²¹ *Id.*

²² *Id.*; see also *UK Report*, *supra* note 18.

²³ *2009 Religious Freedom Report*, *supra* note 3.

²⁴ *Id.*; see also *UK Report*, *supra* note 18.

Muslim women often face strong pressure to convert before marriage.²⁵ If they refuse, it is likely that the women will lose custody of their children and inheritance rights in the event of a divorce.²⁶

III. Judicial System

Article 163 of the Constitution requires the judiciary to be independent and mandates that judges not be “subject to any authority.”²⁷ Both civil and criminal cases originate in the secular “Court of First Instance,” which is composed of a three-judge panel.²⁸ Appeals are directed to another three-judge panel, the High Court of Appeals, which has power to rule on both the guilt/innocence of the defendant and whether the law was applied properly.²⁹ Appeals from this court go to the highest court, the Court of Cassation, which consists of five judges who have power to review only on whether the law was applied properly.³⁰ Other special courts govern particular aspects of the law. For example, both Sunni and Shia Shari’ah courts govern family cases involving Muslims.³¹ The Constitutional Court, which consists of senior members of the civil judiciary, has power to “issue binding rulings concerning the constitutionality of laws and regulations.”³² The Martial Court convenes only when the Amir, the Head of State, declares martial law.³³

Article 34 of the Constitution provides the accused with a presumption of innocence and forbids “the infliction of physical or moral injury on an accused person.”³⁴ Although there is no trial by jury, law requires that all defendants be provided with legal counsel in felony cases.³⁵ In addition, indigent defendants must be provided with legal counsel at the request of the court.³⁶ These protections are offered to all citizens.³⁷

SECTION 2: *Incidents of Religious Persecution and Discrimination*

Selected Recent Incidents of Persecution or Discrimination

1. February 2008—security forces “summoned 1,500 people, mostly Shiites,” for participating in a public mourning event for a slain leader of Hezbollah.³⁸

²⁵ 2009 *Religious Freedom Report*, *supra* note 3.

²⁶ *Id.*

²⁷ CONST. OF KUWAIT, art. 163, available at <http://www.pm.gov.kw/constitution.asp#start>.

²⁸ U.S. Dep’t of State, Bureau of Democracy, Human Rights and Labor, 2008 *Country Reports on Human Rights Practices – Kuwait*, (Feb. 25, 2009) [hereinafter *Human Rights Practices*], available at <http://www.state.gov/g/drl/rls/hrrpt/2008/nea/119119.htm>.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Human Rights Practices*, *supra* note 28.

³⁴ CONST. OF KUWAIT, art. 34, available at <http://www.pm.gov.kw/constitution.asp#start>.

³⁵ *Human Rights Practices*, *supra* note 28.

³⁶ *Human Rights Practices*, *supra* note 28.

³⁷ *Human Rights Practices*, *supra* note 28.

³⁸ Freedom House, *Freedom in the World 2009 – Kuwait*, July 16, 2009, available at <http://www.unhcr.org/refworld/country,COI,FREEHOU,,KWT,,4a6452a732,0.html>.

2. November 2008—“At the annual book fair held at the International Fairgrounds . . . , the Ministry of Information banned approximately 500 books that it deemed ‘radical’ or ‘extremist.’ Some of these books were associated with the Salafi movement in Islam.”³⁹
3. Many Mosque preachers use anti-Semitic speech and a columnist, Dr. Ahmad Duaij, wrote several anti-Semitic articles which denied the Holocaust.⁴⁰

³⁹ 2009 *Religious Freedom Report*, *supra* note 3.

⁴⁰ *Id.*