

# The Relation Between the Law Reforms and the Democracy Building in the 3rd World Countries

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## ABSTRACT

Talking about law reforms the last decade in the third world countries is a deep subject which still into the process of debates and research , especially if we concentrate over the process of those reforms ,its efficiency and impact into the society will lead us to highlight the relation with the democracy building as its the common character of those countries , here we can understand how or why those countries are taking this important phenomenon in consideration ,but the real importance is to understand the relation between the law reforms and the democratic transition and how this interlinking between those two phenomenon will influence the stability of all the economic , political and social sectors and the efficiency of the law reforms.

**Keywords:** *law reform, democracy building , the rule of law , third world countries.*

## 1. INTRODUCTION

The subject of legal reform has become one of the most prominent political and legal issues of interest to many countries. This is not only a short time ago, but also a result of the repetition of such reforms within specific environments and regimes, such as those countries that are into economic development and are moving towards either a transition or a democratic building. This leads us to focus more on the nature of the relationship between legal reform and democratization in these countries in order to try to understand the impact of the nature of the political system on legal reforms in these countries.

This link between democratic building and the need for legal effectiveness or even a sound legal environment that seeks to achieve the rule of law shows us that legal reform is only a mechanism of democratic transition and construction that is the result of internal decisions of the political wreckage of the State. (i.e. by government and official institutions) However, the main cause of most changes (Legal and Reforms) It is just a model for a set of international programmers and projects that are structured in such a way as to lead many countries to review legal compliance and lead to legal reform of all kinds. Although these reforms are good and a valid step towards legal quality, the fact that they are based on an international, democratic and an external approach to an international acceptance as democracy-seeking States, makes us aware of the real problematic, **how effectively legal reforms have been implemented in the transitional democratic countries?**

## 2. DISCUSSION

### a. The Relation Between Law Reforms and The Democratic Transition

Thus, the law reform is designed to change existing laws, and the government may initiate these reforms. Either the law is old or there may be reasons for political or partisan changes will lead to the legal system to review the laws [1].

And here comes the reason of some law reforms in the 3rd world countries , especially those who are chasing the democracy building and an economic development , we can confirm at 100 percent , that they already started a law reforms in several domains but when it comes to a law reform related to a democratic transition it will influence directly the ( human rights , minorities , education ,elections , political parties systems , women's rights and integrity ) and for those countries who are not trying to make any democratic transition the international influence at the economic side will led those governments to make some law reforms in the (Foreign investment , export , import , taxes ,etc....) , so here comes another question : is those law reforms influenced by the international organization are necessary in those countries?

We all knows that the international organization such as the UNDP, the UN, FAO , ECOSOC [2], and others, have been creating an international programs in order to enhance several governmental sectors and direct them into a deep economic and political transition clearly since the 90th [3], and we can't deny the importance of those programs that truly made a real change in the political and economic side ,but it was the period where the law reforms started to become an important subject in the MENA region, and the ASEAN as an important zone for a democratic and economic changes [4].

So here we can confirm that the law reforms at some high level were related to the democratic transition and the new economic choices which is a good step for a better development, but in the other side the real issue in this situation is at what level those reformers that were made according to an international programs influenced those governments in order to reach the international recognition of a stable political system and a government seeking for a democracy building are truly implemented?

In another way are those reforms a real priority of those governments or they have been made in-order to reach the democracy aspects?

**b. What Changes are Needed to Make the Legal Reform Process More Effective?**

The process of legal reform must include a set of actions that will make legal reform effective.

Even with the different causes and patterns of legal reform, these steps are essential if the intention behind such a reform is to achieve an effective legal implementation.

So this process must include:

1. Public dialogue where legal reform must not be confined to specific political actors but it should involve political parties, political leaders and civil society.
2. Public and private media also play a key role in achieving the impact that legal reform must have, since, although it covers a particular group (minority) such as ethnic or racial rights, the participation of a majority public opinion is necessary within the proper process of legal reform.
3. The need for a full formal review of legislation on legal reform and the reform of institutions related to legal reform.

