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# China's Social Credit System: Data-Driven Governance for a 'New Era'

LARRY CATÁ BACKER

China's emerging social credit system rates and rewards, or punishes, the behavior of officials, businesses, and ordinary citizens. But it is more than a social-control mechanism: it is at the heart of a new vision of governance. This vision is built on a rejection of the utility of traditional legal and administrative mechanisms for governing a society. There is a growing certainty among China's leaders, guided by President Xi Jinping's "New Era socialism with Chinese characteristics," that economic vitality and social development can be best achieved through systems of ratings based on constant supervision.

**Ways of Governing**

*First in a series*

This emerging vision was driven home on July 16, 2019, when the General Office of the State Council, the chief administrative center of the People's Republic of China, issued a set of "Guiding Opinions on Accelerating the Construction of a Social Credit System to Build a New Credit-Based Supervision Mechanism." The document was directed to virtually all levels of government—national, provincial, regional, and municipal—as well as the ministries and commissions of the State Council and their respective agencies. It underlined a number of critical elements for those seeking to understand the way that China is governed.

First, it was a reminder of the central role that social credit–based governance has assumed since the State Council first embraced this new method of using data to manage behavior in its 2014 "Notice Concerning Issuance of the Planning Outline for the Construction of a Social Credit System." Second, it emphasized the systemic character of social credit as a mechanism of regulatory governance in China. Social credit, like law, ought to be understood as a system of governance with its own organizing principles and characteristics—yet it operates autonomously from (though in relation to) law.

Third, the Guiding Opinions made as clear as possible (given the discursive style of Chinese official pronouncements) the connection between social credit as a regulatory mechanism and the objective of supervision. As an accountability measure used to manage officials' behavior, supervision itself has become a central element of Chinese regulatory efforts. It is also applied to foster cultures of accountability throughout the population, public administration organs, and private business enterprises, as well as civil society organizations.

Lastly, the Guiding Opinions served as a reminder of the fundamental objectives of New Era socialism. This doctrine was unveiled in its current form by Xi in his report to the 19th National Congress of the Chinese Communist Party (CCP) in October 2017.

What all of this means is that social credit, and the accountability culture for which it serves as a proxy, has emerged as a key element in the transformation of China's governance structures. It is integral to the understanding and implementation of a rule-of-law based system compatible with the CCP's fundamental political line. As such, it represents more than a mere set of "new governance" techniques, or some mad effort to develop an arbitrary Orwellian control apparatus.

Rather, it gives form to the long-term and fundamental objectives of the CCP: to detach the organization and operation of politics, economics, and society from their roots in the ideologies and practices of liberal democracy—and its economic

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expression through markets-based regulation underpinned by rule-of-law concepts. In their place, and now quite publicly under Xi's leadership, the CCP has accelerated its efforts to develop an ideology and set of practices based on a socialist reframing of core concepts of legality, democracy, and the obligations of states.

Social credit thus is a visible manifestation of a profound political transformation. In the view of the CCP leadership, the economic success of China in the four decades of the Reform and Opening Up period that started under the leadership of Deng Xiaoping has now made it possible to refine the political model inaugurated in 1949 with the establishment of the People's Republic. The catalyst is the revolution in technology that now permits supervision through data and analytics in ways that may be more effective than the traditional reliance on law, administrative oversight, and the police power of the state.

Xi has also deemed it necessary to free the model from Western ideologies and influences. That requires the development of Leninist principles through which an understanding of key universal concepts—democracy, freedom, accountability, and the like—can be made more compatible with the governing ideology. This ideology, now guided by Xi's "New Era" concept, remains grounded in the essential role of a leadership core (the CCP) guiding the collective (the people) toward a set of social goals articulated as the CCP's Basic Line.

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To understand China today, then, one has to come to terms with social credit. To understand social credit, in turn, requires situating its "system" within a larger complex of accountability and supervision principles at the heart of the project to remake fundamental conceptions of law and the role of the state. But coming to terms with these concepts also requires the suspension of belief in the unalterable quality of key organizing principles central to the self-conceptions of Western liberal democratic states—namely, free markets, with a residual role for the state in social organization.

