CHAPTER FOUR

THE ARAB PEOPLE’S REVOLUTION—MODERNISING THE LEGAL ENVIRONMENT

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1. INTRODUCTION

The entire Arab world is witnessing mass demonstration and regime changes (popularly termed the Arab Spring) as a result of increased living costs, unemployment, corruption and poverty.¹ Unemployment rates in the Arab world are among the highest in the world.² By 2050 there will be 55 million unemployed Arabs.³ This increased unemployment is due to the absence of investment in their economies and particularly in the agriculture and manufacturing sectors.⁴

The Arab Spring has raised challenges for their respective governments to create jobs for the large growing number of young people reaching working age. Every year 2.8 million young Arab people enter the labour markets.⁵ This chapter illustrates that Arab countries could create a sustainable increase in employment, by setting up an efficient legal environment, based on a rule of law that is friendly and attractive to investors both local and foreign (labour intensive manufacturing).⁶ The following

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¹ LLB in Law, Amman University, Jordan, LLM in International Law and Diplomacy, University of Derby, UK, PhD in Law, University of Westminster, UK.
⁵ El Hassan bin Talal, “Policy options for modernising the Middle East’s industrial base,” Europe’s World (Summer 2009): 139.

For the purpose of this chapter an efficient legal environment is a legal order, which decreases the transaction costs of local and foreign investors, and consequently, their legal
sections will explore the importance of the legal environment on economic performance, private investment, and how the Arab world could make improvements.

2. THE INTER-RELATIONSHIP BETWEEN LAW AND ECONOMIC DEVELOPMENT

The shift to a market economic policy is a complex task. It involves making fundamental changes on the economic, legal, social and political fronts. Such a process represents an unprecedented challenge for policy makers in most developing countries. Any successful transformation into a market economy requires the creation of a comprehensive legal infrastructure. This legal infrastructure should encourage entrepreneurial initiative, fair competition, the operation of market forces and investor confidence. The success of any economic transformation is dependent on the creation of such an infrastructure.

The inter-relationship between law and economic policy is apparent. Laws in any given state do not function in isolation; they are interrelated with, and at the same time reflective of the state’s economic and political ideology. Reform of the law is a task for politicians, in government and parliament, and not for judges, who are not usually able to consider the wider legal implications of a particular decision.

The type of legal framework needed to allow private business, regardless of whether it is domestic or foreign, to grow and flourish, may be found in theoretical works on law and economic development which will be explored in the next two sections.

2.1. The Law and Development Movement in the Early 1960s

The notion that “law matters” is not entirely new. The statement itself figured prominently in the first law and development movement of the uncertainties, and makes the investment climate in the host country more attractive for investors.


8 Bahaa Ali El-Dean, Privatisation and the Creation of a Market Based Legal System: The Case of Egypt (Leiden: Brill Academic Publishers, 2002).

9 El-Dean, Privatisation and the Creation of a Market Based System.