It would be useful to establish a legal reform committee or consultative process where experts must determine for the public what the laws on reform are and why, which would help to create more acceptable laws that reflect common values.<sup>7</sup>

**c. The Gap Between the Law Reforms and The Practice**

According to this process, the law reforms are not a simple decision taken by the government or the legislation, but it's a structured process which is related to several actors, and even more it must be related to the nature of the society and its needs, so if the democratic building process led to some legal changes did those reforms followed the correct process? We cannot confirm this level of efficiency since not all the law reforms had this process, because at some level those governments were in unstable political or economic

situations which guided to the obligation of deep and quick reforms in the other side some of those reforms are not really a necessity or urgent compared to some other laws that are no longer keeping pace with the changes that the society knows like (family law, inheritance law, child protection), or compared to some areas that know a legal vacuum such as (the intellectual property, freedom of the press, and everything related to electronic property and use or females right) those Domain have been neglected for more than 10 years, and despite the fact that democracy enhances women's rights in those countries, we can also understand that the reforms related to the democratic transition are not that efficient, way?

As an example, recently in 2017 Tunisia created new law reforms n:58 of august 2017 related to the elimination of violence against women what was considered as a legislative revolution, which included "that this law gather all forms of discrimination and violence against women" the document explained also that this law aims to avoid the gaps and shortcomings of legal texts that existed before, this is a proof that the law reforms related to the international unfence aims to make a change, but its a superficial change since from the 90th until 2017 the women's rights and laws have been neglected and even more according the statement of the lawyer Ben hassana hanane, its just a perfect law in a theoretical formulation only, because the reality is far from the spirit of law reforms text due to the weakness and absence of mechanisms, capabilities and programs carried on by the state, this new law was based primarily on the establishment of a national observatory of violence against women, with a regional coordination between this unit and the local associations [5], however "in the field, for example protection centers do not exist in most of states, and in Tunis there is only the **Bayti association**[6] that performs this task which shows that there still a gape between the law reforms and the real practice.

Otherwise, this incomplete process of implementing the law reforms will influence democracy building after a limited period of time. The real situation will expose new problems and it can also lead to a popular rejection, manifestation or even a revolution as what happened in the MENA region in 2012 and this is why the main idea of this paper is to highlight that the basis of the law reform is not the action of creating new laws or correcting others according to an international influence or because of an internal issues, but it must be in the real intentions of the government, according to a legal studies of the (political, economical, and social sectors) because if democracy can lead to some changes the government no matter its nature must take the real implementation of law and the respect of the law reforms process the platform for the democratic building not the opposite. thus, according the Declaration adopted on 24 September 2012 by the United Nations General Assembly at the High-level Meeting on the Rule of Law at the National and International Levels reaffirmed that "human rights, the rule of law and democracy are interlinked and mutually reinforcing and

that they belong to the universal and indivisible core values and principles of the United Nations, indeed, government responsiveness to the interests and needs of the greatest number of citizens is strictly associated with the capacity of democratic institutions and processes to bolster the dimensions of rights, equality and accountability [7], so now the real implementation of democracy demands a real practice of the law reforms at all levels.

Paragraph 7 of the General Assembly Declaration on the Rule of Law called for the consideration of a strong rule of law perspective in the post-2015 international development agenda. The ongoing debate on the post-2015 perspectives provides a unique opportunity to stress the interlinkages between democracy, human rights and the rule of law. To ensure domestic accountability within democratic ownership frameworks, it is essential to take into account both the democracy and rule of law dimensions of the next generation of Millennium Development Goals SDGs and the potential value of a voluntary goal on democracy, human rights and the rule of law to help drive the development agenda, so according to this declaration of the General Assembly clearly expose the importance of the real implementation of the legal reforms in which the new methods of monitoring democratic building will not be limited to reviewing laws reforms and legislation but will depend on tools and mechanism that allow measuring the effectiveness and impact of laws reforms into the society [8].

### 3. CONCLUSION

In accordance with the previous points included in this paper, the conclusion we reached is that the real role of the law reforms in the democratic transition countries is not creating a set of new reforms in every period of time , as this process has been adopted by government during more than 20 years , exposed in several countries its non-efficiency and inefficacy in both the political and the economic sectors because these reforms were made in order to simulate a legal environment conducive to democracy , which is clearly correct as an obligated step toward a democracy building but the issue that most countries created is related to the desire of those countries to a quick change and adoption of the democratic norms in a general attempt just to satisfy the international recognition and convince the international organization that the government is making a legal reforms and it can reach the political and social stability.

but the issue is after a decade of new law reforms, those countries still have a real issue in different sides and the democratic transition still have some deep issues such as the lake of legitimacy, the instability of the governments the popular division, and the lake of the political participation, all those problems are linked to the incorrect process of taking the law reforms as tool in order to reach the democracy building instead of creating

a deep process according the real legal needs of the society and according the government capacity which will probably be a real correct environment for a good political building process, in which the citizen will be the main reason of the changes, and the rule of law will be a solid platform that will englobe the democratic transition and the implementation of laws reforms according the development of the country.

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