Of course, in a country as large and complex as China, it would be ridiculous to assert that everything can be explained by a single manifestation of a particular form of governance. And yet social credit does sit near the center of, and is an important element in, a complex set of actions that together appear to be reshaping Chinese conceptions of law, regulation, and governance.

## LAW AND MEASUREMENT

Social credit predates Xi's announcement of a "New Era," but it was an instrumental element in his government's initial efforts to transform society. It was now time to put the party back at the center of national life, move Marxism-Leninism forward from its failed Soviet variations, and shift away from an essentially borrowed set of Western principles of social, political, and economic organization. They had been useful during the Reform and Opening Up era, but they kept China in a state of intellectual (and operational) dependency.

Independence required profound changes in the basic operating system of the state, the economy, and society. Once a new model was created and operationalized, it might then be exported along the corridors of trade and production that China simultaneously is building through its global Belt and Road Initiative announced at roughly the same time (in 2013) as social credit.

Social credit originated in response to two related objectives. The first was the perceived need to remake China's culture, which could be traced back at least to the 2012 unveiling of the "Core Socialist Values" at the 18th CCP Congress. Social credit was to contribute to the advancement of the national values of prosperity, civility, and harmony, along with the social values of justice and rule of law. But at first the primary focus was on individual integrity.

The second goal was reforming the socialist market economy system. That required the adoption of new management techniques that could be more effective than methods drawn from Western concepts of law. Social credit would substitute measurability (governance through measurement, assessment, and reward) for obligation to obey the command of statute, regulation, or administrative decision. Law would become a framework within which a new method of social regulation could be developed ("in accordance with law").

The term "social credit" veils the overall character of the project. The system was initially meant to be more comprehensive. It was to focus on four areas: "sincerity in government affairs," "commercial sincerity," "societal sincerity," and "judicial credibility." Sincerity in this context means integrity and trustworthiness. The system is built around the idea of compliance: the way one complies with law and social obligation will be as important as the fact that one complies at all.

## Rating society

Social credit systems are centered on ratings. Ratings are derived, in turn, from data generated by what is being rated—individuals, businesses, public and private institutions, and eventually even CCP members. To that end, it is as necessary to manage data production as it is to manage the analytics and consequences drawn from the data.

The Chinese Internet is increasingly populated by websites that train users in the art of attaining high credit scores. Users of Alipay Sesame Credit can improve their scores by inputting more personal information, linking bank cards to Alipay, borrowing and saving more, making donations, and engaging in public welfare projects—all through Alipay. According to a 2019 *Nikkei Asian Review* article, this scoring system operated by Alibaba Group is based on data collection throughout its online ecosystem of over 700 million users. (By comparison, Google's data harvesting across its own platforms reportedly includes over a billion users.)

Data collection is coordinated between state and private organizations, and its extent now rivals that of the more loosely coordinated systems in the West. While both systems seek to protect the integrity of their data and the confidentiality of their analytics and algorithms, privacy is understood differently—it is inherent in individual autonomy and rights in the West, but has a more public and communal character in China, where it is grounded in the responsibilities of the state. Yet the West has developed robust markets for information; Chinese social credit suggests a larger degree of central planning and coordination for generating data as well as rewards and punishments.

These two worldviews clashed in 2018, when Amnesty International condemned Apple's decision to grant its Chinese partner for iCloud services access to Chinese customer data. Amnesty called that decision a betrayal of Chinese iCloud users, since it made their data vulnerable to Chinese state supervision.

The widely publicized initial focus of the Chinese social credit system has been on the development of credit information and investigation systems in various sectors of the economy. The 2019 State Council guidance focused on government procurement and the market behavior of companies and consumers. But information collected from CCP members and officials has contributed to data sets that eventually will be utilized under the State Supervision Law, which was enacted in 2018 to strengthen oversight of all public employees, bring about full coverage of state supervision, advance anticorruption efforts, and modernize the national governance system.

