

# *Disregarding Blameworthiness, Prioritizing Deterrence: China's Social Credit-Based Punishment and the Erosion of Individual Autonomy\**

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## *Abstract*

Punishment lies at the core of the state-imposed restrictions on “trust-breaking” persons within China’s Social Credit System (SCS). These restrictions are known as *chengjie*. Through the lens of punishment theories, this article examines the normative assumptions underlying untrustworthiness-based *chengjie*, which are tantamount to punishments. It finds that a substantial number of untrustworthiness-based punishments deviate from the liberal principles of punishment mandating that punishment be both based on the blameworthiness of the actor and proportionate to retributive and deterrent aims. These principles, essential for preserving individual autonomy, have generally guided China’s post-1980 law reforms concerning punitive powers. Despite the adjustment of SCS policies in 2020, the SCS continues to suffer from the major flaws of disregarding blameworthiness and over-emphasizing the deterrent aim of punishment without reliable predictions of wrongdoing. The system has been influenced by two illiberal

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tendencies: an attempt to employ harsh punishments for social control, and reliance on data-driven evaluations of the worth or risk level of individuals that equate statistical correlation with normative relevance and ignore human agency. The SCS's erosion of individual autonomy cannot be rectified by law-making that formally endorses untrustworthiness-based *chengjie*. It can only be addressed by discarding the de-contextualized concept of "trustworthiness" and valuing everyone's volitional and cognitive capacities.

## 1. Introduction

China's Social Credit System (SCS) is notable for its powerful restrictions on the rights, interests, eligibility, and chances of individuals and social entities labeled "*shixin*" (失信; literally meaning "loss of trust" and translated as "trust-breaking" or "untrustworthiness" in this article). The intensity of the restrictions, and the variety of wrongdoings that trigger them, sets the SCS apart not only from financial or sectoral credit rating systems in other countries,<sup>1</sup> but also from the punishment mechanisms utilized in the People's Republic of China (PRC) since the 1980s.<sup>2</sup> While the SCS is often perceived as a public-private participative scheme that regulates behaviors through punishments and rewards, the main policy thrust has been restrictive measures imposed by state authorities and their association with the obscure notion of *xinyong* (信用; usually translated as "credit" or "trustworthiness"). That notion persists in the system's top-level design and consolidates local, fragmented experiments.<sup>3</sup> In late 2020, the state-imposed restrictive measures and their governing norms underwent adjustments.<sup>4</sup> Nevertheless, such measures are still officially called "*shixin chengjie*" (失信惩戒; referred to as "untrustworthiness-based *chengjie*" hereinafter),<sup>5</sup> and have been reaffirmed as part of the new mechanism of "credit-based regulation" to be completed in 2021–2025.<sup>6</sup> The nature and legitimacy of this peculiar form of state action are thus deserving of close attention.

Social science research has reviewed the functioning and scale of untrustworthiness-based *chengjie* primarily through the lens of theories about surveillance,<sup>7</sup> social sorting,<sup>8</sup> and technology-enhanced governance.<sup>9</sup> However, the normative nature of the state-imposed restrictions within the SCS and their relationship to moral condemnation are often taken as incidental to the country's (novel) credit-based governmentality, with *chengjie* perceived merely as a new addition to the Chinese state's