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THE RULE OF LAW IN THE ARAB GULF PROJECT: RELEVANCE AND FUTURE ISSUES

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As I write these words, the nations of the Arab Gulf are embroiled in a serious diplomatic squabble that might make us question the significance, or very possibility, of developing a comparative framework for understanding the rule of law in the Arab Gulf. Qatar, whose major scientific research foundation funded the work that produced the two sets of Insights in these volumes, finds itself cut off diplomatically from neighboring Saudi Arabia and the United Arab Emirates, suggesting that general similarities among these countries, including in the legal domain, might be limited.

Yet one way of reading the current dispute among similar Gulf Arab states is as a version of a common tension within the rule of law as law empowering diverse individual rights of expression and pluralism versus law serving the authority and capacity of the state.¹ This tension exists generally within legal systems, and has already been observed as salient in the data collected during *the Rule of Law in the Gulf project*. The broader inter-Gulf dispute is all about Qatar's stance that diverse Arab political movements and expression should be allowed and highlighted, versus Saudi Arabia's sense that stability and regional political uniformity require limiting dissent that might challenge social cohesion. These two positions are essentially broader versions of one of the key ambiguities that we know from our project that is embedded in general representations of the rule of law. That is, the rule of law includes in its core meanings both concerns about individual freedom and diversity of expression, and concerns about the enforcement of individual compliance with social order.

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Thus, the split among Gulf countries links somewhat to a core general binary tension in meaning of the rule of law. *The Rule of Law in the Arab Gulf project* has suggested other dichotomies that are more specific to the countries that we studied. These include, as discussed in greater detail in earlier Insights in this series, (1) the globalist orientation of legal professionals versus the general population's skepticism towards international law, (2) the tendency for GCC citizens to ground their legal system's legitimacy in local, Islamic sources rather than non-religious ones, and (3) the extent to which foreign lawyers should be able to represent clients in courts. When we scratch beneath the surface of the rule of law, we see diverse understandings around core meanings, such as law as empowering versus constraining individuals, and origins. These diverse understandings differ among similar governments and societies, and can help explain outcomes like the current Gulf diplomatic split. Ideas around the rule of law diverge even more clearly across societies, making it important not to transport assumptions around this complex of norms from one context to another.

Moreover, as other Insights in this series show, the rule of law as a set of ideas and institutions develops through diverse processes that have not been well-studied outside of the court and legislative focuses common where those institutions are well-established. Yet work from this Project directs our gaze towards other processes that are central to the constitution of the rule of law. We see from Gwenn Okruhlik's Insight that the rule of law in Kuwait and Qatar includes society-wide push-pull contestation around issues of rights and gender equality. Such contestation, particularly within legal ideas or the legal sector, can be under-emphasized in work on Gulf states keyed to continuity or central political institutions.

Similarly, Rana Maktabi's detailed discussion of Kuwaiti lawyers shows that the gradual growth of women as legal practitioners fosters other shifts in improving civic and political rights, and moves towards gender equity, in that country. And, as Salma El-Idrissi suggests in her Insight, particular influential figures in small societies such as Qatar can have an important rule themselves in advancing key debates about particular meanings of the rule of law, perhaps akin to leading judges in systems with robust judicial review. Finally, Chris Campbell-Holt in his Insight reminds us that specific, hybrid legal institutional arrangements, such as Qatar's recent provisions for international commercial arbitration, can be important pieces of a complex, globalized rule-of-law landscape.

Thus, the rule of law, even in small countries like Qatar and Kuwait, needs to be understood in diverse and plural manners. More specifically, the rule of law in a particular place, and in relation to other places, can be broken down to *ideas*, *influences* and *institutions*. Each of these dimensions needs attention, and no one of these dimensions should be assumed to be exactly the same across countries. For example, in some countries, constitutions, political leaders, and courts or legislatures might be the primary focal points for the social construction of the rule of law. But, even if this is the case in influential industrialized countries such as the US, it is not necessarily true elsewhere.

In short, the preliminary results from the *Rule of Law in the Arab Gulf project* published through NUS' Middle East Institute's Insight series pave the way for future work. Hopefully, this project will encourage more researchers in the Arab world and elsewhere to look closely and contextually at the particular nature and meaning of legal ideas, influences and institutions. This is already a large research agenda. In addition, how each of these dimensions specifically connects to each other is much-needed research, particularly outside of the typical Western milieu of courts and judges. In societies like Kuwait and

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Qatar, the contestation and shaping of legal ideas, the actors most influential in this shaping, and the institutions that finalize the rule of law overlap and intersect.

The diverse work of this study should serve as an invitation for members of our research network and others to continue the important work of understanding these overlaps, and how they link to plural ideas about law more globally. As politics in many countries should remind us, the rule of law remains an aspirational and frequently-invoked term that too often can obscure the specificity and detail that have characterized the publications in this series of Insights.

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¹ See, for example, my recent short piece, “Is Trump’s Definition of ‘the Rule of Law’ the Same as the US Constitution’s?” downloaded Jul, 2017 at: <https://theconversation.com/is-trumps-definition-of-the-rule-of-law-the-same-as-the-us-constitutions-77598>.