The choice of which data to collect determines what actions are rated: late payment of bills, customer satisfaction, liquor purchases, names of books bought, postings to social media, sources of purchases, and so forth. And the ratings themselves are based on the Core Socialist Values developed by the CCP leadership. Social credit thus involves data-driven analytics systems in which algorithms can determine the consequences of values-based ratings.

For example, failure to pay a minimum amount of debt on time will immediately trigger the insertion of the debtor's name on a blacklist that produces consequences: interest rate hikes, travel prohibitions, and the like. Depending on the technology available, the possibilities for data-driven analytics with consequences are as broad as the imaginations of those producing the ratings.

Here is where the connections between social credit, big data, and artificial intelligence come in. Big data is the aggregate information necessary to develop analytics that meet the objectives of those with the authority to set behavior parameters. Artificial intelligence (AI) provides the means by which vast quantities of data can be incorporated into models that can self-correct data sources and adjust algorithms.

For example, the Supreme People's Court announced in May 2019 that it is developing data platforms to help judges handle intellectual property cases. Such a system eventually could be used to evaluate individual judges by comparing their decisions against the average. One need only input the relevant data (this is a land in which data analysts and coders, not lawyers and policy experts, rule) from cases grouped into data sets. Predictive analytics could be used to determine the "average" or plausible range of decisions (self-corrected by AI systems as new cases are added). Judges whose decisions deviate from the predicted or average outcome, given the relevant key facts, would have to justify the deviation. Or judges could be rated to evaluate their performance.

In effect, these are compliance systems already quite familiar to Western enterprises—but not yet to the state. Businesses have been using crude versions of this kind of system for years in disciplining labor. What makes the Chinese system innovative is its transposition to the public sector, and its use in lieu of (and through) law to reward and punish behavior deemed worthy of attention.

## Controlling the party-state

Originally, the 2014 State Council document emphasized that integrity in governmental affairs was to be the crux of the social credit system. Social credit could be used to rate the efficiency of officials by monitoring their actions and rating them based on ideal objectives and behaviors. But it could also be used to gauge corruption or "wrong" decision making. If tied to the new Supervision Law, it could become an even more powerful tool for monitoring and controlling state and CCP officials.

However, none of this has yet reached an advanced stage of development. (It would not be surprising if there were some internal resistance.) And there appears to have been little movement toward using these measures against core leaders—a tendency that China shares with the West in the application of compliance systems. But it is likely that social-credit data sets will be developed for measuring provincial and local governments' responsiveness to central government directives.

More importantly, perhaps, social credit was intended to direct and constrain officials' exercise of discretion. That is, government officials were expected to act on the basis of the social credit rankings of the people affected by their decisions. The State Council noted that credit information could be applied to administrative permission requests, government procurement, labor and employment, social security, scientific research management, cadre promotion and appointment, applications for government financial support, and various other areas. It could also be used to foster the development of a credit services market.

Related to this is the idea that internal management of state-owned and private enterprises could be supervised through social credit systems. The West increasingly relies on guidelines that limit prosecutorial discretion to act against corporations in return for their development and operation of compliance systems; China appears inclined to use social credit mechanics for similar purposes. That requires the production of data, models against which analytics can be developed, and algorithms that substitute for administrative or prosecutorial discretion in evaluating behavior and imposing consequences.

To these ends, the State Council has been consistent in urging support for the creation of accurate statistics. Statistics should be harvested by the state, but also by virtually all elements of society. Everything and everyone should become both objects of social credit and generators of the data necessary for imposing algorithmically determined consequences. While all actors produce data, the state becomes the ultimate custodian of that data. Social credit redirects the power of data away from markets and strengthens the state's ability to comprehensively control behavior.

## Market oversight

Given the thrust of CCP policy since the 1980s, it comes as no surprise that social credit also is poised to serve as a new mechanism of economic modernization. Social credit systems can be used to tackle what Xi's report to the 19th CCP Congress identified as the principal contradiction facing Chinese society—that "between unbalanced and inadequate development and the people's ever-growing needs for a better life."

