

Social Credit “in” or “as” the Cage of Regulation of Socialist Legality

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Abstract

Chinese social credit (SC) and SC systems (SCSs) represent a wide spectrum of measures, practices, and administrative styles clustered around the quantification of objectives and expectations targeting people, groups, and activity and their interactions in all spheres of collective organization. Their overarching policy goal is “trustworthiness” in collective life. At one end of the spectrum are formalized systems of public and private credit rating and assessment systems coordinated by administrative organs at all levels of government. At the mid-point are many forms of compliance/assessment systems aided by big data and generative AI. At the other end are all systems of data-based compliance and assessment systems managed by public or private institutional organs. As a form of socialist legality, SCSs function as substantive law, as process, and as a mediating space between administrative and political authority. The research question in this article is straightforward: in what ways are SCSs embedded in the conceptualization and implementation of socialist legality? Two sub-questions emerge: (1) how does that embedding shape the character of SC “as” or “in” the cage of regulation through which Chinese legal structures are ordered, and (2) in what ways does the implementation of SC through platforms change or displace traditional forms of the administration of law?

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Power should be exercised within the cage of regulation (把權力關進制度的籠子裏 *ba quanli guanjin zhidu de longzi li*).¹

*Under Xi, the rule of law has been partially subordinated to an agenda that seeks to contain power “within the cage of regulation.” It is not a tool that can rectify institutions. Instead, it is one of a series of tools that can rectify individuals.*²

1. Introduction

This article wrestles with the fundamental conception and character of regulatory spaces through the lens of Chinese social credit (SC) and SC systems (SCSs). These spaces now emerge as objects, that interact as platforms, and that constitute regulatory systems. These systems, in turn, are self-referencing in the sense that they determine boundaries, the rationalization of action and objects within the bounded space through the application of defining premises, and engage with objects and processes outside these spaces.³ The conception and character of regulatory spaces touches, in turn, on the core insights of both phenomenology⁴ and semiotics,⁵ as they are expressed and animated within the bodies (cages) of systems.⁶ The phenomenology of systems focuses on the meaning that “things,” such as systems, rules, and expectations, have in individual and collective experience—that is, on the way that systems, rules, and expectations are experienced and, consequently, given meaning and effect. The way in which a thing is experienced shapes its meaning, and the meaning of things experienced is possible only through concepts and premises. One approaches the experience of a thing through the filter of concepts and collective meaning structures, and expectations then make it possible to identify and invest a thing with meaning. Experience, then, is made meaningful only when embedded within what phenomenology calls a lifeworld, “the world of lived experience inhabited by us as conscious beings, and incorporating the way in which phenomena (events, objects, emotions) appear to us in our conscious experience or everyday life.”⁷

In the political and regulatory fields, this process requires wrestling with the lifeworld within which systems are created and operated. For regulatory systems one focuses on governing ideologies of societal collectives—the structuring and rationalization of regulatory space⁸—and the institutionally cognitive elements of normative subjectivity⁹ and