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SUSTAINABLE DEVELOPMENT AND THE RULE OF LAW: A POLICY PERSPECTIVE FROM QATAR

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Millennium and Sustainable Development Goals

In 2000, the United Nations articulated eight Millennium Development Goals (MDGs), hoping to achieve them in fifteen years. Now, the international community has sought to expand upon the original MDGs through a development agenda that involves 17 Sustainable Development Goals (SDGs) and 169 targets that are to be reached by 2030.² One of the differences between the MDGs and the SDGs is the latter's acknowledgement of the important role that the rule of law plays towards achieving sustainable development.³ This is demonstrated in Goal 16 of the SDGs, which is to "promote peaceful and inclusive

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² Robin Sully, "Rule of Law and the Post-2015 Sustainable Development Agenda – It's About Justice" (paper prepared for the International Commission of Jurists session entitled Equity, Inclusion, Poverty Reduction...It's about Justice Integrating Justice into the Post-2015 Sustainable Development Agenda, May 14, 2015).

³ United Nations, "Sustainable Development Goals," last modified July 30, 2016, <https://sustainabledevelopment.un.org/?menu=1300>.

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societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”⁴

Nevertheless, there is still uncertainty and debate surrounding the meanings of the rule of law and sustainable development and how exactly the rule of law can promote sustainable development.⁵ Furthermore, the ever-increasing number of countries and organizations that refer to these concepts and emphasize the link between the two terms demonstrates why it is important to examine these ideas in detail. Yet, a great challenge before countries in the international community is to establish the principles, procedures and institutions of the rule of law so that it actually promotes sustainable development. This challenge also means we must adapt these concepts depending on the context in which they are applied.⁶

Purpose of Essay

This Insight relies on Qatar as a case study to examine the link between the rule of law and sustainable development. Qatar provides an important case study, especially given that the country is currently undergoing an ambitious development agenda driven by the Qatar National Vision 2030. Furthermore, Qatar is increasingly gaining international attention since it will be hosting the World Cup in 2022. The country has also assumed a leadership position in both the Gulf and the international arena. As a result, if it is able to introduce efficient and effective policies linking the rule of law with sustainable development, Qatar could aspire to being a model for other nations to implement similar policies in their own countries.

It is worth noting that the 288-page report that projects Qatar’s path towards sustainable development, entitled Qatar National Development Strategy 2011-2016,

⁴ Louis-Alexandre Berg and Deval Desai, “Background Paper: Overview on the Rule of Law and Sustainable Development for the Global Dialogue on Rule of Law and the Post-2015 Development Agenda,” August 2013, accessed July 2, 2016, <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Access%20to%20Justice%20and%20Rule%20of%20Law/Global%20Dialogue%20Background%20Paper%20-%20Rule%20of%20Law%20and%20Sustainable%20Developme....pdf>

⁵ Jeremy Waldron, “Is the Rule of Law an Essentially Contested Concept (in Florida)?” *Law and Philosophy* 21(2008): 137-164; Steve Connelly, “Mapping Sustainable Development as a Contested Concept,” *Local Environment* 12(2007): 259-278.

⁶ The necessity of contextualizing the rule of law and sustainable development has been raised in a number of publications. Berg, L-A, Desai, D. *supra* note 1, p. 5-6; Mednicoff, D. ‘XYZ’.

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emphasizes “the rule of law” multiple times.⁷ While the interplay between rule of law and sustainable development, and their mutually reinforcing relationship may not be evident in formal documents, this does not negate the importance of the rule of law for Qatari policymakers. On the contrary, the multiple efforts made by Qatar towards enhancing the rule of law and achieving sustainable development demonstrate the importance of these ideas in national development.⁸

This essay explores these two concepts together, as defined by international organizations, and applying it to the Qatari context. To this end, it will elaborate on challenges related to the rule of law, which may hamper Qatar’s path towards sustainable development. The ultimate goal is to reveal potential areas for linking the policies pertinent to rule of law and sustainable development that would reflect the needs of Qatar. We argue that there are both potential tensions and synergies between these concepts in the Qatari context.

