Radical Overhaul of Hong Kong's Governance Regime: Likely Implications for Prosperity and Stability

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Cover Page Footnote
Resident Professor of International Law, Hopkins-Nanjing Center, Paul H. Nitze School of Advanced International Studies (SAIS), Johns Hopkins University and Honorary Professor, Faculty of Law, University of Hong Kong. I wish to thank Miron Mushkat for helping me navigate through social science territory, but I am solely responsible for the views expressed herein.

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RADICAL OVERHAUL OF HONG KONG’S GOVERNANCE REGIME: LIKELY IMPLICATIONS FOR PROSPERITY AND STABILITY

RODA MUSHKAT*

ABSTRACT

Constitutional evolution is normally a steady process, with the prevailing equilibrium seldom punctuated. Sharp reversals periodically occur but they are uncommon, usually confined to low-income and lower middle-income countries. The introduction of a draconian national security law and its heavy-handed enforcement in the affluent Hong Kong capitalist enclave, serving as one of the world economy’s pivotal global metropolises, thus amounts to a historically unprecedented emasculation of a sound and well-thought-out governance architecture. The abrupt unraveling of a semi-democratic infrastructure, pulverizing of key components of a time-honored rule-of-law system, and erosion of international legal personality has been breathtaking and profoundly disconcerting. Yet, the ramifications of this dramatic turn of events have so far been narrowly examined, with the impact on the twin strategic goals of prosperity and socio-political stability largely overlooked. This is an issue that deeply concerns Hong Kong’s many stakeholders, and insights derived from the law-and-economics and law-and-politics literature suggest that the agonizing revamp of the governance regime bodes ill for the territory and, by extension, those engaged with it economically and otherwise.
INTRODUCTION

At no point during the colonial and post-colonial eras, a period extending over more than a century and half and featuring the softening and even jettisoning of authoritarian practices in key parts of the globe,¹ has Hong Kong achieved a high degree of democratic development.² Momentous events such as the defeat of the Axis powers by the Allies led by the United States in 1945, opening up of China in 1978, the fall of the Berlin Wall in 1989, and the embracing of full-fledged democracy by neighboring South Korea and Taiwan have had no notable impact on the breadth, depth, and pace of political reform in firmly executive-led Hong Kong.³

While not factually and normatively flawed, this common portrayal of the evolution of the Hong Kong governance regime overlooks three aspects of the historical record. First, as a British colony semi-autonomous Hong Kong had not been entirely free to determine its institutional architecture and its control.⁴ In the final analysis, it had remained accountable to a democratic government in London and subject to constraints stemming from this configuration.⁵ The corollary is that material deviation from British norms pertaining to the use of political power could not be effectively sustained.⁶

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³ See generally MINERS, supra note 2; LO, THE POLITICS OF DEMOCRATIZATION IN HONG KONG, supra note 2; MING, supra note 2; MA, supra note 2; LO, HONG KONG’S INDIGENOUS DEMOCRACY: ORIGINS, EVOLUTION AND CONTENTIONS, supra note 2; WHITE, supra note 2; FULDA, supra note 2.
⁴ See generally HONG KONG’S HISTORY: STATE AND SOCIETY UNDER COLONIAL RULE (TAK-WING NGO ED., 1999).
⁵ See generally id.
⁶ See generally id.
Second, and relatedly, Hong Kong was gifted by its colonial masters with a legal system largely based on the principles of common law. This may not be considered as a substitute for a duly representative government, but it had been an essential component of Hong Kong’s multilayered political structure, enhancing its accountability, diversity, efficiency, integrity, openness, stability, and transparency. The common law underpinnings of the system need to be underscored because the outcome would have perhaps been different, had civil law prevailed.

Third, although looked at in isolation Hong Kong’s democratic initiatives seem distinctly modest with long pauses in between, their cumulative effect had been considerable. As the second decade of the 21st century was unfolding in a deceptively orderly fashion, Hong Kong had a legislature (Legislative Council) consisting of directly and indirectly elected representatives, with the latter not invariably toying the government’s line, and capable of asserting itself to at least a

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8 See generally HAU, supra note 7; ROEBUCK & ROBINSON, supra note 7; deLisle & Lane, Hong Kong’s End Game and the Rule of Law (I): The Struggle for Institutions and Values in the Transition to Chinese Rule, supra note 7; deLisle & Lane, Hong Kong’s End Game and the Rule of Law (II): The Battle over the People and the Business Community in the Transition to Chinese Rule, supra note 7; McDermott, supra note 7; WESLEY-SMITH, supra note 7; Tsang, supra note 7; LO ET AL., supra note 7.


moderate extent. Election of the chief executive continued to be under the grip of the powers that be in Beijing but the legislature managed to insert itself into the political arena and shape to a degree Hong Kong’s policy agenda.\footnote{See MA, supra note 2, at 97-133; Lui, supra note 10, at 45-63; see generally Lim, supra note 10; Chan, supra note 10.}

Importantly, barriers to entry into the legislative domain were few and far between, allowing groups with divergent ideological dispositions to participate in a highly competitive electoral process.\footnote{See id and Regina Smyth, William Bianco & Kwan Nok Chan, Legislative Rules in Electoral Authoritarian Regimes: The Case of Hong Kong’s Leg. Council, 81 J. POL. 892 (2019).} Even non-mainstream groups such as the localists devoted to preserving Hong Kong’s identity and interests above all, and not shying away from promoting the controversial idea of independence from China, were able to find an institutional platform for expressing their voice without paying a heavy price for their audaciousness.\footnote{See generally MA, supra note 2; Lui, supra note 10; Lim, supra note 10; Chan, supra note 10; Malte Philipp Kaeding, The Rise of “Localism” in Hong Kong, 28 J. DEMOCRACY 157 (2017); Jermain T.M. Lam, Localist Challenges and the Fragmentation of the Pan-Democratic Camp in Hong Kong, 9 ASIAN EDUC. & DEV. STUD. 579 (2020).} If anything, ease of entry was such that it led to excessive fragmentation and detracted from the effectiveness of both the government and the opposition.\footnote{See generally Kaeding, supra note 13; Lim, supra note 10; Chan, supra note 10; Lam, supra note 10.} A similar pattern was observed at the district council level where, in dealing with livelihood issues and engaging with the grassroots community, the political periphery enjoyed relatively greater visibility than the political center.\footnote{See generally John M. Carey, Electoral Formula and Fragmentation in Hong Kong, 17 J. E. ASIAN STUD. 215 (2017).}

A governance regime underpinned by a legal framework inspired by the rule of law and an increasingly malleable political system had fostered a climate of tolerance conducive to the development of a vibrant civil society\footnote{See generally Jermain T.M. Lam, District Councils, Advisory Bodies, and Statutory Bodies, in Lam & Lui eds., supra note 10, at 111-32; Joseph Yu-shek Cheng, Hong Kong District Councils: Political Development and Community Building, 8 J. COMP. ASIAN DEV. 207 (2009); Mee Kam Ng, The Making of ‘Violent’ Hong Kong: A Centennial Dream? A Fight for Democracy? A Challenge to Humanity?, 21 PLAN. THEORY & PRAC. 483 (2020); Jermain T.M. Lam, The 2019 District Council Election in Hong Kong: A Localist Perspective, 48 ASIAN AFF.113 (2021).} and unfettered...
media. Throughout Hong Kong’s history, up to the recently experienced cataclysms, the executive branch had remained at the epicenter of Hong Kong’s governance regime but bottom-up forces transmitted via these two semi-autonomous channels had been a factor to be reckoned with in the political equation, augmenting the governance regime’s pluralistic propensities. Their growing influence, coupled with the progressive removal of barriers to entry into the political arena, prompted students of Hong Kong’s public policymaking to describe the territory, nearly two decades following the transfer of sovereignty from the United Kingdom to China, as a smoothly functioning semi-democracy.

A noteworthy measure of politico-legal freedom and certainty had coincided with remarkable economic freedom and certainty. This had been the product of steadfastly pursued colonial-style fiscal discipline and prudence. The upshot had been a small government, leaving ample space for entrepreneurial initiative, and strictly adhered to rules governing public spending, as well as monetary and regulatory strategies. In that non-cyclical and transparent policy setting, private agents could take long-term decisions without being subject to potentially costly government-inspired strategic twists and turns.

This institutional and policy constellation, in turn, had been a source of great resilience for Hong Kong, insulating it from major endogenous and exogenous shocks and further invigorating and steadying its economic system. Such governance regime attributes and their strategic ramifications had accounted for Hong Kong’s easy transition from a trading post on China’s periphery to a prominent manufacturing center and eventually one of the world’s (alongside with London, New York, and Singapore) few genuinely global metropolises, or media.


19 See generally Lee et al. eds., supra note 17; CHEUNG, supra note 18; CHAN ET AL., supra note 18.

20 See generally Lee et al. eds., supra note 17.

21 See MIRON MUSHKAT, THE ECONOMIC FUTURE OF HONG KONG 1-17 (1990); see generally KU-WAI LEE, ECONOMIC FREEDOM: LESSONS OF HONG KONG (2012).

22 See MUSHKAT, supra note 21; see generally LEE, supra note 21.

23 See id.

24 See id.

25 See MUSHKAT, supra note 21.
providers of intermediary (particularly financial) services to actors in the global economic arena.\textsuperscript{26}

This dynamic equilibrium was seriously disturbed in 2019 as the result of Hong Kong government’s introduction of an extradition bill designed to enable the local authorities to entertain requests for extradition of criminal suspects from any jurisdiction, including those with which the territory did not have an extradition treaty, such as crucially China.\textsuperscript{27} The practical implication was that people accused of committing crimes in Hong Kong could face trial in jurisdictions possessing flawed legal systems, with China the obvious cause for concern.\textsuperscript{28} This proved to be the final straw for large segments of the grassroots community disaffected by persistent attempts to chip away at the high degree of autonomy pledged in the Sino-British Joint Declaration on the Question of Hong Kong (henceforth Sino-British Declaration) and enshrined in the Basic Law, the territory’s mini constitution.\textsuperscript{29} The government’s tepid attempts to diffuse the crisis by offering modest concessions failed to assuage widely held grievances, triggering massive protests that turned increasingly confrontational, involving manifestations of violence.\textsuperscript{30}

The response by the powers that be in Beijing to these bottom-up expressions of defiance was a predictable, but possibly avoidable, counterpunch delivering a knockout to the surging opposition forces.\textsuperscript{31} As Timothy McLaughlin has pointed out, faced with what they perceived as a potentially existential challenge to their authority and repeatedly ending up on the losing side both at the ballot box and in the streets, the Chinese Communist Party (CCP) leaders proceeded to address the threat by comprehensively reworking the rules of the Hong Kong

\textsuperscript{26} See id.; see generally DAVID R. MEYER, HONG KONG AS A GLOBAL METROPOLIS (2000); Yin-Wah Chu, Deconstructing the Global City: Unravelling the Global Linkages that Underlie Hong Kong’s World City Status, 45 URB. STUD. 1625 (2008); STEPHEN CHIU & TAI-LOK LUI, HONG KONG: BECOMING A CHINESE GLOBAL CITY (2009).


