



Australian Government
Refugee Review Tribunal

Country Advice

Jordan

Jordan – JOR38422 – Christian – Sharia
Law – Deportation

31 March 2011

1. How does the Jordanian government accord primacy to Shari'a law? Please refer to the law/s or policies that accord primacy to Shari'a law. Is it a jurisdictional question and/or an application of primacy?

Sources suggest it is a question of jurisdiction. The Jordanian constitution stipulates that courts shall be divided into three categories: Civil Courts, Religious Courts, and Special Courts.¹ Religious Courts have jurisdiction over matters of personal status while Civil Courts have jurisdiction over all other matters including civil and criminal matters. The Religious Courts are divided into the Sharia Courts and the 'Tribunals of other Religious Communities'. Matters of personal status for Muslims fall within the exclusive jurisdiction of Sharia Courts:

(i) The Civil Courts shall exercise their jurisdiction in respect of civil and criminal matters in accordance with the law for the time being in force in the Kingdom, provided that in matters affecting the personal status of foreigners or in matters of a civil or commercial nature which in accordance with international usage are governed by the law of another country, such law shall be applied in the manner designated by the law.

(ii) Matters of personal status are those which are defined by law and in accordance therewith fall within the exclusive jurisdiction of the Sharia Courts where the parties are Moslems.²

The Sharia Courts have exclusive jurisdiction in respect of the following matters:

(i) Matters of personal status of Moslems.

(ii) Cases concerning blood money (Diya) where the two parties are Moslems or where one of the parties is not a Moslem and the two parties consent to the jurisdiction of the Sharia Courts.

(iii) Matters pertaining to Islamic *Waqfs* [a religious endowment in Islam, typically a building or plot of land for Muslim religious or charitable purposes].³

Matters of personal status can include marriage, divorce, inheritance, alimony, interdiction and guardianship cases for citizens desiring Muslim interpretation rather than civil decisions.^{4 5}

¹ 'Chapter Six – The Judiciary' (undated), King Hussein Tribute website http://www.kinghussein.gov.jo/const_ch6-7.html – Accessed 25 March 2011 – Attachment 1

² 'Chapter Six – The Judiciary' (undated), King Hussein Tribute website http://www.kinghussein.gov.jo/const_ch6-7.html – Accessed 25 March 2011 – Attachment 1

³ 'Chapter Six – The Judiciary' (undated), King Hussein Tribute website http://www.kinghussein.gov.jo/const_ch6-7.html – Accessed 25 March 2011 – Attachment 1

With regard to the ‘Tribunals of other Religious Communities’:

(i) Tribunals of Religious Communities shall be established in conformity with the provisions of laws pertaining thereto. Such laws shall define the jurisdiction of such Tribunals in matters of personal status and *Waqfs* constituted for the benefit of the community concerned. Matters of personal status of any such community shall be the same matters as are, in the case of Moslems, within the jurisdiction of the Sharia Courts.

(ii) Such laws shall determine the procedure to be followed by the Tribunals of the Religious Communities.⁶

Persons who are not of the same religion and who do not expressly consent to the jurisdiction of a religious court may bring their dispute to the civil court which has the appropriate jurisdiction.⁷

In October 2010, the United Nations Human Rights Committee commented that “on matters related to personal and civil status, it was the Sharia that applied for Muslims, and canonical law for Christians”. This included on matters of inheritance, though “this did not preclude the possibility for a testator to leave inheritance to an apostate if they were mentioned as an heir in the will”.⁸

The Committee added that “Islamic Shari’a and the Constitution of Jordan ensured the free exercise of religious rituals, and it was the State’s responsibility to protect these freedoms”. With regard to the labelling of people as apostates, the Committee stated “Jordan did not sanction this in any circumstances, and there were no criminal proceedings that could be taken against the person involved. According to domestic law and the Constitution, as well as the instruments to which Jordan had adhered, this person enjoyed all civil and political rights”.⁹

2. Do Sharia courts have the authority to prosecute proselytisers? Where is that law found?

Further to the US DOS report cited in the previous response (JOR38218) which said that Sharia courts have the authority to prosecute proselytizers, little further information was found.¹⁰ Other sources were located which cited the US DOS report.¹¹ No information was found on where this law may be located.