Setting the Stage: The Rule of Law and Sustainable Development

Given the essentially contested nature of the concepts of rule of law⁹ and sustainable development,¹⁰ there is a plethora of definitions circulating among legal scholars, philosophers and practitioners.

One common differentiation in the literature on the rule of law is between the “thin” conceptions pertaining to more “formal” or “procedural” elements of the legal system¹¹ and the “thick” conception referring to more “substantive” elements such as the “protection of human rights” or “specific forms of organized government.”¹² Yet both of these ideas

⁷ General Secretariat for Development Planning (GSDP), 2008. *Qatar National Vision 2030*. The 39-pages-long document mentions it under “A Sound Social Structure” on page 26; GSDP, 2009. Qatar’s Second National Human Development Report, “*Advancing Sustainable Development: Qatar National Vision*”. The 162-pages long document mentions it once on page 23 under the sub-chapter on ‘Social Equity’.

⁸ These efforts will be highlighted in the later parts of the policy brief.

⁹ Jeremy Waldron, “Is the Rule of Law an Essentially Contested Concept (in Florida)?” *Law and Philosophy* 21(2008): 137-164; Steve Connelly, “Mapping Sustainable Development as a Contested Concept,” *Local Environment* 12(2007): 259-278.

¹⁰ Eighty different, often competing and contradictory, definitions of sustainable development have been identified. Williams, C.C., Millington, A.C., 2004. ‘The Diverse and Contested Meanings of Sustainable Development’, *The Geographical Journal* 170(2): 99-104, p.99; Connelly, S., *supra* note 2, p.262.

¹¹ Simon Chesterman, Ian Johnstone, and David Malone, *Law and Practice of the United Nations* (New York: Oxford University Press, 2016), 516.

¹² Simon Chesterman, “An International Rule of Law?” *American Journal of Comparative Law* 56 (2008): 331 – 361.

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have been criticized, as opponents of the ‘thin’ definition emphasize that it does not distinguish between beneficial and harmful laws,”¹³ while opponents of the ‘thick’ definition state that it encompasses “theoretical or philosophical notions which belong to their own separate domain.”¹⁴ In 2004, the Secretary General of the United Nations attempted to provide a universal understanding of the concept by combining both substantive and procedural elements in his definition.¹⁵

Another important concept, sustainable development, was popularized in 1987 after the World Commission on Environment and Development. It was sponsored by the United Nations that published the Brundtland Report that defined sustainable development in terms of “development that meets the needs of the present without compromising the ability of future generations to satisfy their own needs.”¹⁶

The release of the Brundtland Report was an important milestone because it helped to unite “environmentalism with the social and economic concerns on the world’s development agenda.”¹⁷ Indeed, it is these three pillars - economic development, environmental protection and social justice – that encompass the idea of sustainable development, with the understanding that each of these concepts are essential to ensure that development is sustained in the long-run.¹⁸

On The Relationship between Sustainable Development and Rule of Law

Later, in 2012, the Rio+20 Conference set the stage for the post-2015 sustainable development agenda. As a result of the consultations during this conference, a set of recommendations were made as part of the report entitled “The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet.”¹⁹ In September 2015, the United Nations General Assembly adopted six key elements and related 17 Sustainable

¹³ Nicholas Hachez and Jan Wouters, “Promoting the Rule of Law: A Benchmark Approach,” Leuven Centre for Global Governance (2013): 8.

¹⁴ Hachez and Wouters, “Promoting the Rule of Law,” 11.

¹⁵ Matthew Saul and James A. Sweeney, *International Law and Post-Conflict Reconstruction Policy* (Routledge: New York, 2015), 232.

¹⁶ World Commission on Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987).

¹⁷ University of Alberta, “What is Sustainability?,”

<https://www.mcgill.ca/sustainability/files/sustainability/what-is-sustainability.pdf>.

¹⁸ University of Alberta, “What is Sustainability?”.