\textsuperscript{28} See generally id.

\textsuperscript{29} See generally id.; RODA MUSHKAT, ONE COUNTRY, TWO INTERNATIONAL LEGAL PERSONALITIES: THE CASE OF HONG KONG (1997); YASH GHAI, HONG KONG’S NEW CONSTITUTIONAL ORDER: THE RESURRECTION OF CHINESE SOVEREIGNTY AND THE BASIC LAW (2d ed.1999); DANNY GITTINGS, INTRODUCTION TO THE HONG KONG BASIC LAW (2d ed. 2016).

\textsuperscript{30} See generally Baehr, supra note 27.

political game.\textsuperscript{32} As he has further suggested, the overhaul implemented via a draconian national security law was so far-reaching that it amounted to tossing “the entire thing [i.e., the pre-2020 governance regime] into the garbage bin.”\textsuperscript{33}

Revamped electoral procedures now leave virtually no room for the exercise of meaningful democratic choices and for holding elections paving the way for the emergence of representative institutions.\textsuperscript{34} It is true that the number of overall seats in the Legislative Council has been increased to ninety, but the number of those directly elected has been reduced to twenty.\textsuperscript{35} Moreover, the new policy of “patriots administering Hong Kong,” relying on vetting of candidates by a panel consisting of senior government officials advised by high-ranking police officers, effectively sounds the death knell for the local opposition in any shape or form.\textsuperscript{36} Indeed, the latter is no longer capable of any coherent action as it has been rendered headless after “nearly every notable prodemocracy figure has been jailed, fled abroad, or retreated from public life [following the] passage of [the] national security law, another facet of a sweeping and unrelenting crackdown on Hong Kong’s liberties.”\textsuperscript{37}

The post-2020 governance regime that this radical institutional reconstruction has given birth to can be said to have profound implications for the rule of law.\textsuperscript{38} The reason is that, contrary to the provisions of the Sino-British Declaration and the Basic Law, it features materially lower barriers between Hong

\textsuperscript{32} See generally id.
\textsuperscript{34} See McLaughlin, supra note 31.
\textsuperscript{35} See id.
\textsuperscript{36} See id.
\textsuperscript{37} Id.
\textsuperscript{38} See generally Chan & de Londras eds, supra note 33; DAVIS, supra note 33; Chan, supra note 33; Davis, supra note 33; Davis & Hui, supra note 33; U.S.-China Economic and Security Review Commission, supra note 33.
Kong’s rule of law system and its China’s rule by law counterpart and, substantively, because it possesses characteristics that are difficult to reconcile with idea of the rule of law as commonly (allowing for some variations) conceived and applied.\(^39\)

The new governance regime superimposes an all-powerful Hong Kong Committee for Safeguarding National Security, headed by the territory’s chief executive and composed of cabinet-level officials and top law enforcement operatives, on the existing politico-bureaucratic structure.\(^40\) Notably, and problematically, it is subject to direct oversight by the Chinese authorities via a mainland-appointed national security advisor.\(^41\) The Committee’s deliberations are shrouded in secrecy and fall outside the scope of judicial review.\(^42\) Nor are its finances constrained by prevailing regulatory curbs.\(^43\)

To further blur the boundary separating the Hong Kong and Chinese legal systems a Central Government Office for Safeguarding National Security, staffed with functionaries from Chinese security bureaus, is established to provide local officials with advice, leadership, and supervision regarding national security matters.\(^44\) Its members, while putatively required to comply with local laws, are beyond their reach when exercising their duties.\(^45\) They have an additional safeguard against local infringement in the form of a prerogative to refer any “complex” and “serious” cases to Chinese jurisdiction.\(^46\)

Where cases fall within the remit of the Hong Kong judiciary, the national security law curtails the judges’ independence, directly and indirectly.\(^47\) Specifically, the chief executive is authorized to select a suitably disposed panel of current and retired judges to handle national security cases.\(^48\) Those handpicked may be removed if their statements and/or actions are believed to be endangering national security.\(^49\) Judicial review is not a viable option as the power of

\(^{39}\) See generally id.
\(^{40}\) See generally id.
\(^{41}\) See generally id.
\(^{42}\) See generally id.
\(^{43}\) See generally id.
\(^{44}\) See generally id.
\(^{45}\) See generally id.
\(^{46}\) See generally id.
\(^{47}\) See generally id.
\(^{48}\) See generally id.
\(^{49}\) See generally id.
interpretation lies solely with the National People’s Congress Standing Committee (NPCSC).

Antithetically to common law legacy, the accused are refused bail by default unless the judge has sufficient grounds to conclude that the criminal suspect or defendant will refrain from committing further acts posing a national security threat. He/she may be additionally handicapped by being denied a jury by the prosecution. The sentences handed down by judges, including for what might otherwise legitimately be deemed minor offences, are expected to be decidedly heavy, ranging from three years to life imprisonment.

The national security law has abruptly reversed the previous state-of-affairs in key segments of the politico-legal space. Particularly noteworthy has been the erosion of the freedom of speech, freedom of the press, and freedom of assembly, in addition to the aforementioned curtailment of the right to representation and the right to fair trial.

As matters stand, there is no solid evidence to indicate that economic freedom has been rolled back in any significant way as well. It should be pointed out, however, that the Heritage Foundation has removed Hong Kong from its economic freedom index, which the territory had long topped, because it now presumably views the capitalist enclave as an integral part of the China’s mixed economy. It is also worth highlighting that Singapore, which has replaced Hong

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50 See generally id.
52 See generally Chan & de Londras eds, supra note 33; DAVIS, supra note 33; Chan, supra note 33; Davis, supra note 33; Davis & Hui, supra note 33; U.S.-China Economic and Security Review Commission, supra note 33.
53 See generally id.
54 See generally id.
56 See generally Chan & de Londras eds, supra note 33; DAVIS, supra note 33; Chan, supra note 33; Davis, supra note 33; Davis & Hui, supra note 33; U.S.-China Economic and Security Review Commission, supra note 33; Wong & Kellog, supra note 56; Bagwell, LeVelle & Clay, supra note 56.
Kong as the world’s freest economy in the latter’s absence, has moved above its East Asian rival on IMD’s World Competitiveness Index.\(^\text{58}\)

Ranking as the world’s fifth most competitive economy (previously second) by no means implies that economic freedom has been substantially, or even moderately, diluted at this juncture, especially since the previous leader (United States) has fallen much further (currently ranked 10th).\(^\text{59}\) Yet, far-reaching reversals in the politico-legal realm, in the wake of the introduction of the national security law have arguably fundamentally reengineered Hong Kong’s governance regime. Sharp departures from the pre-2020 institutional and policy status quo have prompted the Economist Intelligence Unit (EIU) to downgrade Hong Kong from a flawed democracy to a hybrid regime.\(^\text{60}\) Lee Morgenbesser, an Australian political scientist, has been less reserved in his criticism and has equated the present Hong Kong governance regime with hegemonic authoritarianism.\(^\text{61}\)

As the above account shows, the political and legal ramifications of such radical institutional reconstruction and policy reorientation have been accorded serious attention by students of politics and law. The likely socio-economic impact, however, has largely been overlooked. Hong Kong has traditionally been strategically geared toward fulfilling the ideal of a prosperous and stable community.\(^\text{62}\) Recently, greater emphasis has inevitably been placed on integration with China’s economy and Hong Kong’s pivotal role in the Greater Bay Area (GBA)/Pearl River Delta (PRD), but without displacing the drive for prosperity and stability.\(^\text{63}\) The aim of this article is thus to systematically address the gap in the

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\(^{59}\) See id.


\(^{61}\) See in McLaughlin, supra note 31.


research work on the implications of the national security law for post-2020 Hong Kong by exploring its effects on the territory’s socio-economic trajectory, while focusing specifically on prosperity and stability. The law-and-politics and law-and-economics literature, broadly defined, is relied upon for this purpose in the following sections, where the relationship between democracy and prosperity, rule of law and prosperity, democracy and stability, and rule of law and stability is closely examined with a view to finding possible answers for a global metropolis facing an uncertain future. The issue whether the Chinese and Singapore experience is fundamentally at variance with the thesis advanced here is also looked at before an overall conclusion is drawn.

