

Research on the legalization of Social Credit System

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Abstract: The relevant creative legislation for the construction of China's Social Credit System is being continuously promulgated and implemented. However, due to the lack of guidance from higher-level laws such as the Constitution and specialized laws, the social credit legal system is facing a dilemma of structural defects. As a means of governance, social credit-related policies and local legislation include too much morally adjusted behavior into the scope of legal adjustment, leading to excessive pursuit of effectiveness of governance results in practice, while ignoring the punishment of dishonesty legitimacy. Based on this, the rule of law of the Social Credit System should create special laws that “incorporate morality into the law” to improve the social credit legal system, and face up to the limitations of social credit as institutional credit, strengthen the legal constraints of Social Credit System construction, and realize “Formal rule of law” and “substantive rule of law”.

Keywords: Social Credit System; Credit regulation; Rule of law; Legitimacy.

1. Introduction

Since the implementation of *the Planning Outline for the Construction of a Social Credit System (2014-20)*, China's social credit construction has flourished. A broad social credit system, including the economic transaction credit system and social credit system, is gradually taking shape, but some problems have been exposed, and it is urgent to carry out normative sorting and theoretical discussion.

Judging from the current domestic research results on the topic of “Social Credit System construction”, the existing research reveals and expounds China's Social Credit System construction from different angles, focusing on the description and political attributes of the current practice of China's Social Credit System Construction Discussion, analyze the specific problems and put forward countermeasures and corresponding legal control. It can be roughly divided into the following four aspects. First, some papers study the social credit problems in this field from the perspective of specific problems, such as “the response to the doctor-patient credit crisis”, “the prevention of credit card risk” and “the problem of personal real-name system”, etc. Secondly, some articles analyze the national attribute of Social Credit System construction and the internal logic tone of “political country” from the perspective of occurrence mechanism. Thirdly, starting from the general theory, this paper analyzes the purpose and strategy of the construction of Social Credit System, including self-discipline alienation, cooperative governance and the institutional basis of modern economic growth. Fourth, from the perspective of administrative law, it describes the practice patterns and basic aspects of credit supervision, credit tools, credit information, punishment for breach of trust, and social public credit legislation in the construction of Social Credit System from different aspects. On this basis, these articles analyze the practical problems and put forward some countermeasures. For example, the construction of the Social Credit System should be based on several principles of the rule of law, such as administration according to law, the principle of proportionality, respect and protection of human rights, and the prohibition of improper connection.

China's “Social Credit Law” has not yet been issued, and local governments are trying to grope for creative legislation.

Some scholars have questioned the legitimacy and rationality of the punishment mechanism for dishonesty, which is still in its infancy. To sum up, the existing research lacks the research on the composition and system of social credit legal norms. Considering the era background of the modernization of national governance capacity, the implementation of the mechanism of punishing dishonesty has the attribute of political state, which should be discussed in combination with its consideration. This article will start with the semantic difference between “social credit” and “credit”, sort out and find out the structural system defects and legitimacy deficiencies in the construction of social credit legal system, and explore the legalization approach of credit governance by using the theories of law and morality, and rule of law.

2. Definition of the legal concept of credit

2.1. The legal concept and essence of credit

The concept of credit can be divided into broad sense and narrow sense. Credit in a broad sense is generally analyzed from the perspective of ethics. It mainly refers to the behavior of fulfilling a contract established between parties based on honesty and credit as a moral basis. It is a basic moral standard. Credit in a narrow sense refers to the contract-based capital loans, commitments, and performances formed by the two parties in the course of economic exchanges.

The understanding of credit in the field of civil law in our country mainly has the following viewpoints: credit is a social evaluation of the subject's economic capacity; These points of view all emphasize that credit is a kind of social trust and evaluation, the difference is that the content of trust and evaluation is divided into fact judgment and value judgment. Judgment of fact is the judgment of the solvency of the parties concerned. Only on the basis of such factual contents as the property and capacity of civil subjects can we make an objective and fair evaluation of their solvency. Value judgment is a subjective judgment based on the ability and willingness of the parties to perform the contract, mainly based on the information related to the solvency. Because of the objectivity of the factual judgment, the parties can have the right of objection to the evaluation information. However, the value judgment is subjective, and the grantee generally

does not have the right of objection.