Social credit has been deployed for the oversight of markets and economic production. It is envisioned as a tool for improving workers' safety (especially in the mining and chemicals sectors) as well as the safety of food, medicine, and consumer products—scandals over defective and dangerous products have embarrassed the government in recent years. Social credit has also been extended to logistics and the oversight of wholesale and retail markets.

Separate social credit systems have been developed for the financial services sector (also plagued with scandal), public procurement, transport, and e-commerce. In February 2019, the *South China Morning Post* reported that 1,282 operators of peer-to-peer lending platforms had been placed on creditworthiness blacklists. Other areas subject to blacklisting systems include pricing and taxes.

To manage categories of conduct identified by the State Council in 2014, the CCP leadership plans to substitute social credit systems for the more cumbersome process of law- and rule-making coupled with police and judicial enforcement. Eventually, social credit in the economic sector, combined with AI, might substitute both for Leninist central planning and for capitalist markets-based allocation.

## Collective discipline

It is in the area of "social sincerity" that social credit has the most alarming implications for

Western observers. The stated objective is to create "harmonious and amicable interpersonal relationships," but it is difficult to avoid the political subtext. Harmony and amity are terms whose meaning is connected to orthodoxies—social in the West, political and official in China. But in both cases they can be measured. And metrics provide the basis for regulation when coupled with punishment and reward.

Social credit systems use a variety of factors as input. Zhima Credit scores can be affected by purchasing behaviors (buying diapers could increase scores; playing video games may have the opposite effect), while Alipay assesses users' connections in the platform's social network. Avoiding military service could result in being banned from staying at luxury hotels, while high credit scores might speed applications for travel to desirable destinations like Europe and Singapore.

In some cities, police downgrade creditworthiness for frequent traffic offenses. It was reported in May 2019 that the city of Beijing now classifies as "uncivilized behavior" eating food on trains after being asked to stop, selling goods to passengers in transit, or listening to loud music—all of which could reduce credit scores.

*Under the social credit ideology, even law becomes measurable.*

In other places, people can earn higher credit ratings by engaging in approved civic activities. In Rongcheng, in Shandong province, blood donations, volunteer work, and the like are rewarded with discounts on utility bills. For students, high social credit scores earn coveted job interviews.

This year, it was widely reported that almost 18 million people have been "discredited" and on that basis prohibited from purchasing plane tickets because they are on blacklists for unpaid taxes or fines, while over 5 million people were prohibited from purchasing high-speed train tickets. Over 3 million enterprises were added in the same period to official credit blacklists, banning them from bidding on projects and accessing securities markets.

Social credit is fueled by the insight that the control of social norms is the most efficient way to create cultures of individual conformity to community standards. In effect, it uses social norms like legal norms, with the state at the center. And it is only one small step from the use of social credit mechanics for behavior management to their use for larger political and state security purposes.

The situation in China's autonomous regions—including recent events in Hong Kong—suggests a growing appetite for utilizing data-based analytics in the management and surveillance of conduct deemed harmful to the state. In May 2019, Human Rights Watch reported that police were using a mobile app to track people in the western region of Xinjiang—monitoring patterns of socializing, acquaintances abroad, and electricity use—as part of a broad set of repressive restrictions on the Uighur minority.

The objective of social credit is to track and grade everyone's actions. Such a system raises the question: What role remains for traditional law in a context in which all actions produce near real-time consequences? It also suggests a different role for law—as a means by which the system's own integrity is monitored.

Such developments are likely years away. Yet social credit could revolutionize the role of law in the political order, shifting it from a set of primary commands to a means for managing and structuring the system of behavioral control. Its role would resemble that of law and state intervention in markets: to protect the integrity of market functions and preserve core operating principles.

These are conclusions that might rest uneasily in the minds of people committed to the principles of liberal democracy. But China's social credit system may well be making such introspection necessary.