¹⁹ United Nations, *The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet: Synthesis of the Secretary-General On the Post-2015 Agenda*, 2014.

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Development Goals. ‘Justice’ was one of these six areas, which “recognize(s) that the rule of law is not just an end itself but that it also enables a broader range of development goals and outcomes.”²⁰

In fact, it was initially at the Declaration of the High-level Meeting on the Rule of Law in 2012 where Member States declared that “the rule of law and development are strongly inter-related and mutually reinforcing; that the advancement of the rule of law at the national and international levels is essential for sustained and inclusive economic growth, sustainable development, the eradication of poverty and hunger, and the full realization of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law...”.²¹

The rule of law is often referred to as a set of principles, procedures and institutions that can be both an outcome of development and, simultaneously, an enabler of development.²² To that end, the rule of law promotes sustainable development as a system of regulation and justice: it controls the exercise of power through the fair and equal enforcement of rules and laws; it also aims to enhance the ability of the poor and marginalized to seek redress of grievances and vindicate rights and claims through a system of legal and social institutions.²³ Both the rule of law and sustainable development seek to achieve goals that might be competing with each other. Hence, any policy solution shall well be cognizant of the inevitability of trade-offs.

For instance, sustainable development is usually sought via policy coherence. Sustainable development is not only about governing resources, but also ensuring that economic and political context is suitable for policy dialogue, formulation and implementation (rule of law, incentives and awareness). It also has to be underlined that the strength of the relationship between the rule of law and sustainable development

²⁰ Sully, “Rule of Law,” 2015.

²¹ Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels, General Assembly resolution 67/1 of 24 September 2012.

²² The causal link between rule of law and sustainable development albeit exists on a theoretical level, it still needs to be empirically proven in some areas.

²³ Berg, L-A., Desai, D. *supra* note 1, pp.9-16: As an enabler of development, rule of law may play the following functions:²³ (1) fostering economic development whereby individual property rights are protected; contracts are enforced in a fair and credible manner; access to market is facilitated for all, etc.; (2) upholding social and economic justice by enabling participation and providing unhindered access to justice; (3) crime and violence prevention and mitigation by establishing law and order; (4) strengthening accountability and checks on power, and reducing corruption; (5) improving the fair allocation of resources; and (6) protecting the environment and natural resources.

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requires continuous cooperation between intergovernmental, governmental and non-governmental stakeholders, private sector, development actors, epistemic communities, policy networks and various other actors located in multiple scales. On the one hand, sustainable development requires a dynamic policy space that is receptive to input on a constant basis from various actors and interjections (such the launch of MDGs and SDGs) that require supra-national and extra-local factors. Rule of law, on the other hand, might generate tensions as the policy space that is required for sustainable development may not be supported immediately by the existing structures of the rule of law.

A relevant example would be the case of migrant workers in Qatar. As Mednicoff argued, Qatar and the United Arab Emirates as recipients of high inflows of migrant workers have encountered various challenges as rapid development and global integration of their economies necessitated legal reforms.²⁴ While massive inflows of foreign labor has continued and posed challenges for sustainable development in Qatar, mastering legal tools to manage the complexities remain as challenges. Indeed, this is a tension between rule of law and sustainable development, given that the response of the legal complexities to sustainable development challenges takes time. Only in the past few years has Qatar managed to achieve substantial progress in the *kafala* system, which is a “sponsorship system” that “regulates the relationship between employers and foreign workers.”²⁵ As a recent United Nations report illustrated, Qatar achieved progress in migrant labor reforms albeit there are still reforms on the way to further augment the existing system.²⁶

Contextualizing Qatar

Former Qatari head-of-state Sheikh Hamad went to great lengths to make Qatar a world center for media, international conferences and education. These efforts have had a positive outcome on Qatar’s rankings in various global indexes. To illustrate, in 2013, Qatar ranked second worldwide in terms of per capita GDP,²⁷ and in 2014 the country was ranked 31st out of 187 countries by the UNDP Human Development Index. In 2014, and for

24 Mednicoff, D. M. "The Legal Regulation of Migrant Workers, Politics and Identity in Qatar and the United Arab Emirates." Mehran Kamrava and Zahra Babar, eds. *Migrant Labor in the Persian Gulf* (Columbia/Hurst, 2012).