I. THE DEMOCRACY AND PROSPERITY CONNECTION

Academic, and more widely, intellectual interest in the relationship between the nature of the political system and its ability to produce favorable or unfavorable socio-economic outcomes has deep historical roots.\(^64\) Insofar as the impact of democracy on prosperity (often stated in terms of economic development or economic growth but these three concepts sufficiently overlap to be employed interchangeably in contexts such as this) is concerned, that interest dates back to Plato’s and Aristotle’s debate as to which type of governance regime generates more concrete benefits for society.\(^65\)

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Contemporary scholarly work on this subject has followed two parallel pathways: formulation of theoretical-style observations based on qualitative methods (case studies, comparative analysis, historical surveys, and so forth) and rigorous hypothesis testing entailing the use of advanced quantitative techniques.\textsuperscript{66} The first strategy has yielded a range of insights shedding lights on how, for better or for worse, but mostly for better, democracy affects prosperity, predominantly indirectly rather than directly.\textsuperscript{67}

On the positive side of the ledger, democracy is assumed to exert a favorable influence on prosperity by providing superior protection for property rights, a milieu conducive to the accumulation of human capital via productive investment in education and health, an institutional environment facilitating technological innovation and its adaptation, a high degree of economic transparency, an inherently stable political setting for the pursuit of economic opportunities, and adequate constraints on predatory rulers.\textsuperscript{68} Democracies do not refrain from expropriation and redistribution of property from one socio-economic group to another (notably from the rich to the poor) and protection of intellectual property does not hinge on the form of the governance regime alone.\textsuperscript{69} Nevertheless, democratically inspired expropriative and redistributive policies are normally conducted in an orderly and transparent fashion, on a relatively small scale, and in conjunction with productivity-enhancing

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{66} See for further elaboration \textsc{David W. Britt}, \textit{A Conceptual Introduction to Modeling: Qualitative and Quantitative Perspectives} (1997); \textsc{Katerina Linos}, \textit{How to Develop and Select International Law Case Studies: Lessons from Comparative Law and Comparative Politics}, 109 AM. J. INT’L L. 475 (2015); \textsc{Legal Research Methods: Principles and Practicalities} (Laura Cahillane & Jennifer Schewpe eds, 2016); \textsc{Research Methods For Law} (Mike McConville & Wing Hong Chui eds, 2nd ed., 2017); \textsc{Roda Mushkat}, \textit{The Case for the Case Study Method in International Legal Research}, 42 J. JURIDICAL SCI. 143 (2017); \textsc{Herbert M. Kritzer}, \textit{Advanced Introduction to Empirical Legal Research} (2021); \textsc{Pier Monateri}, \textit{Advanced Introduction to Comparative Legal Methods} (2021).
\item \textsuperscript{68} See generally \textsc{Halperin, Siegle & Weinstein}, \textit{supra} note 68; \textsc{Knutsen}, \textit{supra} note 68; \textsc{Hollyer, Rosendorff & Vreeland}, \textit{supra} note 68; \textsc{Ghardallou & Sridi}, \textit{supra} note 68.
\item \textsuperscript{69} See generally \textsc{Przeworski & Limongi}, \textit{supra} note 65; \textsc{Douglas C. North, John Joseph Wallis & Barry R. Weingast}, \textit{Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History} (2009).
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When it comes to the overall level of investment, there appears to be little difference between democratic and authoritarian regimes.\textsuperscript{72} If the concept of capital is extended to encompass human capital, however, democracy’s advantage becomes evident.\textsuperscript{73} This is reflected in measures of life expectancy and secondary enrolment, commonly relied upon as proxies for human capital.\textsuperscript{74} The statistical pattern discerned should not be unexpected because democratic regimes obviously have to be more responsive to grassroots preferences than their authoritarian counterparts.\textsuperscript{75} This is also the reason for usually more effective across-the-board service delivery in democracies than in non-representative political systems.\textsuperscript{76}

The argument regarding the relationship between democratic regimes and successful technological innovation, perhaps the most important determinant of prosperity, is grounded in organization theory.\textsuperscript{77} The underlying proposition is that decentralized/polyarchal institutions are more likely to be open to new ideas than centralized/hierarchical ones.\textsuperscript{78} The former are believed to operate as learning organizations, continuously gathering new information, critically assessing it from multiple angles, re-evaluating prior knowledge, and shifting course, if

\textsuperscript{71} See generally Goldsmith, supra note 71; Knutsen, supra note 71; Silvera supra note 71.
\textsuperscript{72} See generally Przeworski & Limongi, supra note 65.
\textsuperscript{74} See generally id.
\textsuperscript{78} See generally id.
appropriate.\textsuperscript{79} The freedom of expression and freedom of the press play a crucial role in this context.\textsuperscript{80}

The assertion that democracies promote economic transparency and thus prosperity follows from that logic.\textsuperscript{81} The notion that a democratic milieu is ineluctably data rich, or at least richer in that respect than any alternative institutional constellation, is attributed to its decentralized/polyarchal nature.\textsuperscript{82} The relative abundance of economic data, it is thought, generally allows policy makers to respond satisfactorily to challenges facing their societies.\textsuperscript{83} Nor is this just a matter of the quantity of economic data available for strategy formulation since the inherent competitiveness that characterizes democratic processes typically acts as a stimulant ensuring that the quality of the data produced is higher than would otherwise be the case.\textsuperscript{84}

Not all authoritarian regimes are predatory.\textsuperscript{85} Some are embedded in an institutional environment where there are competing, even if weaker, power centers.\textsuperscript{86} Others avoid predatory excesses because it is in their interest\textsuperscript{87} or due to deeper ideological,\textsuperscript{88} social,\textsuperscript{89} or strategic considerations.\textsuperscript{90} Nevertheless there is ample anecdotal and, more importantly, empirical evidence to demonstrate that democratic leaders have far fewer incentives and opportunities, as well as much less desire and predisposition, to engage in predatory behavior inimical to societal prosperity.\textsuperscript{91}

\textsuperscript{79} See generally id.; Qua- Jing Wang et al., The Impacts of Democracy on Innovation: Revisited Evidence, 108 TECHNOVATION 102333 (2021).
\textsuperscript{80} See generally Sah & Stiglitz, supra note 78.
\textsuperscript{81} See generally JHOLLYER, B. ROSENDORFF & VREELAND, supra note 68.
\textsuperscript{82} See generally id.
\textsuperscript{83} See generally id.
\textsuperscript{84} See generally id.
\textsuperscript{87} See generally Mancur Olson, Democracy, Dictatorship and Development, 87 AM. POL. SCI. REV. 567 (1993).
\textsuperscript{88} See generally Duckett & Wang, supra note 86.
\textsuperscript{89} See generally id.
\textsuperscript{90} See generally Olson, supra note 88.
\textsuperscript{91} See generally Daron Acemoglu & James A. Robinson, Economic Backwardness in Political Perspective, 100 AM. POL. SCI. REV. 115 (2006); DARON ACEMOGLU & JAMES A. ROBINSON, ECONOMIC ORIGINS OF DICTATORSHIP AND DEMOCRACY (2006).
Two additional positive factors bolstering the case for democracy are increasingly highlighted in the academic literature: trust\(^{92}\) and inclusiveness.\(^{93}\) In its various manifestations, including vis-à-vis agents, interpersonal trust, a vital component of social capital, is thought to be normally stronger and more widespread in democratic than authoritarian regimes.\(^{94}\) This encourages horizontal and vertical cooperation across the national space and (where right conditions prevail) beyond, investment in human and social capital, and transactional economic activities, and enhances the effectiveness of private and public institutions to boot—ultimately paving the way for greater prosperity.\(^{95}\)

Inclusiveness, a feature of democracy, is a concept introduced by Daron Acemoglu and James Robinson in their seminal inquiry into the determinants of national failure and success.\(^{96}\) As matters stand, this is the most authoritative account of the forces shaping long-term policy outcomes and their socio-economic ramifications.\(^{97}\) Acemoglu and Robinson distinguish between two types of institutions: inclusive and extractive.\(^{98}\) The former are open to large segments of the population, but the latter are not.\(^{99}\) Inclusive political institutions are necessary for the smooth functioning of inclusive economic institutions and both are needed to nurture and sustain prosperity over a long horizon.\(^{100}\) Genuine and viable democratic regimes are shown to be blessed with such institutional capital.\(^{101}\)

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92 See generally DEMOCRACY AND TRUST (Mark E. Warren ed., 2010).
93 See generally ACEMOGLU & ROBINSON, supra note 65.
96 See generally ACEMOGLU & ROBINSON, supra note 65.
97 See generally id.
98 See generally id.
99 See generally id.
100 See generally id.
101 See generally id.
On the negative side of the ledger, democracy is assumed to lack the State autonomy seemingly enjoyed by the Asian “tigers,” albeit no longer universally so because some have opted to abandon authoritarianism in favor of representative government. This claim consists of two complementary elements: State autonomy is conducive to prosperity, and State autonomy may fruitfully be realized only under authoritarianism. It is posited that, unlike the latter, democracy is susceptible to capture by special interest groups, with the well-being of the entire society and prosperity sacrificed in the process. By contrast, authoritarian rulers are believed to be shielded from such parochially motivated diversionary tactics and thus better positioned to pursue “good” policies.

This contention may be challenged on at least four grounds. First, inter-group competition in a democratic setting characterized by checks-and-balances may mitigate the impact of special interests. Second, state autonomy is merely one part of a complex picture and may not in itself guarantee prosperity. Third, state autonomy may be a double-edged sword because it may lead to the regime’s detachment from society and thus poorly informed decisions inimical to prosperity. Fourth, authoritarian rulers may not be able to survive without relying on the active support of specific groups, which calls into question the idea of total and even partial insulation from pressures exerted by special interests.

As indicated, the issue of democracy versus authoritarianism in relation to prosperity has been addressed quantitatively rather than merely qualitatively. This is not a simple undertaking. There is empirical evidence of covariation between democracy and prosperity, even suggesting that democracy “causes”

103 See generally Jeffrey D. Maclay, Taiwan’s Transition to Democracy (2012); Hyug Baeg, Democratization and Democracy in South Korea, 1960 -Present (2020).
104 See generally Przeworski & Limongi, supra note 65.
105 See generally Olson, supra note 103.
109 See generally Sen, supra note 76.
110 See generally De Mesquita et al., supra note 76.
111 See Knutsen, supra note 68, at 404–09.
112 See id.
prosperity. The direction and strength of the relationship between democracy and prosperity is affected, however, by the presence or absence of additional, intervening-mediating, variables (for example, parliamentary as opposed to presidential democratic system, and the type of electoral system). Moreover, this may well be a two-way relationship, with democracy fostering prosperity, and the other way around, meaning the former might be endogenous to the latter. This two-way relationship complicates the task of disentangling the interplay between the two influences but does not render it insurmountable.

The quantitative dissection of the relationship between democratic politics and prosperity has grown increasingly sophisticated over time, generally lending credence to the positively configured set of premises relating to this dynamic. It is true that the strength of the relationship hinges on the presence or absence of additional—again, intervening-mediating—variables but this does not undermine the validity of the basic argument that, from an institutional perspective, in the long run, other things being equal, democracy constitutes the most robust pathway to prosperity. As Carl Knutsen has emphatically asserted, democratic regimes “present both businesses and citizens with an important economic safety-net.” And as he has vividly elaborated, “[t]he kind of growth disasters associated with Mao’s Great Leap Forward in China or Mobutu Sese Seko’s kleptocratic rule in Zaire simply do not occur in democracies.”

