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Proposed unified law for houses of worship is a revised version of the Hamayouni Decree

Memo to the Prime Minister

The Cairo Institute for Human Rights Studies (CIHRS) urges the Cabinet to withdraw the bill on houses of worship, which has been put before the public and recognized religious establishments for consideration and debate.

CIHRS believes that the lofty goals motivating many to call for a unified set of rules regulating the construction of houses of worship, regardless of the religion, sect, or belief of their adherents, will not be achieved by this bill. The bill appears to have been hastily composed without adequate consideration in a desperate attempt to limit growing sectarian tensions, which threaten to provoke civil conflict between Muslims and Copts. Indeed, bigotry and religious extremism have reached the point where three churches were burned in the space of a few weeks, a precedent perhaps unseen in Egypt since the Islamic conquest.

The call for a unified law on houses of worship is predicated on the right to equality and a desire to promote the values of citizenship among adherents of different faiths and religions. As such, rules must be devised that end the various discriminatory restrictions on the right to worship faced by those who belong to religions, faiths, and confessions other than that of the official state religion embraced by the majority of citizens.

However, the bill before us now utterly fails to dispel the foundations of prejudice experienced by religious minorities, particularly Copts, who had hoped to see the institution of licensing procedures for the construction, reparation, or expansion of their houses of worship made identical to those governing construction by their Muslim peers. Instead of ending restrictions, however, this bill imposes crippling conditions for the construction of houses of worship, which undermine the right to worship of all Egyptians of all religious affiliations, even if the restrictions were to be applied without discrimination.

Thus, CIHRS believes the bill should be withdrawn in its entirety and cautions that passing or only partially amending it will exacerbate religious and sectarian tensions. The inadequacy of the bill is evidenced by the widespread criticism facing it, both from Copts, who have historically experienced hardships in this area, and from Muslims, who have never faced a problem in building houses of worship or exercising their faith, even in places outside of mosques and prayer corners such as in public squares and roads, government offices, and the home.

CIHRS rejects the bill for the following reasons:

1. In contrast to its stated objective, the bill in fact cements violations of the principles of equality and provides a legal basis by which to undermine the values of citizenship and equality and to deny the right to worship in legally licensed houses of worship. The provisions of the bill are directed explicitly at recognized religious confessions in Egypt, which means that no consideration is given to the exercise of these rights by followers of religions or sects unrecognized by Islamic jurisprudence, or the official Sunni religious establishment, or representatives of the Coptic Church. Thus, the law does not uphold the right of adherents to other religions, such as Baha'is, to freely worship. Indeed, it may give al-Azhar control over the right of the Shiite minority to build houses of worship; it may also deny Christian sects unaffiliated with any recognized church in Egypt the right to build houses of worship for their congregations.

2. The bill imposes impossible conditions for the licensing of houses of worship, which in practice will only permit the construction of churches—and mosques—outside city limits, with the possible exception of the new cities. The bill prohibits the construction of any house of worship on a plot of land less than 1,000 meters, a condition that is difficult to meet inside many cities and neighborhoods and entails exorbitant costs for land purchase and construction. This is exacerbated by a second condition that mandates a distance of at least 1,000 meters between houses of worship, which will prevent the construction of new houses of worship in existing neighborhoods and villages and will compel those seeking to build a house of worship to choose a location outside the city or village limits. As a result, both Muslims and Christians will be forced to traverse unduly long distances to exercise their right to worship.

CIHRS understands the logic behind requiring a reasonable distance between houses of worship, as it may reduce the tensions that feed bigotry and religious extremism which have grown in recent decades. Yet dealing with this issue requires seriously addressing the roots of religious bigotry rather than merely mandating a prescribed distance between buildings used for worship. Imposing restrictions that in practice deny people the right to worship will only exacerbate religious bigotry and prompt people to find new ways of circumventing these restrictions. In turn, religious minorities and their houses of worship will become constant targets for attacks by bigots from the majority, who arrogate to themselves the right to impose a form of tutelage over the minority and to bring them to account, punishing the minority outside the law if the minority maneuvers around an unjust law that prevents the exercise of religion. Egyptians have lived in peace for long periods with their churches and mosques in close proximity. Moreover, both the Hamayouni Decree, issued by the Ottoman state more than 150 years ago, and decrees issued in the 1930s by al-Izabi Pasha from his position within the Interior Ministry, which formed the basis for discrimination against

Copts in the construction of houses of worship, only mandated a 100-meter distance between houses of worship.

3. The bill gives governors, within the jurisdiction of their governorates, the authority to license the construction, demolition, replacement, reconstruction, expansion, or repair of houses of worship after consultation with the competent planning and regulatory authority in accordance with building codes. Yet although the law gives governors the authority to deny licensing applications, it establishes no clear standards for approval or rejection, allowing governors to facilitate or complicate applications based on personal whim, pressures, and religious or political calculations. The absence of clear criteria for the acceptance or rejection of licensing requests is even more serious in light of the fact that the bill contains no provision granting applicants the right to contest arbitrary actions before the judiciary. In essence, this bill resurrects the Hamayouni Decree, which made Copts' right to build or repair churches dependent on an order from the Ottoman sultan, with the difference that the decree in this case will be issued by the governor in accordance with conditions that are even more prejudicial and which harm both Copts and Muslims.

CIHRS urges the Prime Minister to withdraw this bill. In addition, until an appropriate, effective law can be passed, CIHRS stresses the need for rapid non-legislative measures to be taken to mitigate the legal, procedural, administrative, or security obstacles that prevent the construction of new houses of worship for Copts, the operation or inauguration of already existing churches, or the resumption of construction on churches that was suspended pursuant to directives from the former State Security apparatus, either due to pressure from militant Islamic groups or on the grounds that said constructions circumvent the law.