⁴ ‘Jordan - Legal’ 1999, Infoprod Research website <http://www.infoprod.co.il/country/jordan2a.htm> – Accessed 25 March 2011 – Attachment 2

⁵ ‘Government, Judiciary’ (undated), Countries Quest website http://www.countriesquest.com/middle_east/jordan/government/judiciary.htm – Accessed 25 March 2011 – Attachment 3

⁶ ‘Chapter Six – The Judiciary’ (undated), King Hussein Tribute website http://www.kinghussein.gov.jo/const_ch6-7.html – Accessed 25 March 2011 – Attachment 1

⁷ ‘Jordan - Legal’ 1999, Infoprod Research website <http://www.infoprod.co.il/country/jordan2a.htm> – Accessed 25 March 2011 – Attachment 2

⁸ ‘Human Rights Committee Considers Report of Jordan’ 2010, United Nations Office at Geneva (UNOG) website, 14 October – Attachment 4

⁹ ‘Human Rights Committee Considers Report of Jordan’ 2010, United Nations Office at Geneva (UNOG) website, 14 October – Attachment 4

¹⁰ US Department of State 2008, *International Religious Freedom Report 2008 – Jordan*, 19 September – Attachment 5

¹¹ ‘Eight arrested in Jordan for Christian proselytizing’ 2008, Jihad Watch website <http://www.jihadwatch.org/2008/02/eight-arrested-in-jordan-for-christian-proselytizing.html> – Accessed 25 March 2011 – Attachment 6

While Sharia courts have the authority to prosecute proselytisers, this authority only extends to those proselytisers who are Muslim as the Courts only have jurisdiction over matters of personal status for Muslims. This would suggest that prosecution rarely happens as most proselytisers of non-Muslim religions are likely to be non-Muslims.¹² It should be noted, however, that those who had converted from Islam to other religions are still susceptible to be prosecuted by Sharia Courts because, according to Sharia Law, converts from Islam are still considered Muslims when it comes to matters of personal status, coming under Sharia Courts' jurisdiction rather than the jurisdiction of their new religion's laws.¹³ As mentioned in Question 1, the Acts stipulating the jurisdiction of the Sharia Courts are found in the Jordanian constitution.¹⁴

3. Reports in late 2007 and early 2008 included in Country Advice JOR38218, indicate that approximately 30 foreign resident members of evangelical churches were deported, refused renewal of residency permits, or denied re-entry after exiting the country. The government cited as the reasons for these decisions concern for the evangelicals' personal safety, violation of immigration regulations, and unspecified unlawful actions while in the country. Is there any further information that can be obtained about the "unlawful aspects" of their conduct?

Sources suggest that the aspects of the church members' conduct that were described by the Government as 'unlawful' were in relation to carrying out missionary activities. They were also accused of residing in the country unlawfully.

Several Christian websites discussed the deportations, though many reprinted the same article. The Crosswalks website reported that the then-acting Foreign Minister, Nasser Judeh told the Jordanian Parliament that the church members "broke the law and did missionary activities". However, the Minister did not identify any groups that had been carrying out the missionary activities, nor did he specify the details of these activities to Parliament.¹⁵ A Government spokesman stated that the deported included those who had broken the law or had been dishonest in their application for residency. The spokesman added "[t]here have been incidents where individuals have violated the legal terms of their residence in the country or have deeply offended religious and public sensibilities, or both". In a written explanation for the deportation of a Finnish pastor, Jordan's Foreign Ministry stated that the pastor had posed a threat to the country's social stability, had been illegally residing in the kingdom, and was in personal danger.¹⁶

Christianity Today cites an earlier *Compass Direct* article (which appears to have been removed from the website) stating that the Foreign Minister had said that authorities had expelled "missionaries operating 'under the cover of doing charitable work'". The article argues that the expulsion suggests that evangelistic activity is seen as illegal by the Jordanian Government, which it states puts the country open to accusations of violating of Article 18 of the International

¹² 'Chapter Six – The Judiciary' (undated), King Hussein Tribute website http://www.kinghussein.gov.jo/const_ch6-7.html – Accessed 25 March 2011 – Attachment 1

¹³ US Department of State 2003, *International Religious Freedom Report 2003 – Jordan*, 18 December – Attachment 7

¹⁴ 'Chapter Six – The Judiciary' (undated), King Hussein Tribute website http://www.kinghussein.gov.jo/const_ch6-7.html – Accessed 25 March 2011 – Attachment 1

¹⁵ Reynolds, J. 2008, 'Jordan Departs Evangelical Christians', Crosswalks website <http://www.crosswalk.com/news/religiontoday/11570428/> – Accessed 14 February 2011 – Attachment 7

¹⁶ Lamprecht, P. 2008, 'Jordan tallied 27 Christian expulsions in '07', The Christian Index website <http://www.christianindex.org/4171.article> – Accessed 25 March 2011 – Attachment 8

Covenant on Civil and Political Rights, “which the country published in its official Gazette in July 2006, giving it the force of law”.¹⁷

