Despite scattered demands for unified legislation governing the construction of all houses of worship, Egypt continues to maintain differing legal schemes for church and mosque construction.

In August 2016, Egypt’s House of Representatives passed a new church construction law with the support of Egyptian religious leaders.

The new law does not necessarily improve or change procedures, but rather, continues to further an unequal construction scheme.

EGYPT’S NEWEST CHURCH LAW

In August 2016, the House of Representatives passed a new church construction law according to its mandate under Article 235 of the Constitution. Several members of the parliament, parties, and coalitions had introduced draft proposals, but the law that ultimately passed was a direct result of negotiations between the cabinet and the leaders of Egypt’s three recognized churches (Coptic Orthodox, Catholic, and Protestant).

Law 80 of 2016 is designed to govern the process for obtaining government approval to construct, renovate, or demolish churches and property associated with Christian houses of worship. Denominations are required to submit their requests to provincial governors, and governors are to approve requests within four months or explain their rejections. The law explains that the size and needs of the local Christian community are to be taken into consideration during the review of requests. However, the law does not specify procedures for governors who fail to respond to requests within the set time period, nor does it streamline the process with the approval of other permits—civil building permits or health permits, for example—that are often withheld from Christians seeking to build, expand, or renovate places of worship and their associated buildings. The law does say that churches built without presidential or gubernatorial permission between 2011 and 2016 should be allowed to stand and granted paperwork, and a ministerial committee was formed to review such cases in January 2017.

THE HISTORY OF CHURCH CONSTRUCTION LAWS IN EGYPT

Prior to the passing of this law, the Hamayouni Law of 1856 and the 1934 Azabi Decree, as well as a slew of various presidential decrees, governed the construction, building, and renovation of churches (and synagogues) in Egypt. The Hamayouni Law mandated that the sultan (later the king and then the president) would have to approve the building and renovation of every church and issue a royal (or presidential) decree formalizing every such approval. The Azabi Decree, a ministerial decision, established ten requirements for every church construction project, including a requisite distance between every mosque and church and the approval of local Muslims in any Muslim-majority neighborhood. Construction of churches also had to maintain distance from local Muslim homes and graves and required explicit permission from the relevant irrigation or transportation authorities for churches constructed near railroads, bridges, and public utilities.

In 2013, an administrative court repealed Presidential Decree 291 of 2005 which had reaffirmed almost all of the principles of the Hamayouni Law and Azabi Decree, but also delegated the president’s authority to grant permits to governors. (This decree also repealed a previous decree—453 of 1999—that theoretically, though not practically, unified the laws for both mosques and churches.) In its repeal of Decree 291 of 2005, the court stated that only the president could issue permits according to the Hamayouni Law. The court’s decision also asserted that the Hamayouni Law was not abrogated or cancelled by any other later law. Notably, the newest iteration of the construction law does not explicitly (or implicitly) repeal these requirements.

Faced with the refusal or ignoring of application requests, some communities have opted to use private homes or buildings for purposes of worship. Local authorities have cracked down on unlicensed religious gatherings in the past, and rumors of such gatherings continue to spark violent sectarian conflicts, even since the new law’s passing. Other communities that suffer from a lack of churches are forced to travel dozens of kilometers from their homes to observe services during the holidays.
A VIOLATION OF DOMESTIC AND INTERNATIONAL LAW

Egypt’s practice of distinguishing between individuals on the basis of religion violates both domestic and international law. Under Article 53 of Egypt’s constitution as well as Articles 18 and 26 of the International Covenant on Civil and Political Rights, all citizens are equal before the law and discrimination on the basis of religion is prohibited. Despite the expansive set of institutional hurdles facing churches today, mosques are not subject to the same scrutiny. Although the Ministry of Endowments must license and approve all mosques, there is no equivalent of the Azabi Decree for mosques. Gubernatorial approval is not necessary for the construction of new mosques, there are no hindrances for the repair or expansion of mosques, and state-approved imams receive government funding.

Additionally, Article 64 of the Constitution enshrines freedom of belief as absolute and notes that the freedom of followers of the Abrahamic faiths to practice religious rituals and to establish places of worship as set forth by the law. In this case, the law passed risks furthering the institutional inequality as well as preventing Christians from establishing their houses of worship.

HISTORIC LAWS, RECENT VIOLATIONS

Contrary to the new church construction law’s stated purpose, it is not equipped to reverse the legal inequity that has been institutionalized throughout Egypt’s legal system, despite the grandfathering clause in Article 10 meant to legalize all existing churches. Although welcomed by several members of the Christian community, the law is not equipped to guarantee freedom of worship and belief for Christians. There have been no structural legal advancements to reverse the inequality. Reports and rumors of churches under construction continue to be “flash points for anti-Coptic attacks.” Whether this new law can improve the process of church construction and renovation that has until today remained highly political and delayed is unclear.

Coupled with inherently unequal laws is an anecdotal tendency of the security sector to disproportionately crack down on unlicensed churches and delay the implementation of construction approvals even when granted. For example, despite receiving a license in 2002, the Church of the Virgin Mary at the Alexandria Coptic Hospital has been unable to complete its construction and expansion project. When church authorities attempted to begin work on the project at numerous intervals (including as recently as May 2015), security forces intervened and physically prevented the process. In December 2015, Father Bernaba Fawzy Haleem of the St. George Church in Nazlet Hanna in al-Fashan, Beni Suef was made to sign an oath that no new church buildings would be constructed on the church’s property. Although there is no case against the priest or the church, the police department alleged that the orders to sign the oath come from Egyptian Homeland Security and the Ministry of Interior. The church was placed under guard, likely to ensure compliance. About 30 percent of incidents recorded by Eshihad since August 2013 have involved the targeting of a church or personal property following rumors that it was to be converted to a church.

Security forces have also attacked churches, homes, and buildings under the pretense that they are unlicensed places of worship. In April 2015, Minya security forces raided a building affiliated with the Maghagha Diocese, forcibly confiscating Bibles in the process. In 2010, at least one man was killed and dozens injured when clashes ensued after the construction of the Church of the Virgin Mary and Saint Michael Archangel in Giza’s Omraniya neighborhood was halted amid disagreements regarding the adequacy of the church’s license. In 2007, Egyptian officials arrested 13 Christians for collecting donations to help rebuild a church without a permit.

RESOURCES