Indeed, if one major flaw seen in quantitative studies of the relationship between democracy and prosperity—the tendency to treat these two concepts as contemporary variables—is rectified, the favorable impact of the former on the latter becomes even more apparent. After all, as John Gerring and his coauthors have pointed out, “[r]egimes do not begin . . . de novo each fiscal year.” Rather, “[d]emocracy and authoritarianism are commonly thought to construct deep

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113 See id. at 404.
114 See id and Ghardallou & Sridi, supra note 68, at 993–98.
115 See Knutsen, supra note 68, at 404.
116 See id. at 404–09.
117 See id. at 406–09; see generally Daron Acemoglu et al., Democracy Does Cause Growth, 127 J. POL. ECON. 47 (2019).
118 See Knutsen, supra note 68, at 406–09.
120 Id.
122 Id. at 325.
legacies, extending back several decades, perhaps even centuries.” The corollary is that “[i]t is the accumulated effect of these historical legacies, in addition to contemporary regime status, that ought to be of central concern if we wish to understand the causal effect of a regime type on a variety of current outcomes. . . .” And, as suggested, if the stock of democracy rather than its level at any specific moment in time is taken into account, the role played by democratic institutions in upholding prosperity is brought into clearer focus.

This does not obviate the need to grapple with the problem of endogeneity, or the two-way relationship between democracy and prosperity. If the former “causes” the latter, and the other way around, this inevitably means that a prosperous milieu sows and nurtures the seeds of democratic development, or that a certain level of prosperity should preferably be reached to render democracy a viable proposition in the long run and sustain prosperity in turn. Such “threshold” effects are of no serious concern in this specific context, however, because the affluent Hong Kong global metropolis definitely does not suffer from economic deprivation and its reversals on the political front, outlined in the introduction, cannot be attributed to material underdevelopment.

II. THE RULE-OF-LAW AND PROSPERITY CONNECTION

The sphere of democratic thought is not devoid of imprecisions, nuances, and variations, which may have real-life consequences, not necessarily favorable in nature. As Philippe Schmitter and Terry Karl have critically observed “[p]oliticians with a wide range of convictions and practices [strive] to appropriate the label and attach it to their actions.” Nor has the academic domain been free

123 Id.
124 Id.
125 See id. at 325–64.
126 See Knutsen, supra note 68, at 404.
131 Schmitter & Karl, supra note 130, at 75.
of fuzzy delineations, hairsplitting, and oscillations in dealing with the concept. Yet, this has not prevented socio-legal scholars from achieving a significant degree of theoretical and empirical convergence, indeed to a point whereby the notion of democracy may, for all intents and purposes, be taken as given. Rule of law is a less commonly accepted and a more elastic concept. It thus poses even greater theoretical and empirical challenges. Be that as it may, the boundaries and constituents of the rule of law may be adequately identified, as the fluidity of the concept and its opaqueness are not such that applying it in policy and research context may prove to be a controversial and elusive undertaking. In fact, the gap between the different key notions of the rule of law is not substantial and the concept is amenable to measurement-operationalization. In this article, the flexible outline of the contours of the rule of law offered by Joseph Raz is embraced as a workable analytical vehicle:

“The rule of law” means literally what it says: the rule of law. Taken in the broadest [thick] sense this means that people should obey the law and be ruled by it. But in political and social theory it has come to be read in a narrower [thin] sense, that the government shall be ruled by the law and subject to it.

This is, of course, a rather sweeping statement. Additional expectations thus must (inter alia) be met in such an institutional environment. Specifically, laws should be clear, open, prospective, and relatively stable; the law-making process in particular cases should be guided by clear, general, open, and stable rules; independence of the judiciary should be safeguarded; principles of natural justice should be adhered to; courts should exercise review powers over the other

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132 See id. at 75.
135 See generally id.
136 See generally Svend-Erik Skaaning, Measuring the Rule of Law, 63 POL. R SCH. Q. 449 (2010); Tom Ginsburg, Difficulties with Measuring the Rule of Law, in HANDBOOK ON THE RULE OF LAW 48 (Christopher May & Adam Winchester eds., 2018).
137 See generally Skaaning, supra note 137.
principles and should be readily accessible; the discretion enjoyed by law enforcement agencies should not be exploited to pervert the law; and officials should held accountable for compliance with the law.\textsuperscript{139}

Chinese-style legal architecture fundamentally diverges from this institutional blueprint.\textsuperscript{140} The CCP has spared no efforts to transform the country into a \textit{fazhi}, ostensibly a nation under the rule of law, but not in the sense envisioned by Raz and other leading legal philosophers.\textsuperscript{141} The rule by law that has emerged, while superior to Mao-type rule by man,\textsuperscript{142} is a legal system where the law is an instrument of the ruling party/the State.\textsuperscript{143} Superficially, “the adherence to \textit{fazhi} may resemble commitments to ideals such as legal accountability, legal certainty, and equality before the law, in fact ‘law’ in China is a rhetorical restatement of the Party’s discretionary will using legal discourse.”\textsuperscript{144} It follows that “[t]his should not be mistaken for rule of law as the animating (or constraining) force is not the supreme authority of the law, but the will of the Party.”\textsuperscript{145}

When China’s economic reform drive was exhibiting strong momentum, liberally minded Chinese socio-legal scholars floated the idea that a corresponding political reconstruction was imminent, moving the country closer toward the rule-of-law institutional model.\textsuperscript{146} In this vein, they foresaw an aspirational six-pillar structural configuration consisting of an apolitical civil service, an autonomous judiciary, effective social consultation procedures linking the politico-bureaucratic establishment with the grassroots community, an independent corruption agency, a strong audit unit, and virtually the entire range of civil liberties (notably, freedoms of assembly, association, press, and speech).\textsuperscript{147}

\textsuperscript{139} See Skaaning, \textit{supra} note 137, at 452.
\textsuperscript{141} See generally \textit{id}.
\textsuperscript{143} See generally Alcala, Gregory & Reeves, \textit{supra} note 141.
\textsuperscript{144} \textit{Id}.
\textsuperscript{145} \textit{Id}.
\textsuperscript{147} See \textit{id} at 29.
The vision of a consultative democracy underpinned by the rule of law has never materialized and remains a distant dream.\textsuperscript{148} It has faded away as the political sentiment has decisively shifted toward a radically different Statist conception of “good” governance.\textsuperscript{149} The latter calls for a repoliticization of the State, places a heavy emphasis on the superiority of the political sovereign over the rule of law, and rejects the judicialization of politics.\textsuperscript{150} This is coupled with a repudiation of universalist norms and a wholehearted attachment to the notion of Chinese exceptionalism.\textsuperscript{151}

The law-and-economics literature suggests that—generally speaking—such swings of the ideological pendulum may hamper the pursuit of prosperity.\textsuperscript{152} Importantly, broad-in-scope and carefully executed, quantitatively based investigations into the relationship between the rule of law and prosperity have consistently cast positive light on the dynamic and have shown it to be of a robust nature.\textsuperscript{153} It is worth noting that the concept of the rule of law in these studies has not been confined to the simple test of whether no one is above or below the law and whether everyone is equal before the law, but has encompassed all the key attributes of the legal system, including the major components of the law enforcement machinery.\textsuperscript{154}

Stephan Haggard and Lydia Tiede ascribe the overall significance of the rule of law as a crucial economic propellent to four principal factors: its pivotal role as a guarantor of the security of person, a similar function it performs with respect to the security of property in general and the sanctity of contracts in particular, the


\textsuperscript{150} See id. at 23.

\textsuperscript{151} See id.


\textsuperscript{153} See generally La Porta et al., supra note 153; Haggard & Tiede, supra note 153; Ozpolat et al., supra note 153; Higbee & Schmid, supra note 153; Bhagat, supra note 153.

\textsuperscript{154} See generally La Porta et al., supra note 153; Haggard & Tiede, supra note 153; Ozpolat et al., supra note 153; Higbee & Schmid, supra note 153; Bhagat, supra note 153.
binding constraints that it fruitfully imposes on government, and the formal and informal limits that its sets on manifestations of corruption and private capture of public administration organs.155

The Hobbesian concern with personal security is either accorded insufficient attention in contemporary socio-legal research or is addressed in a dichotomous fashion, juxtaposing the orderly milieu in which it is enjoyed with a chaotic state of anarchy.156 This concern is deemed a reflection of misplaced priorities because personal security is believed to be inextricably linked with a confidence-inspiring and uncertainty-mitigating protection of property and enforcement of contracts, the core mechanism tying the rule of law to prosperity.157 The relevance of constraints on government is generally well-understood in this context, but scholars in the field of law and economics specifically underline their importance in minimizing the time-inconsistency problem, attributed to government’s power and incentives to renege on its commitments.158 The empirical findings on the impact of corruption and private capture on developmental dynamics leave a small room for conditional exceptions to the statistical norm, yet they clearly indicate that these activities are mostly highly detrimental to prosperity, particularly if deep-rooted and systemic in nature.159

Sanjai Bhagat highlights another essential contribution of the rule of law to steady economic progress.160 He has empirically established that this institutional constellation is strongly associated with a relatively equitable distribution of income and wealth.161 This is significant because there is considerable statistical evidence showing a positive relationship between fair economic outcomes (as well as processes) and prosperity.162 Again, there is a degree of ambiguity in this respect because the dynamic is less robust in developing countries than developed ones, but the pattern holds overall163 and, when it comes to Hong Kong, the experience of high-income economies obviously carries greater weight.164

155 See Haggard & Tiede, supra note 153, at 674-675.
156 See id. at 674.
157 See id.
158 See id. at 674–75.
159 See id. at 675.
160 See generally Bhagat, supra note 153.
161 See generally id.
163 See generally id.
164 See generally id.
Democracies do not display uniform structural-functional characteristics, and this is also true of different legal systems.\textsuperscript{165} Rafael La Porte and his coauthors have quantitatively explored the effectiveness of investor protection in common law, German and Scandinavian civil law, and French civil law regimes and have concluded that they rank in that order.\textsuperscript{166} The corollary is that common law is a particularly potent prosperity-promoting institutional vehicle.\textsuperscript{167} By extension, this means that, for Hong Kong, to politically tinker with the foundations of its inherited legal system and legal culture might prove to be an economically costly venture.