In a word, credit is the value judgment of the civil subject's willingness to perform in the future based on the fact judgment of the past performance behavior and the existing economic capacity.

2.2. Comparison of credit thought and culture between China and the West

Credit is rooted in the historical stage and the economic and social foundation and ideological and cultural concepts of the ethnic region. In Chinese classical philosophical culture, "faith" is a moral code of conduct that guides interpersonal activities, and faith is a description of moral personality. In the West, "credit" is a functional system that accompanies the development of the market economy and is widely used in the economic field to measure the reliability of market transaction subjects.

"Faith" is an important moral norm in traditional Chinese ideology and culture, and has a profound social foundation and ideological origin. In Chinese history, credit has focused on the use of ethical and moral scope. It is the basic norms and basic requirements for a person to conduct himself in affairs and communicate in society. There was no word "credit" in ancient China, and the ancients only emphasized the importance of "faith".

Table 1. The Understanding of "faith" in Confucianism, Legalism, and Taoism

Confucianism	<i>The Analects of Confucius</i>	Honesty, Credibility, Promise Keeping, Believe, Win Trust from Others, Truth
	<i>Mencius</i>	Believe, Keep promises, Win the trust of others, Honesty, Non-deception, Virtue
	<i>Xunzi</i>	Virtue, but combined with legislation
Legalists	<i>Han Fei</i>	Virtue, emphasis on the importance of legislation
Taoism	<i>Tao Te Ching</i>	Honesty, Trust
	<i>Zhuangzi</i>	Virtue, but not forced

Some scholars believe that "benevolence", as the core of Confucian culture, essentially requires mutual trust between people. Confucianism generally holds that a person must have a high sense of justice and social responsibility in order to be honest and upright in social life. Sincerity is a person's inner virtue, and faith is the external effect of a person's words and deeds. It can also be said that sincerity leads to faith, and faith leads to sincerity. Those who complement each other. In addition, Confucianism also emphasizes that only when the ruler wins the trust of the people in social governance can the public be encouraged to communicate with integrity and the society can be stable. The legalists emphasized "faith" as a means of governing the country, which reflected the legalists' national egotism. Han Fei believes that loyalty and trustworthiness is the foundation of propriety, and a monarch

must win the trust of others in order to govern the country. At the same time, Han Fei took "credibility without deceit" as one of the seven strategies for governing the country, which fully reflects Han Fei's emphasis on faith. Relatively speaking, Taoism emphasizes the importance of honesty and virtue more than Confucianism. Lao Tzu, the founder of Taoism, emphasized the importance of honesty from two levels: inner sage and outer king.

In the West, "credit" is an ancient economic category. It arose and developed with the emergence of private ownership and commodity economy, and it has rich meanings since its inception. Marx made a systematic study on the history of the British credit system in the 19th century, and he highly agreed with the British political economist Tuke Thomas: Credit, in its simplest expression, is a kind of trust, whether appropriate or inappropriate, which if one person entrusts another person with a certain amount of capital in the form of money or in the form of commodities estimated at a certain monetary value, this amount of capital must be repaid when it becomes due. Marx believed that credit is a payment directly out of money It is produced and developed in the function of means.... Credit is a special form of value movement. Adam Smith deeply discussed issues such as credit, justice and other economic ethics in "The Wealth of Nations". He believes that judging whether any person's behavior is justified, abides by credit, and conforms to the principle of economic communication should be judged not only from the motivation of the behavior, but also from the consequences of the behavior. This judgment must be related to the experience of the judge, that is, judgment the author himself should also behave properly and abide by his credit. Adam Smith's *the Theory of Moral Sentiments* fully reflects his ethical thoughts. On the one hand, he believes that the market subject, as an "economic man", is naturally self-interested, and the pursuit of maximizing his own interests is an inevitable choice. On the other hand, he believes that man is a moral person with the characteristics of compassion, faithfulness and altruism. Max Weber highly emphasized the important value of credit principle and ethical spirit to economic and social development in discussing the relationship between Protestant ethics and the spirit of capitalism. He found that the concept of honesty and credit advocated by Protestant ethics can teach Puritans to effectively reconcile the conflict between personal interests and social interests in economic and social practice. He further pointed out that credit is not business shrewdness, but a kind of spiritual temperament. The greatest value of honesty is that it can guarantee credit, and credit is money. In Professor Francis Fukuyama's view, credit, as a kind of moral and social capital, not only affects social stability and economic prosperity, but also concerns the government's ability to govern. Once mutual trust is broken, all cooperation is bound to collapse and tend to be interrupted. Fukuyama's concept of credit breaks through the old concept of credit and discusses the importance of credit from a broad sociological perspective.

