

KUWAIT

Hussein Qambar 'Ali: Death threats

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On 29 May 1996, a Kuwaiti Islamic court declared “Robert” Hussein Qambar 'Ali, a convert to Christianity, an apostate. This is the first legal case of its kind in Kuwait.

Hussein Qambar 'Ali, a 45-year-old Kuwaiti businessman, converted from Islam to Christianity more than a year ago. In his interviews with the news agencies, Reuters and Agence France Presse (AFP), in March 1996, he said that since reports about his conversion had appeared, he had received numerous death threats and was in constant fear for his life. His conversion was also reportedly denounced in Kuwaiti mosques by preachers and in parliament by some Islamist members of parliament. According to Reuters he said that he was forced to change his accommodation often as a security measure and that his marriage had broken up because of family opposition to his conversion.

A law suit to declare him an apostate and strip him of his civil rights was brought against him by three independent Islamist lawyers. Hussein Qambar 'Ali first appeared in an Islamic family court, which has jurisdiction over personal status and family matters, on 6 March 1996 to answer the case against him. Representing himself, he confirmed that he had become a Christian and proposed changing his name to “Robert Hussein”, but he insisted to the three-judge panel that it had no jurisdiction in the case. He asked for his case to be sent to the Constitutional Court on the grounds that Article 35 of the Kuwaiti Constitution allows for freedom of thought and belief.¹

At a further hearing before the Islamic court on 24 April, the case against Hussein Qambar 'Ali was led by 'Abd al-Latif al-Saleh and Mohammad al-Jadai, who called for Hussein Qambar 'Ali to be stripped of his nationality and civil rights for offending against Islamic Law by abandoning his Islamic faith. Hussein Qambar 'Ali, conducting his own defence, reportedly argued again that the charges against him should be put before the Constitutional Court. He was reported to have said that he felt he was being punished as if the court had already found him guilty of apostasy. He added, “...for six months I haven't seen my kids, my family, my home. I blame the Kuwaiti Government. They do not come forward and say ‘this man is protected by the Constitution’”. He

¹ Article 35 states: “Freedom of belief is absolute. The state protects the freedom of practising religion in accordance with established customs, provided that it does not conflict with public policy or morals”.

was also reported to have told AFP that there were few lawyers willing to defend him and even then they asked for exorbitant fees of up to one million dollars, which he was unable to pay.

Following a hearing on 29 May, the Islamic court declared Hussein Qambar 'Ali an apostate and ordered him to pay the costs of the case. The presiding judge of the Islamic court, Ja'far al-Mazidi, was later asked by the press if the ruling would be taken as permission to kill Hussein Qambar 'Ali. He was reported to have replied, "that is possible" but added that killing an apostate would be a violation of Kuwaiti criminal law. Judge Mazidi is reported to have explained that there was no legal penalty for apostasy under criminal law in Kuwait although there was in Islamic law. Regarding Hussein Qambar 'Ali's request for the case to be sent to the Constitutional Court, the Islamic court's verdict reportedly stated the following:

"According to his memorandum, the defendant maintains that the court is incompetent to decide his case due to Constitutional issues, however, the court finds that apostasy is covered in the constitution.

The defendant has a narrow point of view and does not clearly understand the provision and articles of the constitution which focus on freedom of religion and its rituals. These constitutional freedoms stem from Muhammad's teaching. The constitution respects freedom of religion without fear of being closely monitored, but it does not mean that a Muslim should be allowed to convert from his religion to another. Everyone understands that there is a clear difference between these two points. In fact what the plaintiff said was right, "If the case is elevated to the constitutional court it will not make any difference", because his conversion is absolute, and because he confessed by his tongue and by his actions. There is no dispute about it. "The witness is his own testimony". He did not deny it. He stressed firmly more than once and he did not produce any new evidence to contradict the charges".

The three lawyers who brought the law suit against him were reported to have said that they did not want Hussein Qambar 'Ali killed but wanted him stripped of some civil rights, including his Kuwaiti nationality. When asked about this, Judge Mazidi is reported to have replied, "Those demands can be addressed by a civil court". Hussein Qambar 'Ali lodged an appeal against the Islamic court decision to the Court of Appeal. The first hearing is due to take place on 15 September 1996.

Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which Kuwait ratified in May 1996, upholds freedom of religion, including the right to change one's religion.² Amnesty International has noted that, according to its information, Hussein Qambar 'Ali is not facing any penalty imposed by the Kuwaiti authorities. It is, however, concerned that a state institution, such as an Islamic family court, has labelled him an "apostate", which has legal consequences in Islamic law, and which may make him a target for human rights abuses by

² General comment 22 (48) on "Freedom to have or to adopt a religion or belief", made by the United Nations Human Rights Committee on 20 July 1993 expressly recognizes that Article 18 of the ICCPR entails the right to replace one's current religion or belief with another, or to adopt atheistic views.

non-governmental actors. In this regard, Amnesty International is extremely concerned at the reports that Hussein Qambar 'Ali has received death threats following statements from religious figures that apostates from Islam should be punished by death. It has also been reported that earlier this year, a member of the National Assembly said, during a speech before that body, that Hussein Qambar 'Ali should be stoned to death. These threats are all the more worrying in the light of the court's subsequent verdict declaring Hussein Qambar 'Ali to be an apostate.

On 8 July 1996, following press coverage of the case in the United Kingdom, the Embassy of the State of Kuwait issued a press release which stressed that Hussein Qambar 'Ali had not received a death sentence by being labelled an "apostate"; that the Kuwaiti Constitution guarantees freedom of faith; and that Kuwaiti law does not punish a person in Kuwait who converts from Islam to another faith. It also stated that the Kuwaiti authorities had not received any complaints from Hussein Qambar 'Ali regarding his well-being, nor were they aware of there having been any threats against his life. Should any such threats be made public, the statement said, the relevant authorities in the country would take appropriate measures to ensure Hussein Qambar 'Ali's safety.

According to a Reuters report on 11 July 1996, the English-language newspaper, Kuwait Times, reported that Hussein Qambar 'Ali's safety was guaranteed by the Kuwaiti Government, as outlined in a letter to the Foreign Ministry, dated 3 July, from the government's department of legal advice and legislation, which said:

"It (the government) protects the freedom of practising the rituals of the three heavenly religions, Islam, Christianity and Judaism, and does not prevent individuals from practising other religions, including Christianity.

As to what has been said about this Kuwaiti citizen being subjected to persecution and death threats due to his conversion from Islam to Christianity, this is baseless."

Amnesty International wrote to the Kuwaiti authorities on 21 March 1996 urging them to take all necessary and appropriate steps to ensure Hussein Qambar 'Ali's safety. Specifically such steps should include:

- publicly affirming Hussein Qambar 'Ali's right to safety, and ensuring that he is protected from harm;
- investigating any threats made against Hussein Qambar 'Ali, and bringing to justice anyone found responsible.

Hussein Qambar 'Ali

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