### III. THE DEMOCRACY AND STABILITY CONNECTION

The overarching goal of a governance regime is subject to conflicting interpretations, inspired by different interests and value systems.\textsuperscript{168} In the law-and-economics literature a strong emphasis is placed on the obligation of the politico-bureaucratic establishment to fulfill the preferences of the governed.\textsuperscript{169} This abstract idea is embodied in the concrete notion of consumer sovereignty.\textsuperscript{170} There is an unmistakable libertarian dimension to this construction because granting the governed the ultimate power over the allocation of resources is an expression of values prevailing in free societies but not readily embraced elsewhere.\textsuperscript{171}

This ideological tension notwithstanding, the libertarian take is widely accepted in academic and policy circles,\textsuperscript{172} and this article is unreservedly predicated on the premise that it has both normative and practical merit. Proceeding along that pathway, law-and-economics scholars put consumers'/the governed-stratum-of-society’s happiness and/or life satisfaction at the epicenter of the public management enterprise.\textsuperscript{173} Happiness and life satisfaction are multifaceted

\textsuperscript{166} See generally La Porte et al., supra note 153.
\textsuperscript{167} See generally Higbee & Schmid, supra note 153.
\textsuperscript{168} See generally THE OXFORD HANDBOOK OF POLITICAL IDEOLOGIES (Michael Freeden & Marc Stears eds., 2013); POLITICAL IDEOLOGIES: THE MANY WAYS OF ALLOCATING POWER (Paul F. Kisak ed., 2016); Daniel J. Fudge, Geographic Differences of Individual Views toward the Role of Government, 37 AM. REV. POL. 71 (2020)
\textsuperscript{169} See generally Joseph Persky, Retrospectives: Consumer Sovereignty, 7 J. ECON. PERSP. 183 (1993).
\textsuperscript{170} See generally id.
\textsuperscript{171} See generally id.
\textsuperscript{173} See generally Shigehiro Oishi & Ed Diener, Can and Should Happiness Be a Policy Goal? 1 BEHAV. BRAIN SCI. 195 (2014); JOACHIM WEIMANN, ANDREAS KNABE & RONNIE SCHOB,
concepts encompassing the gamut of people’s preferences.\textsuperscript{174} Obviously, prosperity is at heart of this attitudinal set,\textsuperscript{175} but stability is highly valued as well.\textsuperscript{176} As Bhrett McCabe has reaffirmed “[h]uman beings yearn for predictability and stability.”\textsuperscript{177}

In the law-and-politics literature this quality of the personal environment is often equated with regime durability or longevity.\textsuperscript{178} If this is employed as the sole criterion, modern-day China may be deemed as a paragon of stability\textsuperscript{179} and Italy as a symbol of instability.\textsuperscript{180} This is an overly narrow view, however, because it overlooks the fundamental underpinnings of stability/instability and centrifugal forces that may be operating within a governance regime without necessarily engendering its dissolution in the short-term and even in the foreseeable future.\textsuperscript{181} Nor is social stability factored in.\textsuperscript{182}

\textsuperscript{174} See generally Oishi & Diener, supra note 174; Weimann, Knabe & Schob, supra note 174; Frey, supra note 174.
\textsuperscript{177} Id.
\textsuperscript{178} See generally Daniel Walther, Johan Hellström & Torbjorn Bergman, Government Instability and the State, 7 POL. SCI. R.SCH. METHODS 579 (2019).
While democratic transitions, such as those witnessed in South Korea\textsuperscript{183} and Taiwan,\textsuperscript{184} are far more common than those of the nondemocratic variety,\textsuperscript{185} it should be emphasized that the stability of democracy itself may possibly be undermined by a fair number of not-easy-to-contain forces.\textsuperscript{186} Economic hardship and economic inequality clearly fall into this category.\textsuperscript{187} Additionally, excessive diversity may have a similar impact because it may render it difficult for actors to find shared goals and function harmoniously.\textsuperscript{188} The erosion of social norms is another potentially negative element in this delicate equation.\textsuperscript{189}

At a more general level, an enduring feature of democratic regimes may prove to be destabilizing.\textsuperscript{190} Specifically, by definition, democracy may be thought of as a public good (as distinct from a private one) which is consumed jointly (rather than individually) without anyone being denied effective access to its fruits.\textsuperscript{191} As such, the system may succumb to the “tragedy of the commons,” whereby actors are motivated by self-interest to the detriment of the well-being of the entire community,\textsuperscript{192} unless measures are implemented to offset these behavioral propensities.\textsuperscript{193}

Resilient democratic regimes possess flexible, shock absorbers to minimize the disruptive pressures emanating from these sources.\textsuperscript{194} This does not mean that

\textsuperscript{183} See generally BAEG IM, supra note 104.
\textsuperscript{184} See generally MACLAY, supra note 104.
\textsuperscript{187} See generally Alexander J. Stewart, Nolan McCarty & Joanna J. Bryson, Polarization under Rising Economic Inequality and Economic Decline, 6 SCI. ADVANCES 1 (2020).
\textsuperscript{188} See generally David Waldner & Ellen Lust, Unwelcome Change: Coming to Terms with Democratic Backsliding, 21 ANN. REV. POL. SCI. 93 (2018).
\textsuperscript{189} See generally Paul Howe, Eroding Norms and Democratic Deconsolidation, 28 J. DEMOCRACY 15 (2017).
\textsuperscript{190} See generally Archon Fung, Saving Democracy from Ourselves: Democracy as a Tragedy of the Commons, in IDEAS THAT MATTER: DEMOCRACY, JUSTICE, RIGHTS 9 (Debra Satz & Annabelle Lever eds., 2019).
\textsuperscript{191} See generally id.
\textsuperscript{192} See generally id.
\textsuperscript{194} See generally Wolfgang Merkel & Anna Lurhmann, Resilience of Democracies: Responses to Illiberal and Authoritarian Challenges, 28 DEMOCRATIZATION 869 (2021); Vanessa A. Boese et al., How Democracies Prevail: Democratic Resilience as a Two-Stage Process, 28 DEMOCRATIZATION 885 (2021); Timothy D. Sisk, Democracy and Resilience: Conceptual Approaches and
democracies are or ought to be in a state of static equilibrium.\textsuperscript{195} Democratic stability, when it prevails, is not at variance with the notion of change, entailing fitting responses to impulses originating within and without the system.\textsuperscript{196} Indeed, constructive adaptation to such stimuli is a quality associated with resilient democracies and a precondition for being placed in this category.\textsuperscript{197}

Flexibility, reflected in the ability to adequately absorb stress, and adaptation, seen in the ability to appropriately change following exposure to stress, are two key ingredients of the strategic repertoire of resilient democratic regimes.\textsuperscript{198} The other two vital elements are recovery, which is the ability to emerge fundamentally intact from high-stress situations, including crises, and innovation, which is the ability to move to a conceptually more elevated plateau for handling such shocks through reengineered policy channels.\textsuperscript{199}

While these are essential structural-functional attributes, they are insufficient in themselves to ensure resilience on a sustained basis.\textsuperscript{200} Inherently strong democracies must also exhibit value reliance and demand resilience.\textsuperscript{201} The former manifests itself when a society possesses the necessary normative dispositions to absorb stress, to withstand it without serious impairment, to duly reconfigure itself in its wake, and to move forward along a new and renovated pathway.\textsuperscript{202} The latter is realized when a society generates persistently robust demand for democratically constituted political institutions.\textsuperscript{203} These are deep-rooted attitudinal constellations that typically coincide with the existence of a flourishing civil society.\textsuperscript{204}

The relationship between resilient democracy and political stability has been systematically delved into for some time, normally in relation to prosperity.\textsuperscript{205}

\textsuperscript{195} See generally Merkel & Lurhmann, supra note 195; Boese et al., supra note 195; Sisk, supra note 195.
\textsuperscript{196} Id.
\textsuperscript{197} Id.
\textsuperscript{198} See Sisk, supra note 195, at 5.
\textsuperscript{199} See id.
\textsuperscript{200} See id. at 6-7.
\textsuperscript{201} See id.
\textsuperscript{202} See id. at 6.
\textsuperscript{203} See id. at 6-7.
\textsuperscript{204} See id. at 7.
\textsuperscript{205} See generally Barry R. Weingast, The Political Foundations of Democracy and the Rule of Law,
Yi Feng has played a pioneering role in this respect by firmly placing the issue on the research agenda, injecting considerable clarity into the discourse on the subject, and subjecting the interaction between these two/three variables to rigorous quantitative examination. He has pinpointed three types of political instability: “‘irregular’ government change (regime-level); ‘major regular’ (within-regime) government change; and ‘minor regular’ (within-regime) government change.”

This classification scheme is confined to the central core of the regime, excluding the societal periphery, which is its limitation. Nevertheless, it is not a serious flaw because in resilient democracies that is the arena where symptoms of political instability principally manifest themselves. Other socio-legal scholars, such as Alberto Alesina and Roberto Perotti, have opted to focus on violent forms of political unrest, which are more common in fragile democratic regimes. Within the conceptual space that he has delineated, Feng has established that resilient democracy does indeed have a material impact on political stability (and that it works both ways) and that by virtue of exerting this influence it also tangibly contributes to prosperity.

This statistical pattern has been detected in other empirical inquiries, including in territory where democratic resilience is not of the highest order. Nedra Baklouti and Younes Bonjelbene have thus illustrated that, for Middle East and North Africa (MENA) countries, the same (again two-way) relationship holds.