2.3. The concept and essence of social credit

To study the Social Credit System, we should first clarify the basic definition of "social credit". Social credit is the status of the information subject's compliance with statutory obligations or fulfillment of agreed obligations. Its scope covers credit, but it is by no means limited to the economic field. A large number of illegal acts in social, cultural and other fields may become bad credit information. For example,

in Shanghai, illegal fireworks and firecrackers, fare evasion by car, and arrears of utility bills for a certain period of time can all be credited to the credit information platform.

At present, in many credit construction documents issued by the State Council, there is no specific definition of the term social credit. This does not mean that “social credit” is a self-evident concept. Because the document is not a legal norm, it is only responsible for guiding the direction without specifying specific rights and obligations. In the credit legislative norms, the text should reflect the equivalence of rights and obligations, and strive to be standardized and accurate in the legal language.

According to the constituent elements of legal norms, the legal concept of social credit should include three elements: assumption, treatment, and sanction. First, the presumption is that the parties perform their obligations in accordance with laws, regulations or contracts, and the legal norms of credit can be applied. Second, processing means that the parties must perform their obligations in accordance with legal provisions or contractual agreements. Third, sanction means that the parties perform their obligations in accordance with the law or the contract, which constitutes an act of honesty and trustworthiness, otherwise it constitutes an act of dishonesty and faces the legal consequences of dishonesty punishment. Therefore, according to this logic, social credit can be defined as the status of natural persons, legal persons and unincorporated organizations with full capacity to abide by statutory obligations or travel contract obligations. Social credit subjects are natural persons, legal persons, and unincorporated organizations with full capacity for conduct. The object of social credit is social credit information, including public credit information and market credit information. The Social Credit System is a management system based on big data, supported by technical capabilities, and guaranteed by legal rules. It is an important part of the modernization of the national governance system and governance capabilities.

2.4. Analysis of social credit legislation model

At present, there are two main models of social credit legislation in foreign countries, one is a decentralized legislation model, and the other is a unified legislation model.

The decentralized legislation model means that there is no basic law for the protection of personal information in the country, and the legislation of personal information adopts a model of separate legislation for different fields or matters. The provisions of the United States concerning data collection and use correspond to different laws in different fields. For example, in terms of which credit information can be obtained, which is confidential or private, and how to collect it, many laws and regulations such as *the Freedom of Information Act*, *Privacy Act of 1974*, *the Fair Credit Reporting Act*, *the Uniform Trade Secrets Act* need to be integrated.

The unified legislative model refers to the legislative model in which national legislation uniformly regulates the collection, processing and use of personal information by state agencies and civil subjects. *The European Union issued the Data Protection Directive* in 1995, which stipulates that the scope of personal data is extremely wide, including almost all types of personal information in all industries, that is, any information related to identified or identifiable natural persons belongs to the scope of personal information protected by the Directive. On April 8, 2016, *the European Council and the European Parliament voted to pass the*

General Data Protection Regulation (2016/679, “GDPR”), which has replaced the data protection directive has become the most stringent personal information protection regulation in history.