## RESHAPING GOVERNANCE

At its simplest and most abstract level, social credit is governance in the "New Era." First, it furthers the idea, raised obliquely at the 19th CCP Congress, that China must find ways of setting rules that reduce reliance on culturally laden Western techniques—like law and constitutionalism. Under Xi's "New Era" principles, China's present stage of historical development and its mission to advance Leninism with national characteristics require an approach to law and regulation that is not corrupted by the principles and forms of incompatible systems.

Second, if law is understood as a cultural product, then the leadership core's foundational political work must be the production of rules that are compatible with the revival and development of its own political model. As the Constitution of the

CCP declares, the "Party's highest ideal and ultimate goal is the realization of communism."

Third, social credit systems advance emerging Chinese conceptions of the rule of law and human rights. Social credit emphasizes collective rights grounded in individual (and institutional) conformity to collective expectations overseen by the CCP; in this context, Western-style privacy principles make little sense. (It is possible to check anyone's social credit score by using a search engine on a Chinese government website.)

Fourth, social credit is likely to serve as the centerpiece of Chinese legality—the correct framework for imposing obligations through law. Its rollout before the 20th CCP Congress in 2022 may be intended to provide a concrete example of the autonomy of Chinese law and legal systems that can be paired with Chinese economic autonomy.

Fifth, social credit, when it matures, is expected to provide a more direct and efficient means of bringing CCP policies and the thrust of its evolving Basic Line into the daily lives and operations of Chinese individuals and institutions. It transposes the language of politics not into law but into evaluation. It changes the nature of the relationship between the individual and the state from one of obedience to law to one of compliance with expectations.

That brings us back to measurability. Under the social credit ideology, even the law can be measured. And once the law becomes measurable, it loses its moral primacy to whatever is used to measure it; rule of law becomes a function of its measure.

## COMPLIANCE CULTURES

The social credit system is not well understood outside China. Coverage of the topic in the Western media tends to be alarmist and to overlook parallel developments within public and private sectors in the West. Yet the ambitions at the heart of social credit for radical transformation of the legal order merit sustained attention, especially as its techniques become more widely mimicked by Western enterprises—and as compliance culture moves to the center of governance even within Western liberal democracies.

Social credit has come to liberal democracies via a different set of routes. Western businesses have wholly embraced (in many cases in partnership with the state) compliance cultures that require not just surveillance but data-driven systems to reduce risks and compel behaviors. Surveillance techniques have become pervasive in the private sector, and the state helps itself to the data when convenient. Likewise, businesses help themselves to public information, such as census data.

From Scandinavian consumers voluntarily having microchips implanted under their skin to facilitate daily transactions, to the pervasive regulation of behaviors through consequence-bearing rankings (including credit scores, product ratings and reviews, and the like), the West does not lag far behind China in its enthusiasm for social credit systems. Nor has the West been slow to embrace the transformative potential of social credit–like systems to convert the individual from an autonomous being to a source of values-laden data. All of this, of course, is being undertaken with "Western characteristics" (driven by a fragmented private sector) to advance our own "New Era" values—values quite distinct from those of the CCP.

But like its Western analogues, Chinese social credit systems remain a work in progress. It is too early to speak of social credit as a unified system. For the moment, what passes for social credit is really the aggregation of a large number of national, provincial, and municipal experiments, each focused on different policies and issues. AI remains elusive as a means of effective implementation.

For now, social credit can be reduced to a growing practice of blacklisting and the administrative matter of matching blacklists with consequences. The 2019 State Council guidance suggests that all decision makers should make use of the blacklists, and especially that local officials use them in allocating public services. But the management of a blacklist system is a far cry from the ambitious conception of social credit envisioned by the State Council. And that gap is unlikely to narrow much by the time of the 20th Party Congress, even though the 2019 guidance calls for consolidating the "system" of social credit.

Nonetheless, the technologies of surveillance and data gathering have substantially advanced. The CCP continues to experiment, and some initiatives may be changed or abandoned. However, social credit as a new means of managing conduct is an experiment that will likely become an ever more important element of Chinese governance and the signature innovation of Chinese "New Era" ideology. ■