25 Ministry of Development Planning and Statistics, “Realising Qatar National Vision 2030: The Right to Development,” 2015.

26 <http://www.reuters.com/article/us-qatar-workers-idUSKCN0US2E620160114>

27 Bertelsmann Stiftung. BTI 2014, *Qatar Country Report*. Gütersloh: Bertelsmann Stiftung, 2014.

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the sixth consecutive year, Qatar ranked first in terms of per capita GDP among the Arab World, Middle East and North Africa, and ranked 22nd out of 162 world countries included in Global Peace Index issued by the Institute for Economics and Peace. Finally, Qatar was ranked 26th out of 173 countries on Transparency International's Corruption Perceptions Index in 2014.

Along with working to showcase its commitment to global values such as the rule of law and sustainable development, Qatar must reflect the Islamic legal and political history of the country. This is especially evident by the use of sustainable development in Qatar National Vision 2030. For example, Qatar National Vision 2030 outlines the Brundtland meaning of sustainable development (described above) and the importance of balancing the needs of the three pillars including economic development, environmental protection and social justice to ensure development is sustainable in the long-term.²⁸ The social pillar of Qatar National Vision 2030 clearly underlines the importance of Qatar's Arab and Islamic identity as a crucial element for heritage preservation. The preservation of heritage is institutionalized through various programs and projects initiated by local and international organizations such as UNESCO Qatar, Qatar National Library, Qatar Museums Authority, Supreme Committee for Legacy and Delivery as well as many universities located in Qatar.

To cite a key example, the emergence and expansion of Islamic finance in Qatar posits significant resonance with Qatar's Islamic legal history. The connection between Islamic finance and its positive role in sustainable development deserves ample attention as an area that illustrates Qatar's Islamic legal and political history. Islamic finance produces a nuanced articulation between the rule of law and sustainable development. Given its regulatory framework, sound management practices inspired by Shariah law and ethical bases in fostering financial stability, Islamic finance suggests diverse policy options. It is not surprising that Islamic finance, which promotes sustainable and inclusive development, has become increasingly popular and has gained strong ground since 2008 in the aftermath of the global economic downturn.²⁹ Promotion of Islamic finance as a legal

²⁸ Mari Luomi, *Qatar's Natural Sustainability: Plans, Perceptions, and Pitfalls* (Qatar: Georgetown University School of Foreign Services in Qatar, 2012).

²⁹ *Leveraging Islamic finance for sustainable development*. (2016). *Gulf-Times*. Retrieved 20 August 2016, from <http://www.gulf-times.com/story/496726/Leveraging-Islamic-finance-for-sustainable-develop>.

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and policy framework is also indicative of responses to the globalization of finance and neoliberal impulses that have been cascading globally.

In addition, sustainable development and the rule of law in Qatar have also been influenced by the recent pattern of 'hyperglobalization' engulfing the region.³⁰ One outcome of hyperglobalization for Qatar is the need for "an enormous influx of professional experts in many fields including law".³¹ According to Mednicoff, this has had a positive impact on the rule of law in general and more specifically it has improved legal education, increased the awareness of international legal standards and norms, promoted human rights, ensured 'media expansion and openness', and enhanced 'law enforcement'.³² This influx of foreigners into the country has also contributed to sustainable development in Qatar, particularly in terms of enhancing the country's economic prosperity.³³

At the same time, hyperglobalization brings challenges for Qatar. One of these challenges pertains to how the rule of law should be established and enforced, given that Islamic and Western values are not always compatible with each other. One example of this tension is in terms of women's rights. To illustrate, even though Qatar enacted a new family law, which aimed to increase 'protections for women' in 2006 as the new codified family law entailed more comprehensive regulation in issues such as inheritance, child custody, marriage, and divorce.³⁴ It would be unfair to argue that the new law totally mitigated structural inequalities women face.