Compared with the two legislative models, the American model is characterized by high efficiency, but the purely market-oriented operation requires a very high market environment, which requires both complete laws and regulations and a complete social security system; For the European model, its characteristics are conducive to the high concentration of personal information, but the government needs a large amount of financial expenditure.

At present, China is adopting the dual system design mode of concurrent top-level design and grass-roots pilot. Currently, a top-level design system has been formed, with text forms mainly including regulations, rules, normative documents, and special laws and regulations incorporated into credit management.

The Central Committee of the Communist Party of China has issued a series of inner-party regulations to promote the construction of the Social Credit System, and has made overall planning for the development of the system from a top-level design perspective. In 2011, the Sixth Plenary Session of the 17th CPC Central Committee deployed to vigorously promote the construction of government integrity, business integrity, social integrity, and judicial credibility. In 2022, the General Office of the CPC Central Committee and the General Office of the State Council issued *the Opinions on Advancing the High-quality Development of the Construction of the Social Credit System in Furtherance of the Shaping of a New Development Pattern*.

At present, *The Social Credit System Construction Law of the People's Republic of China (Draft)* is in the process of soliciting opinions. It will be the first piece of legislation to be released outlining the legal structure, responsibilities, scope, and legal definitions of China's SCS. Although the basic credit law at the national level has not yet been promulgated, the relevant system of credit construction management has been or is being incorporated into it through the formulation and revision of special laws. More than 20 laws, including *Cybersecurity Law of the People's Republic of China (2016)*, *E-Commerce Law of the People's Republic of China (2018)*, *Foreign Investment Law of the People's Republic of China (2019)*, *Individual Income Tax Law of the People's Republic of China (2018 Amendment)*, *Anti-Unfair Competition Law of the People's Republic of China (2019 Amendment)*, and *Civil Code of the People's Republic of China(2020)*, define the relevant credit system and specify the content of credit management. For example, Article 26 of *Civil Servant Law of the People's Republic of China (2018 Revision)*, explicitly defines persons who are listed as the object of joint punishment for dishonesty according to law, as one of the restricted types of persons who cannot be employed as civil servants.

The State Council has also issued regulatory documents in the form of guidance and planning outlines to promote credit system arrangements in specific areas. In order to standardize the market access, operation rules, enterprise information disclosure and credit restriction of credit investigation institutions, *the State Council promulgated the Regulation on the Administration of Credit Investigation Industry* and *the Interim Regulation on Enterprise Information Disclosure*, which were implemented in 2013 and 2014 respectively. In 2014, the State Council issued and implemented *the Planning*

Outline for the Construction of a Social Credit System (2014-20), the arrangement of credit system has received unprecedented attention. Currently, institutional norms have been formed that involve the identification of credit subjects (a unified social credit code system for legal persons and other organizations, etc.), the collection, inquiry, sharing, application, security, and protection of the rights and interests of credit information subjects. Credit rewards and penalties and credit supervision have been incorporated into administrative management, social governance, and other aspects, strongly supporting the construction of the Social Credit System. For example, *the Guiding Opinions of the General Office of the State Council on Strengthening the Building of the Personal Honesty System (No. 98 [2016] of the General Office of the State Council)* was issued to establish the personal real-name registration system, personal credit record system and personal information security, privacy protection and credit repair system. The issuance of *the Guiding Opinions of the State Council on Strengthening the Government Integrity Construction (No. 76 [2016] of the State Council)* promotes the construction of a government integrity (credit) management system. *The Guiding Opinions of the State Council on Establishing and Improving the System of Joint Incentive for Keeping Faith and Joint Punishment for Losing Faith and Accelerating the Advancement of the Development of Social Honesty (No. 33 [2016] of the State Council)* were issued to establish the credit reward and punishment system, and construct a cooperative mechanism of joint incentive and punishment for dishonesty. These normative documents issued by the state have played a guiding role in credit legislation, and some of their contents have been incorporated into relevant laws and regulations.