207 Feng, Democracy, Political Stability and Economic Growth, supra note 206, at 391.


211 See generally Baklouti & Boujelbene, supra note 206.
despite the foundations of democracy being less than robust.\textsuperscript{212} That is, democratic regimes foster political stability which, in turn, promotes prosperity.\textsuperscript{213} Similarly, Adam Gök has shown that, in Sub-Saharan Africa, the absence of democracy, democratic fragility, and democratic backsliding undermine political stability and indirectly prosperity.\textsuperscript{214}

Within a bidirectional analytical framework, resilient democracy is said to be also conducive to social stability and ultimately prosperity for a number of reasons, with six being generally singled out: its inclusive nature; its sound and transparent conflict resolution and integrative mechanisms; the opportunities it provides for an effective expression of individual and collective voice, whether positive or negative, social mobility, and unobstructed exit from the system, if so desired; the sense of personal empowerment and security that it conveys; the shared values it propagates; and the wide space it furnishes for human action, including mutually rewarding reciprocal relationships.\textsuperscript{215}

Given that prosperity is an integral part of this three-dimensional picture, it is not surprising that considerable research has been directed in this context at identifying the transmission channels through which democratic resilience affects socio-political stability and subsequently economic well-being.\textsuperscript{216} It has been authoritatively determined that the overall impact is substantial and that threats to prosperity predominantly come from the adverse influence of the intervening/mediating variable—that is, socio-political instability—on total factor productivity growth (TFPG) and the accumulation of human and physical

\[\textit{See generally id.}\]
\[\textit{See generally id.}\]
\[\textit{See generally Gök, supra note 206.}\]
\[\textit{See generally Sengupta, supra note 183; Acemoglu, Egorov & Sonin, supra note 206; ALBERT O.
The corollary is that, in the long run, in Hong Kong and elsewhere, abandoning the quest for genuine democracy and depriving democratic institutions of their resilience may breed socio-political instability and detract from economic efficiency and dynamism.

IV. THE RULE-OF-LAW AND STABILITY CONNECTION

In traditional-style legal literature the absence of marked perturbations is closely associated with notion of precedent, which is “the device by which a sequence of cases dealing with the same problem may be called law rather than will, rules rather than results.” It is a moot point to what extent adherence to precedent is actually observed in judicial reality because employing this heuristic over a long time horizon is ineluctably “a matter of trial and error, and when adherence is dissonant with other rules or too harmful, because of the effects of the rules, [judges may] … stop adhering.”

This does not mean that adherence to precedent is a myth but that judicial decision-making even in a deep-rooted common law context is a balancing act, involving tradeoffs between the past and the present. This tradeoff may be a source of instability yet in the positive sense of the term “provided we can focus judges’ attention and bring to the case sufficient care to be sure that our information exceeds that of the judges who acted earlier.” Nor does the existence of the tradeoff invalidate the fundamental proposition that precedent remains at the core of the judicial balancing act in a common law system or calls into question the enormous benefits that it brings:

The stock of precedents is produced by generations of judges wrestling with hard questions. They study the problems and record their conclusions, as traders of coal study its quality and make their bids. Like the price of coal, the system of precedent may incorporate more wisdom than any single trader or judge possesses. Precedent decentralizes decision-making and allows each judge to build on the wisdom of others. In a world where questions arise faster than the information necessary to supply answers, this is a boon. Precedent not only economizes on information but also cuts down on

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217 See generally id.
219 Id.
220 See id. at 422-423.
221 Id. at 423.
idiosyncratic conclusions by subjecting each judge’s work to the test of congruence with the conclusions of those confronting the same problem. This increases the chance of both the court’s being right and the likelihood that similar cases arising contemporaneously will be treated the same by different judges.\textsuperscript{222}

Awareness of the tradeoff continuously faced by common law judges serves a poignant reminder of the importance of precedent as a stability-enhancing device, reinforced by the informal norm of \textit{stare decisis},\textsuperscript{223} and the vital contribution of common law institutional structures and traditions to an orderly societal evolution.\textsuperscript{224} The sense of predictability that this system begets is an essential part of “what people mean by the Rule of Law.”\textsuperscript{225} Moreover, the legal stability that is a byproduct of this structural-functional blueprint bolsters its resilience by virtue of possessing moral valence due to like cases being treated equally.\textsuperscript{226}

At the same time, the tradeoff highlights the complexities and multifaceted nature of seemingly time-consistent judicial decision-making and the system in which it is embedded.\textsuperscript{227} Again, the precedent-driven common law regime is deemed the most potent tool in the institutional repertoire for maintaining societal stability but the entire “package”—consisting of behavioral, cultural, normative, and structural-functional (in their entirety) components—rather than any single element accounts for this favorable outcome.\textsuperscript{228} While inherently more challenging, societal stability may also be realized under civil law and mixed systems, provided the basic tenets of the rule of law are respected.\textsuperscript{229}

\begin{itemize}
\item \textsuperscript{222} \textit{Id.} at 422-23.
\item \textsuperscript{224} See generally \textit{id.}; Cross, \textit{supra} note 9; Harper, \textit{supra} note 9; Dahl, \textit{supra} note 9.
\item \textsuperscript{225} Maimon Schwarzschild, \textit{Keeping It Private}, 44 SAN DIEGO L. REV. 677, 686 (2007).
\item \textsuperscript{226} See Lindquist & Cross, \textit{supra} note 224, at 1.
\item \textsuperscript{227} See generally Easterbrook, \textit{supra} note 219.
\item \textsuperscript{228} See generally Cross, \textit{supra} note 9; Harper, \textit{supra} note 9; Dahl, \textit{supra} note 9; Lindquist & Cross, \textit{supra} note 224; Gillian K. Hadfield & Barry R. Weingast, \textit{Microfoundations of the Rule of Law}, 17 ANN. REV. POL. SCI. 21 (2014).
\end{itemize}
Given the heavy focus on judicial precedent and both its narrower/legal and wider/general ramifications, and the significant intellectual resources and time devoted to the subject, the number of studies exploring the linkage between the rule of law, broadly conceived, and societal, or specifically socio-political, stability has been relatively modest. Nevertheless, taken as a whole, they have been characterized by considerable geographic and historic diversity, coupled with a lack of ambiguity regarding the positive direction of the relationship.

These features are reflected in Brian Tamanaha’s macroscopic survey of the manifestations of the rule of law in its manifold incarnations and the socio-political, as well as economic, benefits that accrue to those who unreservedly embrace it. Scrutinizing the issue across space and time, and seeing the strong worldwide appeal of the rule of law, he infers that the key to accounting for the attraction and the positive socio-political spillovers, lies in the favorable impact of the rule of law on political legitimacy. It is via the latter (an intervening/mediating variable) that the former is assumed to create conditions conducive to socio-political stability, and prosperity to boot.

Interestingly, ancient history provides support for this analytical construction. As Mike Canevaro has documented, the rule of law, in its initial manifestations, was closely linked to the repudiation of monarchical authority—for all intents and purposes, “the arbitrary power of one man” or, to express it more formally, the rule of man. The people of these cities introduced a range of legal


231 See generally TAMANAH, supra note 231; Davis & Trebilcock, supra note 231; DeRouen Jr. & Goldfinch, supra note 231; Desai & Woolcock, supra note 231; Canevaro, supra note 231.

232 See generally TAMANAH, supra note 231.

233 See generally id.

234 See generally id.

235 See generally Canevaro, supra note 231.

236 Id. at 230.

237 See generally id.
devices to circumscribe the capricious exercise of political authority.  

These devices came to be regarded as “the embodiment of a shared ideology that affirmed, against the rule of man, the rule of law, understood first and foremost as the superiority of law over any form of political power, which was to be subjected to the law if the citizens of a city wanted to remain free, and not be enslaved.”  

This overwhelming desire to safeguard individual freedom against (vertical) dictatorial transgressions quickly extended to an eagerness to secure (horizontal) equality before the law and institutionalize these longings, which soon turned into a salient characteristic of Greek identity and “the ultimate measure of the legitimacy of any political regime.”  

It may be contended that this stability-enhancing process, “which took place in, and affected, a world of 1,500 city [S]tates over several centuries and across a huge geographical stretch, is a significant precedent for the modern ‘global endorsement’ of the rule of law as the chief political ideal of our age.”  

The strength of the endorsement and the perceived robustness of the linkage between the rule of law and socio-political stability have varied somewhat over time.  

In the modern era, for instance, there have been four distinct moments when the steadfastness and conviction substantially intensified, to be followed by a slight abatement: (1) the “moment in the 1950s [which] saw a convergence in legal and economic thought around the notion that the law and regulatory capacity of the [S]tate is important to facilitate and underpin modernization”; (2) the “moment in the 1980s [which] coincided with the surge of neoliberal thought and structural adjustment recipes”; (3) the “moment (in the wake of the fall of the Berlin Wall) [which] included recognizing the limits of the market and, with new enthusiasm invested on the possibilities of democratisation, greater focus on more inclusionary and equitable forms of development”; and (4) the “moment

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238 See generally id.
239 Id. at 231.
240 Id.
241 Id.
243 Id. at 6.
244 Id.
245 Id.
[currently] associated with different challenges and ambitions relating to rule of law support in post-conflict settings.  

This wave-like pattern has been accompanied by a growing recognition that the legal and political domains significantly overlap across space and time and that the rule of law is not shielded from the vagaries of politics.  

Rather, irrespective of institutional context, it should be realistically viewed as “an outcome of political processes of contestation and negotiation to agree a common position on managing and regulat[ing] social and political interaction [which] involves assessing the levels of consent by powerful groups to be bound by the terms of political settlement and the weight of the incentives drawing elite interests under a common purpose.”  

The realization that the rule of law may be tainted with politics may have shifted the emphasis from an absolutist to a relativist appreciation of its merits, but it has not brought about an empirically induced theoretical adjustment, let alone a swing of the pendulum to the other end of the analytical spectrum.  

Factual evidence has continued to accumulate that a meaningful degree of the rule of law (akin to resilient democracy and typically one of its prominent features) is closely associated with socio-political stability.  

Karl Derouen and Shaun Goldfinch have statistically demonstrated that the combination of resilient democracy and a meaningful degree of the rule of law (again, institutional constellations that are normally closely intertwined) is a highly effective recipe for socio-political stability.  

They have included State legitimacy, seen as a byproduct of these two factors, and secularity (not very relevant for Hong Kong and the entire Greater China region) in the set of variables having an equally tangible impact.  

This holds true for developing as well as developed countries.  

The corollary is that, having for all intents and purposes jettisoned the key ingredients of a progressively evolving semi-democratic structure, Hong Kong’s chipping away at the foundations of its inherited rule-of-law system may

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246 Id. at 7.
247 See id. at 8-12.
248 See generally id.
249 See generally TAMANAHA, supra note 231; Davis & Trebilcock, supra note 231; DeRouen Jr. & Goldfinch, supra note 231; Desai & Woolcock, supra note 231; Canevaro, supra note 231.
250 See generally id.
251 See generally DeRouen Jr. & Goldfinch, supra note 231.
253 See generally DeRouen Jr. & Goldfinch, supra note 231.
254 See generally id and Desai & Woolcock, supra note 231.
well sow the seeds of long-term socio-political instability, in addition to posing a risk to prosperity.