Such inequalities may influence Qatar's path towards sustainable development, as it is argued to be evident in Qatar's Human Development Index (HDI) score, for example, which could be higher given its significant financial resources. Some authors attribute this outcome to the ongoing issues pertaining to gender inequality (e.g., 'lower life expectancy'

³⁰ Mednicoff, D.M., Springer, J.E., 2014. *The Rule of Law and Political Liberalization in the Arab Gulf*, in Hudson, M., Kirk, M., 2014. *Gulf Politics and Economics in a Changing World* (Singapore: World Scientific Publishing Co. Pte.Ltd.), pp.79-107 p.97: Mednicoff defines 'hyperglobalization' as "the accelerated process of globalization that has taken place in societies like Qatar and the UAE. The process is distinguished by both the speed of change and the scope of change, the latter evident from the comparatively limited size and global connectedness of these societies prior to the past several decades of petroleum revenue-funded dynamism."

³¹ David M. Mednicoff, "The Rule of Law and Arab Political Liberalization", *Harvard Journal of Mid-Eastern Politics and Policy*, 2012, 69.

³² David M. Mednicoff, "The Rule of Law and Arab Political Liberalization", *Harvard Journal of Mid-Eastern Politics and Policy*, 2012, 69-71.

³³ Ministry of Development Planning and Statistics, "Realising Qatar National Vision 2030: The Right to Development," 2015.

³⁴ Freedom House, "Freedom in the World Report – Qatar," 2015.

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and 'years of schooling').³⁵ It should be, however, noted that Qatar improved its HDI score significantly since the 1980s and continues to make progress in this area of social development.

Another challenge that this hyperglobalization poses for Qatar pertains to the recent influx of migrant workers into the country as a result of rapid development, which was explained in some detail above. One of the main ideas of sustainable development is "the concept of needs, and in particular the essential needs of the world's poor, to which overriding priority should be given."³⁶ It can be argued that Qatar has a positive influence on sustainable development, particularly when regulated through the rule of law, by providing the world's poor with significant employment opportunities within the country. For example, roughly 70 percent of the migrant workers in Qatar partake in jobs that are considered to be "semi-skilled or unskilled" such as in the construction and service industries.³⁷

Yet, in reality, Qatar is facing challenges with properly regulating these workers through the rule of law, especially in terms of protecting their human rights. According to a 2015 report by the Ministry of Development Planning and Statistics, "the scale of expatriate inflows has stretched the institutional capacity of the relevant government ministries and agencies to implement and enforce existing regulation for the protection of foreign worker rights."³⁸ Moreover, many of these workers face additional difficulties with accessing the country's various social services including health care. It should be noted that the Government of Qatar is aware of and is trying to rectify these problems; however, finding solutions will take some time.

Conclusions: Linking Global Development and National Strategies

Qatar has demonstrated its commitment to sustainable development through its increased role in the international arena, especially by offering a multi-faceted institutional and

³⁵ Renee A Richer, "Sustainable development in Qatar: Challenges and Opportunities," *QScience Connect* (2014), 22: 4.

³⁶ International Institute for Sustainable Development, "Sustainable Development," retrieved 30 September 2016, from <http://www.iisd.org/topic/sustainable-development>.

³⁷ Ministry of Development Planning and Statistics, "Realising Qatar National Vision 2030: The Right to Development," 2015.

³⁸ Ministry of Development Planning and Statistics, "Realising Qatar National Vision 2030: The Right to Development," 2015.

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strategic roadmap for sustainable development. According to Qatar's Millennium Development Goals, the country targets the strategic integration of sustainable development principles, policies and programs and integral preservation of environmental resources. Thus, the Qatari perception of sustainable development has become more cross-national and has extended beyond its borders.

This is especially evident by examining Qatar's fulfillment of MDG Goal 8, which is to "develop a global partnership for development" as the country "called for the establishment of close cooperation relationships amongst the countries of the world and for assisting developing countries in their development programs."³⁹ Qatar believes that the responsibility for managing global development, as well as threats to international peace and security, must be shared among nations.