National administrative or industrial institutions, in combination with their own departments and industry characteristics, introduce credit management systems in relevant professional fields through departmental regulations and other forms. Local governments at all levels also formulate regional credit systems based on the needs of the local credit system construction.

3. The Legalization Dilemma of Social Credit Governance in China

3.1. Structural flaws in the legal system

As of March 2023, through the search of the Peking University Magic Treasure Database, there have been 6 administrative laws, 2 judicial interpretations, and 37 administrative regulations with topics related to social credit, providing for social credit governance. At the same time, a large number of departmental regulations were produced without basic legal guidance. More than 30 local regulations on social credit, including the Regulations of Shanghai Municipality on Social Credit (2017) and Social Credit Regulation of the Hainan Free Trade Port (2022), have been formulated in various regions, with different and unified regulatory provisions. The legal regulation system of social credit is complex, but it has not formed an orderly legal hierarchy.

In our country's legal system, the Constitution has the supreme status, and all laws should find certain clauses and guidelines in the Constitution. The status and function of the constitution is the highest source of effectiveness that constitutes the legal system. However, our country's

constitution cannot provide effective guidance and basic sources for the formation of my country's social credit legal system. The Constitution, as a fundamental law, has the function of a programmatic document. It is impossible to make detailed regulations on all aspects of the national economy and political life. However, the establishment of a sound Social Credit System is crucial to the healthy development of our national economy. The Social Credit System is a new social mechanism that acts on a country's market norms, aiming to establish a market environment that adapts to the development of credit transactions, and to ensure that the country's market transactions are transformed into credit, that is, to realize the shift from cash payment to the healthy transformation of market transactions dominated by means to those dominated by credit transactions. Therefore, the Social Credit System will establish a new game rule in the Chinese market, which must ensure that all types of commercial and financial credit in the market Large-scale and fair delivery, but also to ensure that the credit giver has a high credit success rate. The important role of credit in the economy and society highlights the urgent need for my country to establish a social credit legal system, and the formation of a credit legal system requires the guidance of the Constitution. At present, China's constitution does not have any special provisions on social credit. Some credit-related provisions in the constitution, such as the protection of human rights, the protection of the property rights of social subjects, the functions of the state budget and the provisions of audit supervision, are mainly reflected in Articles 38-40 of the Constitution, Article 62, Paragraph 10, 8, Article 85, Paragraph 5, and Article 91. Looking at the legal needs of the credit economy and society, it is clear that China's Constitution cannot provide the necessary norms and guidelines for the construction of the social credit legal system at the macro and micro levels.

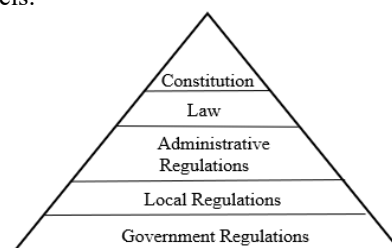


Figure 1 Structural diagram of social credit legal system

At the same time, social credit governance lacks the guidance of special legislation in the Social Credit Law. A complete set of special legislation can systematically adjust the social credit mechanism through a series of important systems, including credit information transmission (covering credit information collection, collection, sharing, disclosure, utilization, etc.), dishonesty punishment and trustworthy incentives, and credit restoration. Special mechanisms such as protection of credit rights and interests, and credit services will greatly enhance social trust and create a better credit order.

3.2. Imbalance between legitimacy and effectiveness

Through the analysis of the provincial-level local laws and regulations in the construction of the Social Credit System, there are problems such as the classification of credit information and the definition of untrustworthy behaviors in various local social credit regulations, and the variety of

punishment measures. The credit restoration mechanism is not perfect, and it is difficult to punish personal credit. Practice self-relief. The practice of credit regulation puts too much emphasis on the effectiveness of solving practical problems, and to a certain extent ignores the legitimacy of power operation, which leads to an imbalance between the effectiveness and legitimacy of state power operation.