V. CHINESE AND SINGAPORE “EXCEPTIONALISM?”

The picture painted in the preceding sections leaves little room for alternative scenarios. Failure to build and sustain resilient democracy together with robust rule of law are portrayed as choices eventually leading to a future deprived of the fruits of prosperity and socio-political stability. The prospect of outliers, commonly found in most aggregates consisting of human-made and natural phenomena, is not envisioned. Similarly, the possibility that mitigating or, better still, countervailing influences might be at work here is not entertained.

To all appearances, this cannot be dismissed as an immaterial omission, rendering the oversight a trivial issue. The neighborhood in which the Hong Kong capitalist enclave is embedded is not necessarily one where lofty democratic and rule-of-law ideals are steadfastly pursued but where prosperity and socio-political stability are a scarce commodity. Notably, having regressed from soft to hard authoritarianism, and increasingly projecting raw power in the global arena, on the face of it, China does not seem to exhibit symptoms of economic deprivation and socio-political malaise.

Indeed, the country has dramatically lifted its population’s living standards in the past four decades or so, sufficiently to move it decisively from the low-income levels of the revolutionary era to comfortably within the upper-middle-income range, and it may claim to have the high-income threshold in sight.257


During this relatively short period, China has undergone industrialization and urbanization on a scale that, from a quantitative perspective, may be deemed breathtaking.\(^{258}\) Besides these putative economic achievements, the autocratic regime has evidently managed to enjoy considerable political legitimacy\(^{259}\) and preside assuredly over a nation displaying clear signs of social cohesion and no inclination to succumb to centrifugal forces.\(^{260}\)

This is not an entirely unrealistic but rather one-sided depiction of complex realities.\(^{261}\) Special conditions, notably the ample availability of competitively priced factors of production such as low-cost land and semi-skilled labor, coupled with the inducements offered to foreign investors by the architects of the post-1978 open-door policy, have allowed China to build an outward-looking sturdy manufacturing base, which remains a vital component of the economy.\(^{262}\)


remains to be seen whether this sector will retain its vigor in the wake of the friction with principal trading partners and restrictions imposed by the latter, as well as the incessant supply-chain disruptions engendered by Covid-related rolling lockdowns.263

Manufacturing exports and investment have not been the sole drivers of the Chinese economy.264 Massive investment has also been undertaken in physical infrastructure and the property sector.265 These initiatives have propelled the country’s seemingly unstoppable economic engine to new heights but less than commonly believed.266 Estimates of the shortfall depend on the approach and data relied upon yet the trend exhibited by value-added tax (VAT) revenues,267 picture derived from trading-partner statistics,268 and accounting imprecisions due to subnational government’s penchant for pouring funds into economically dubious investments.269


265 See generally Chen, Matzinger & Woetzel, supra note 265; Shira & Associates, supra note 265; Hancock, supra note 265.


and improperly marked-to-market projects,\textsuperscript{269} suggest that the dynamism has been overstated by a not negligible margin.

Moreover, the qualitative underpinnings of the reform-era putatively steep economic trajectory may not be as solid as generally thought.\textsuperscript{270} Exceptionally large and often questionable capital infusions, increasingly fueled by spiraling debt, have been necessary to buttress it, culminating in disappointing productivity growth.\textsuperscript{271} This may mostly be ascribed to the nondemocratic and legally loose nature of the governance regime, characterized by de facto curbs on private consumption, financial repression, institutional rigidity, limited economic freedom, muzzy property rights, and uncertainty brought about by policy shifts between rule by law and the rule of man.\textsuperscript{272} As the unsustainable investment boom unravels, it is not clear what could realistically replace it as a crucial economic pilar.\textsuperscript{273}

Another downside of the inordinately capital-intensive, top-down developmental model pursued by the largely unconstrained regime has been devastating environmental degradation.\textsuperscript{274} The scale of the havoc and its far-reaching ecological and socio-economic repercussions have been meticulously and poignantly documented by Elizabeth Economy in her book appropriately titled \textit{The River Runs Black: The Environmental Challenge To China’s Future} (2d ed. 2019).

\begin{flushleft}
\textsuperscript{271} See generally West, supra note 271; Sasaki et al., supra note 271.
\textsuperscript{274} See generally \textsc{Elizabeth C. Economy}, \textit{The River Runs Black: The Environmental Challenge To China’s Future} (2d ed. 2019).
\end{flushleft}
“The River Runs Black: The Environmental Challenge to China’s Future.” The policy response to the environmental ravages wrought has not been commensurate with the risks and, because higher priority has been accorded to consolidation of regime power than ecological preservation, it has been discounted as “greenwashing.” The damage needs to be subtracted from the gross national product (GNP), with the adjusted figure, green net national product, reflecting lower living standards.

A similar downward revision, even if not easy to reliably quantify, should be made to account for the level of happiness and/or life satisfaction experienced by Chinese people. As Carol Graham, Shaojie Zhou and Junyi Zhang have surprisingly observed, material advancement has not been accompanied by psychological or spiritual fulfillment in China since as the economy has continue to expand, albeit at a progressively slower pace, life satisfaction in the country “demonstrated very different trends—in particular dropping precipitously in the initial stages and then recovering somewhat thereafter.” Rather disconcertedly, “[t]he drops in life satisfaction were accompanied by increases in the suicide rate and incidence of mental illness.” This is indicative of a subpar level of gross national happiness.

As to socio-political stability, the Chinese governance regime’s durability, at least thus far, is beyond question. As Yuaha Wang has pointed out, however,

275 See generally id.
276 See generally Paul G. Harris, China’s ‘Ecological Civilisation’—A Large-Scale Form of Greenwashing?, HONG KONG FREE PRESS (July 23, 2022, 12:00 PM), https://hongkongfp.com/2022/07/23/chinas-ecological-civilisation-a-large-scale-form-of-greenwashing/.
279 Id.
280 Id.
282 See generally Yuaha Wang, Coercive Capacity and the Durability of the Chinese Communist
this resilience is primarily attributable to its coercive capacity, which the regime has managed to substantially boost as the economic engine has begun to sputter.\textsuperscript{283} New, technically-underpinned control mechanisms, coupled with preemptive maneuvers and significantly reinforced institutional safeguards, have allowed the CCP to materially tightened its grip on society and forestall challenges to its authority.\textsuperscript{284}

As alluded to earlier, the regime apparently rests on two additional stabilizing pillars: political legitimacy and social cohesion. Elizabeth Perry has rightly noted that coercion alone, without political legitimacy, may not be a sufficient condition for ensuring the longevity of a governance regime: “[t]he connection to regime durability is obvious; only the most coercive of police states can endure for long without a general acceptance of regime legitimacy on the part of the populace.”\textsuperscript{285} She has further asserted that China’s governance regime, in fact, enjoys greater bottom-up support than its democratically constituted Western counterparts.\textsuperscript{286} Yet, Perry has cautioned against equating support with legitimacy, which may be considerably more feeble,\textsuperscript{287} and has underscored the risk that, whatever vestiges of historical legitimacy still remain, they may be seriously depleted by coercive, or nondemocratic and rule-by-law/rule-of-man, practices.\textsuperscript{288}

The essence of regime support merits closer scrutiny.\textsuperscript{289} The reason is that this is a feature of what is portrayed as an “authoritarian bargain.”\textsuperscript{290} The regime delivers concrete benefits and, in return, the recipients grant their support.\textsuperscript{291} As Lee and Zhang have demonstrated: “[m]aterial gain has become the linchpin of

\textit{State, 47 Communist \& Post-Communist Stud. 13 (2014).}
\textsuperscript{283} See generally id.
\textsuperscript{286} See id. at 2.
\textsuperscript{287} See id.
\textsuperscript{288} See id. at 4. See also Steve Tsang \& Olivia Cheung, \textit{Has Xi Jinping Made China’s Political System More Resilient and Enduring?}, 43 THIRD WORLD Q. 225 (2022).
\textsuperscript{289} See generally Lee \& Zhang, supra note 285.
\textsuperscript{290} See generally id.
\textsuperscript{291} See generally id.
subordination.”292 And as they have elaborated, “[t]his explains why the majority of social unrest in China seldom challenges the legitimacy and system of one-party rule but has mostly focused on issues of livelihood and material interests.”293 The question is whether the bargain may withstand the shock of economic stagnation, which is beginning to loom large on the horizon.294

Social cohesion is a two-dimensional concept, encompassing both elite and national cohesion.295 China is a preeminent one-party State tightly governed in a top-down fashion, so it would be logical to infer that its ruling elite is firmly held together at all times by a sense of common interest and purpose, but this not necessarily the case.296 The truth of the matter is that fierce intraparty conflicts have seldom been absent from the middle and upper layers of the CCP, prompting sinologists to suggest that the regime exhibits symptoms of fragmented authoritarianism.297 In recent years, it has manifested itself in the power struggle between the politically privileged princeling and Communist Youth League (tuankan) factions, with the former gaining the upper hand yet without unambiguously settling the underlying issues.298

292 Id. at 1504.
293 Id.
296 See generally Huang, supra note 182; Shih, supra note 182; Pei, supra note 182.
As to national cohesion, this leaves out ethnic minorities, notably the Tibetans and the Uyghurs,299 and collective expressions of religious belief that run counter to the ideological mainstream.300 The attitudinal dispositions of the national core are also not unequivocally consistent with official line, with some surveys surprisingly highlighting the existence of a liberal silent majority.301 Less surprising but equally noteworthy are empirical findings selectively indicating that nationwide social cohesion in China is not merely below expectations but significantly lower than in Asia’s high-income democracies and semi-democracies.302

High-income and open society (substitute for democracies and semi-democracies) may be the key factors in this context. As documented in this article, Chinese society cannot be said to be open, and it has become politically and socially (as well as economically) less open in the past decade or so. The high-income target has also turned increasingly elusive, which may sorely test the viability of the authoritarian bargain and unleash powerful pressures, severely crippling the foundations of political legitimacy and social cohesion, threatening socio-political stability in the process.303 China is facing enormous challenges,304 not least of

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303 See generally Leggeri, supra note 295.

which is marked demographic decline and rapid aging of the population.\textsuperscript{305} According to leading sinologists, its authoritarian infrastructure, which they see straining at the seams, is not robust enough to confront them and, absent deep institutional reforms, they envision the end of authoritarian resilience.\textsuperscript{306}

Looking carefully back and cautiously forward, considering this specific historic experience and the insights that it yields, there is thus no solid theoretical and empirical foundation for confidently drawing reassuring lessons regarding Hong Kong’s apparent slide into semi-authoritarianism and the impact on its prosperity and socio-political stability. Should the Chinese economy move comfortably and sustainably into high-income territory without a meaningful relaxation of the type of authoritarian control mechanisms currently relied upon, there might be scope for rethinking this issue but there is no compelling reason to place it on the analytical agenda at this early juncture.