John Nour, Secretary of the Council of Church Leaders of Jordan was quoted in Crosswalks saying that the church members had been “deported for breaking the law by passing out Bibles in Muslim areas”. This was despite the members having permission to work under registered evangelical churches. Elsewhere in the Crosswalks article, however, Nour states “[t]he government said they have their own reasons to kick them out, but personally I don’t know why”. The Government gave the Council a paper about why the foreign church members had been deported, which reportedly stated that “[n]one of them were working legally under a church name, and if they were working under a (registered) church in the country, they were not doing what they were supposed to do”.¹⁸

Nour is alleged to have further stated that as a church member, “according to the law you are not allowed to go out and reach Muslims”. However, he was said to have then “modified this statement”, saying that everyone in Jordan was free to share their faith with anyone who came to a church to request information. He also reiterated that all Jordanian citizens were guaranteed freedom of religion as long as it did not “interfere with other religions”.¹⁹

During the arrests, the deported church members claim that authorities did not give them details of their alleged crimes. The Christian Index website claims that in all but the aforementioned case, “officials refused to provide written explanations for the decisions”. Many expelled church members had said that they had been questioned by intelligence officers regarding the evangelising of Muslims. One deportee recounted being told that he was “a threat to Jordanian security” and “making the society unstable”.²⁰ Another was accused of using her identity as a student, studying Arabic to conceal her work evangelizing Muslims because she attended an Arabic speaking church.²¹ A pastor with the Nazarene Church stated that expelling church members “without giving a reason communicates that our churches are not legitimate”, despite the Nazarene Church being recognised as a legal entity in Jordan.²²

Attachments

1. ‘Chapter Six – The Judiciary’ (undated), King Hussein Tribute website
http://www.kinghussein.gov.jo/const_ch6-7.html – Accessed 25 March 2011.
2. ‘Jordan - Legal’ 1999, Infoprod Research website
<http://www.infoprod.co.il/country/jordan2a.htm> – Accessed 25 March 2011.

¹⁷ Morgan, T. 2008, ‘Jordan kicks out evangelicals. Will Bush complain?’, *Christianity Today*, 4 March
http://blog.christianitytoday.com/ctliveblog/archives/2008/03/jordan_kicks_ou_1.html – Accessed 25 March 2011 0 Attachment 9

¹⁸ Reynolds, J. 2008, ‘Jordan Deports Evangelical Christians’, Crosswalks website
<http://www.crosswalk.com/news/religiontoday/11570428/> – Accessed 14 February 2011 – Attachment 7

¹⁹ Reynolds, J. 2008, ‘Jordan Deports Evangelical Christians’, Crosswalks website
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²⁰ Lamprecht, P. 2008, ‘Jordan tallied 27 Christian expulsions in ‘07’, The Christian Index website
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²¹ Reynolds, J. 2008, ‘Jordan Deports Evangelical Christians’, Crosswalks website
<http://www.crosswalk.com/news/religiontoday/11570428/> – Accessed 14 February 2011 – Attachment 7

²² Lamprecht, P. 2008, ‘Jordan tallied 27 Christian expulsions in ‘07’, The Christian Index website
<http://www.christianindex.org/4171.article> – Accessed 25 March 2011 – Attachment 8

3. 'Government, Judiciary' (undated), Countries Quest website
http://www.countriesquest.com/middle_east/jordan/government/judiciary.htm – Accessed 25 March 2011.
4. 'Human Rights Committee Considers Report of Jordan' 2010, United Nations Office at Geneva (UNOG) website, 14 October. (CISNET – Jordan: CX254128)
5. US Department of State 2008, *International Religious Freedom Report 2008 – Jordan*, 19 September.
6. 'Eight arrested in Jordan for Christian proselytizing' 2008, Jihad Watch website
<http://www.jihadwatch.org/2008/02/eight-arrested-in-jordan-for-christian-proselytizing.html> – Accessed 25 March 2011.
7. Reynolds, J. 2008, 'Jordan Deports Evangelical Christians', Crosswalks website
<http://www.crosswalk.com/news/religiontoday/11570428/> – Accessed 14 February 2011.
8. Lamprecht, P. 2008, 'Jordan tallied 27 Christian expulsions in '07', The Christian Index website <http://www.christianindex.org/4171.article> – Accessed 25 March 2011.
9. Morgan, T. 2008, 'Jordan kicks out evangelicals. Will Bush complain?', *Christianity Today*, 4 March
http://blog.christianitytoday.com/ctliveblog/archives/2008/03/jordan_kicks_ou_1.html – Accessed 25 March 2011.