On the one hand, the practice of credit regulation pays too much attention to the achievement of regulatory goals and social effects, and relatively neglects the protection of the rights of credit subjects, which falls within the category of legitimacy of state power. For example, the role of the dishonesty punishment mechanism is based on the premise of the state's collection, sharing, and utilization of credit information on credit subjects. However, to what extent and to what extent is it legitimate for the government to collect and share untrustworthy information on credit subjects, the boundaries between the protection of citizens' information rights and privacy rights are not clear. In addition, credit regulation often plays a role through the reputation mechanism in practice. In practice, there is such an example, the Intermediate People's Court of Qiannan Prefecture, Guizhou Province and the state's communication operators jointly issued *the Interim Measures on Strengthening the Punishment of Dishonest Communication and Constructing a Cooperative Linkage Mechanism*, setting the color ring tone of the mobile phone of the untrustworthy person as a dishonest ringtone to urge them Fulfill obligations. Although the setting of red ring tones helps the dishonest actors to fulfill their obligations, how to protect the rights of the dishonest actors in this process has not received much attention. This means that what credit regulation focuses on is the achievement of regulatory goals, the fulfillment of legal or agreed obligations by actors and the most basic social order, and lacks attention to the legitimacy of the protection of rights in regulation.

On the other hand, in the practice of credit regulation, flexible public policies have played an important role, and public policies themselves pay more attention to solving practical problems and the effectiveness of power operation. Behaviors such as spitting everywhere and scribbling at tourist attractions should have been adjusted by the common virtues of the society. However, due to the lack of enforceability of behavior regulation, the government's use of coercive force to regulate is reasonable and legitimacy. However, as more and more unethical behaviors are included in the category of untrustworthy behaviors, the adjustment of morality is gradually transformed into the adjustment of public power, and the punishment of dishonesty is facing the dilemma of imbalance between legitimacy and effectiveness.

At the same time, the controversial dishonesty punishment system, also known as the memorandum of joint punishment for dishonesty, is a public policy for the country to carry out credit regulation. Punishment measures include records of dishonesty, reminders and warnings, key supervision, adverse reputation, qualification restrictions or deprivation, and Freedom restricted. Some of the punitive measures constitute a restriction on civil liberties and rights. This restriction needs to be carried out within the framework of the law, and the effectiveness of public policies in the entire legal system is relatively low, and its legitimacy has been questioned by some scholars. In particular, whether it is the formulation, release or implementation of the Memorandum of Untrustworthy Punishment, due process should be followed, but there is a

lack of corresponding program design for the protection of administrative counterparts. This means that the establishment of the Social Credit System and the release and implementation of public policies in credit regulation pay more attention to the effectiveness of solving practical problems, and do not pay much attention to the legitimacy of public policies that restrict civil liberties and rights and require due process.

4. “Good Law and Good Governance” and Credit Governance

4.1. The Organic Combination of the Rule of Virtue and the Rule of Law: Incorporating Virtue into the Law

To solve the legalization dilemma of social credit, it is necessary to first clarify the regulatory motivation. Social credit law is not easy to include all moral matters in the evaluation category, because moral events have neither established legal procedures nor great uncertainty. To enter into credit evaluation, morality must complete the path of “incorporating morality into law.”

Morality and law belong to different social governance systems. There is a certain degree of uncertainty in moral standards, and legislators and judges are likely to use moral reputation for personal gain or even engage in moral kidnapping. However, due process selection of laws can maximize the avoidance of arbitrary and reckless behavior. Due to the uncertainty and low operability of moral norms, they cannot shoulder the function of adjusting society and determining expectations. Therefore, countries choose law rather than morality as the basic rule of social governance. Law cannot deviate from the basic values of morality, and basic morality should still be reflected in legislative norms. The inheritance of morality by law usually comes in two ways: principled norms and specific norms.