The Singapore case is more relevant yet the parallels with post-2020 Hong Kong are becoming increasingly scarce.\textsuperscript{307} Like its competitor and complementor,  


Singapore is a global metropolis enjoying a high standard of living.\textsuperscript{308} At the same
time, as matters now stand, it has a more inclusive political and social system (a
flawed but improving democracy, rather than a regressing hybrid regime, and a
visible civil society to boot),\textsuperscript{309} a more robust rule-of-law system,\textsuperscript{310} a better quality
politico-bureaucratic apparatus (in all likelihood, the sole example of genuine and
workable meritocracy in human history),\textsuperscript{311} and an economy which, although State-
owned-enterprise (SOE) centered in many respects,\textsuperscript{312} is not heavily populated with
Chinese SOEs and is not as sensitive to political impulses emanating from China.\textsuperscript{313}

Importantly, Singapore has not made its (controversial) Internal Security Act a vehicle for Hong Kong-style
coercive tactics.\textsuperscript{314} Nor has it turned its national

\textsuperscript{308} See generally World Bank, \textit{Singapore Overview}, \textsc{World Bank} (Apr. 9, 2019),
https://www.worldbank.org/en/country/singapore/overview (last visited Jul. 31, 2022);
Yingyue Han, \textit{Singapore as a Global City}, \textsc{The Diplomat} (Mar. 16, 2012),
https://thediplomat.com/2012/03/singapore-as-a-global-city/ (last visited Jul. 31, 2022); Ian Patrick
Austin, \textit{Singapore as a ‘Global City’: Governance in a Challenging International Environment},
in \textit{A New Paradigm for International Business} 171 (Hadrian Geri Djajadikerta & Zhanyong
Zhang eds., 2015).

\textsuperscript{309} See generally Kamaludeen Mohamed Nasir, \textit{The Future of Singapore: Population,
Society and the Nature of the State} (2014); Bilveer Singh, \textit{Understanding Singapore
Politics} (2017); \textit{Civil Society and the State in Singapore} (Carol Soon & Gillian Koh eds.,
2017); Jeevan Vasagar, \textit{Lion City: Singapore and the Invention of Modern Asia} (2021);
\textit{Democracy Index 2021: The China Challenge}, \textsc{Economist Intelligence Unit} (EIU),

\textsuperscript{310} See generally \textit{Singapore: Rule of Law}, \textsc{Glob. Econ.},
https://www.theglobaleconomy.com/Singapore/wb_ruleoflaw/ (last visited Jul. 31, 2022);
index/country/2020/Singapore/ (last visited Jul. 31, 2022).

\textsuperscript{311} See generally Benjamin Wong, \textit{Political Meritocracy in Singapore: Lessons from the PAP
Government}, \textit{in The East Asian Challenge for Democracy} 288 (Daniel A. Bell & Chenyang
Li eds., 2014).

\textsuperscript{312} See generally Dawn Chow Yi Lin & Youngho Chang, \textit{State-Owned Enterprises in Singapore:
Performance and Recommendations}, in \textit{Reforming State-Owned Enterprises in Asia:
Challenges in Asia} 275 (Farhad Taghizadeh-Hesary et al. eds., 2021).

\textsuperscript{313} See generally Kiuyan Wong, Shirley Zhao & John Cheng, \textit{Chinese Firms Are Dominating Key
Parts of Hong Kong’s Economy}, \textsc{Bloomberg} (Jun. 26, 2020, 5:00 PM),
https://www.bloomberg.com/news/articles/2022-06-26/chinese-firms-are-dominating-key-parts-

\textsuperscript{314} See generally Josiah Zee, \textit{Defending Singapore’s Internal Security Act: Balancing the Need for
National Security with the Rule of Law}, \textsc{18 Murdoch Univ. Elec. J. L.} (2011); Murray Hunter,
\textit{Singapore’s Controversial Internal Security Act (ISA): National Security or Political
Persecution?—Analysis}, \textsc{Eurasia Rev.} (Jul. 5, 2021), https://www.eurasiareview.com/05072021-
singapores-controversial-internal-security-act-isnational-security-or-political-persecution-
education program\textsuperscript{315} into a platform for whipping up patriotic fervor.\textsuperscript{316} Cognizant of its global metropolis status, Singapore, a de facto United States ally, has endeavored, insofar as realistically possible, to maintain a neutral external posture without acting as a mouthpiece for any major power the way that at present Hong Kong enthusiastically does for China.\textsuperscript{317} Singapore would have also not let its legal profession demean itself by enlisting young children to sing songs in support of its Internal Security Act.\textsuperscript{318} The differences between the rising and fading global metropolises are thus sufficiently stark to surmise that, if today’s Hong Kong could reinvent itself as Singapore, or alternatively as its own old self, there would be no compelling reason for writing this article in its current form.

The Singapore case is analytically interesting because it fits in with theoretical constructions of the modernization process which lay stress on the pivotal role played by State capacity.\textsuperscript{319} The point is that democracy and the rule of law are key but not sole determinants of prosperity and socio-political stability, and that State capacity is a vital element of the equation on the causal side.\textsuperscript{320} This is an aspect of government performance where Singapore\textsuperscript{321} (and, to a much lesser extent


\textsuperscript{320} See generally id.

and in a different way, China)\textsuperscript{322} stands out and which presumably enables it to move steadily forward on most crucial policy fronts, including in relation to political legitimacy\textsuperscript{323} and social capital (cohesion and trust),\textsuperscript{324} without embracing democratic and rule-of-law tenets to the same degree as the majority of high-income countries. Regrettably, this is an advantage that, due to influences largely beyond its control, culminating in the introduction of the national security law, an increasingly mismanaged Hong Kong no longer enjoys.\textsuperscript{325}

**CONCLUSION**

Hong Kong should not necessarily be deemed as an aberrant example of a profoundly disruptive structural-functional transformation, to be consigned without further reflection to the dustbins of history, but its recent constitutional experience has doubtless been highly uncommon.\textsuperscript{326} Low-income and even lower middle-income countries may see sharp discontinuities, including deep reversals, in the evolution of their governance regime, yet for their high-income counterparts, particularly those highly affluent, this unquestionably is a most unusual occurrence.\textsuperscript{327} And Hong Kong, in addition to its riches, is strategically positioned at the heart of the world economy as a dynamic global metropolis.


\textsuperscript{323} See generally Benjamin Wong & Xunming Huang, *The Political Legitimacy of the PAP Government in Singapore*, in POL. LEGITIMACY IN ASIA: NEW LEADERSHIP CHALLENGES 127 (John Kane, Hui-Chieh Loy & Haig Patapan eds., 2011).


It is patently clear that Hong Kong’s constitutional order has been upended, for all intents and purposes putting paid to the one country-two systems blueprint enshrined in the territory’s Basic Law, and that its international legal personality has undergone a dramatic shrinkage. Progress toward full-fledged democracy has been halted and the flawed variant has degenerated into an institutionally inferior hybrid-like configuration. Time-honored legal conceptions of due process and justice have been emasculated to a degree whereby the rule of law cannot be said to prevail in the public sphere.

These issues have attracted considerable academic and policy attention, in Hong Kong and elsewhere, because, as a global metropolis, Hong Kong has many stakeholders, even though none as preeminent as China. The assessments offered have been predominantly critical and imbued with a normatively and practically inspired sense of serious concern. They have been narrowly focused, however, on the implications of the national security law and its enforcement for democratic progress and the post-colonial legal architecture. The next step is evaluating the economic and socio-political repercussions of the damage inflicted on the fledgling pre-2020 semi-democracy and the long-established rule-of-law system.

This matter has been addressed in this article from a forward-looking perspective. Prediction is often discarded as a fool’s errand but burying one’s head in the sand is a course of action with riskier consequences. The law-and-economics and law-and-politics literature provides ample clues as to how the interplay between a fragile democratic and legal façade and communitywide prosperity and socio-political stability is likely to unfold. As documented here, barring unforeseen developments such as a swing of the ideological pendulum toward the liberal end of the strategy spectrum in China, the outcome is expected to be decisively negative.

Hong Kong leaders, chosen for their political loyalty rather than competence and vision, and living nervously in “big brother’s” shadow, may have some modest room to maneuver to marginally moderate the downward drift for the benefit of both the local population and that of China, where the youth unemployment rate has risen to twenty percent and shows no signs of leveling off.328 Yet, rather than redirecting Hong Kong toward its traditional preoccupation with economic welfare, they are busy fomenting nationalist sentiment and

prioritizing schemes such as mandatory study tours of China for local youth.\textsuperscript{329} The priority structure across the border is no different,\textsuperscript{330} which reinforces the conviction in the validity of the prediction arrived at in this article.

Given such a challenging backdrop, it is difficult to see how Hong Kong could maintain its global metropolis status in the long run, particularly since any semblance of neutrality has completely evaporated. As long as the Chinese currency is unconvertible and the country’s capital account remains officially closed, Hong Kong could conceivably serve as a Greater China center for the provision of intermediary services with viable links to the outside world. The feasibility of this scenario hinges on whether the Greater Bay Area/Pearl River Delta economy undergoes a process of Hongkongization or the other way around, with the Hong Kong economy component succumbing to Sinicization. Currently, the latter outcome seems more probable culminating in the transformation of Hong Kong into yet another undifferentiated element of the Chinese urban landscape, the solidity of whose economic underpinnings cannot be taken for granted. The national security law may come to be viewed as a catalyst precipitating this metamorphosis.