One of the ways that Qatar has demonstrated its shared commitment to global development is through its provision of development assistance to other countries. Indeed, between 2005 and 2011, roughly US\$2.5 billion in assistance has been provided by Qatar to over 110 countries throughout the world.⁴⁰ Furthermore, Qatar's official development assistance exceeds average of OECD countries allocating 17 percent of GDP to humanitarian crises (in Legacy for future generations). According to one study by Homi Kharas, it is more common for Qatar to provide aid for humanitarian assistance, especially in Arab countries.⁴¹ However, the reach of Qatar's humanitarian assistance has widened beyond Arab or Muslim countries within geographical proximity. For example, Qatar has provided emergency aid during a number of major disasters in the past including the 2010 floods in Pakistan, the 2010 Haiti earthquake, and drought in the Horn of Africa. The Qatari government has also assisted Palestine and Sudan, as well as Japan after its earthquake and tsunami. Finally, multi-lateral institutions in the Gulf have also allocated nearly two-fifths of their assistance to ODA-eligible recipients, and one-fourth to sub-Saharan African countries

In addition, more global endeavours are being valued such as hosting the eighteenth Conference of the Parties (COP 18) under the UN Framework Convention on Climate

³⁹ The Statistics Authority and the Diplomatic Institute, *The Millennium Development Goals for the State of Qatar* (Qatar: Statistics Authority, 2012), 54.

⁴⁰ Statistics Authority, "The Millennium Development Goals," 2012, 56.

⁴¹ Homi Kharas, *Trends and Issues in Qatari Foreign Aid* (Qatar: Silatech, 2015), 3.

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Change (UNFCCC). Qatar also recently hosted the first Arab States Regional South-South Development Expo, in conjunction with the UN Office for South-South Cooperation and UNDP, designed to match the technical skills and capacities of various actors for improved delivery and effectiveness of development assistance. The Arab Gulf Fund for Development's support to UN Development Organizations appears as another example of this trend, allocating nearly 40 percent of its resources to UNICEF projects, as well as contributing to UNRWA and other UN agencies.

This approach of strengthening international cooperation became a strategic space for Qatar to help embed its national strategies. In addition, the National Food Security Program in Qatar (<http://www.qnfsp.gov.qa/>) and Hassad Food (<http://www.hassad.com/>) have been undertaking initiatives to achieve improvements in agricultural productivity as being engaged in various investments, which directly have a positive impact on Qatar's global vision of sustainable development and its connection to rule of law, as these investments operate in tandem with a transnational governance framework and its emphasis on rule of law. For example, the National Food Security Program, which was launched in 2008, is establishing a plan to ensure that Qatar continues to have food security in the future, while Hassad Food made a recent announcement that it had become a majority owner in the Indian company, Bush Foods, which owns different brands of rice.⁴²

Also, many other practices such as Qatar's building up a comprehensive National Water Act to replace the current fragmented system of laws and regulations to enhance water management could be seen as a best practice that receive particular attention. Likewise, UNCTAD's 2012 conference in Doha underlined in the final document, entitled Doha Mandate, that "securing adequate access to food – one of the most basic human needs – is a priority. The high volatility of food prices since UNCTAD XII has been a source of concern which in some cases, inter alia, has contributed to serious social and political consequences in some countries, particularly in net food-importing developing countries",

Finally, it should be noted that Qatar's increasing visibility and reputation is unfolding with a unique state diplomacy, acting as a diplomatic mediator with an unconventional repertoire fuels more optimism pertaining to Qatar's potential contribution

⁴² Shehan Mashood, "Avoiding a future food crisis in Qatar," *the Edge* 46 (2013): 62-65.

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to international development and hence the promotion of rule of law not only in national borders, but in the world. How Qatar manages the tensions and synergies between globalized hyper-development and its own legal and cultural traditions, particularly with regard to broad goals like the rule of law and sustainable development, will be important to its potential success.

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