The principled norms are specifically reflected in the Civil Code that do not violate public order and good customs. Public order and good customs appears 8 times in the Civil Code. According to the provisions of Article 8, civil subjects engaged in civil activities must not violate the law or Public order and good customs. This provision in principle can be applied according to specific situations. Taking the basic social value orientation and moral fashion as the standard, the law is corrected and the legal gap is filled. Take the Luzhou Legacy Case as an example. The man bequeathed his property to a third party. Although the intentions of both parties were true, the act was based on illegal cohabitation and destroyed the family. It is obviously against public order and good customs. The court will rule This bequest is void. In this case, the man's attempted blackmail did not directly lead to specific legal consequences, but such vicious acts of revenge and shamelessness obviously violated public order and good customs, thus violating the principled provisions of the civil law. Although behaviors that violate public order and good customs may not necessarily trigger specific legal consequences, the perpetrators are enough to be included in the bad credit list.

In terms of specific provisions, for example, filial piety, as a basic moral requirement, has been elevated to a legal norm. Paragraph 1 of Article 14 of China's Law on *the Protection of the Rights and Interests of the Elderly stipulates* that the supporter shall fulfill the obligations of providing financial

support, daily care and spiritual comfort to the elderly. Article 18, Subparagraphs 1 and 2 Family members should care about the spiritual needs of the elderly, and must not ignore or neglect the elderly. Family members who live separately from the elderly should often visit or greet the elderly. This has also been interpreted by the media as going home often to see what is written into the law. Indeed, visiting the elderly has incorporated morality into the law, rather than staying at the moral level, it has become a legal obligation set by the Law on the Protection of the Rights and Interests of the Elderly.

The key to incorporating morality into law is how to involve reasonable technical paths to embody value in legal norms and in judicial practice. But it should be noted that the law is the bottom line of morality, and the law cannot require everyone to be a perfect personality in the moral sense. Therefore, in the social credit legal norms, the legislative embodiment of morality should tend to set principled regulations rather than set too many specific rules.

4.2. Clarify the boundary of institutional credit: governance by law

With the continuous advancement of industrialization and urbanization, more and more people leave the society of acquaintances in the countryside and enter the society of strangers. Personality credit based on blood, kinship, and geography encounters difficulties and cannot support a wider range of interpersonal communication, while institutional credit based on contracts and laws has obvious advantages. Personal credit scoring, the most important social credit, belongs to the category of institutional credit. As a reputation regulation tool, it has positive significance.

Institutional credit and personality credit are two different credit models. Personality credit is based on special blood, kinship, geography, etc., and is mainly established by mutual understanding or through trusted relatives and friends. It is a kind of personal credit. Institutional credit pays more attention to the character and moral ability of the credit subject, but it is more based on contracts and legal rules, etc., relying on the binding force and guarantee function of contracts, legal rules, etc. credit relationship, Institutional credit is more specific to the evaluation of certain aspects of people, but it cannot fully reflect the character of the credit subject. There are problems with the reasonableness and appropriateness of the evaluation method, and the flaws in institutional credit are not easy to repair. Institutional credit may be abused. Therefore, attention should be paid to the independence and fairness of institutional credit, and the relationship between the government, market entities, and social entities should be properly handled to avoid damage to social credit entities in the reputation mechanism.

Clarify the boundaries of social credit governance, strengthen the rule of law constraints in the construction of Social Credit System, and realize the formal rule of law and substantive rule of law, so as to promote the balance between the effectiveness and legitimacy of credit regulation.

On the one hand, governance by law should be consistent with the formal rule of law. Whether it is the collection, use, and disclosure of credit information, or the development of dishonesty punishment activities, the basic principles of law-based administration should be followed. In particular, the establishment and implementation of measures such as favorable reputation, deprivation of qualifications and restriction of freedom should comply with the provisions of the higher-level law. The formulation and promulgation of

social credit legislation and public policies should follow due legal procedures.

On the other hand, people-oriented should be consistent with the content of the substantive rule of law. In the construction of Social Credit System and credit regulation, respect and protection of individual rights should be the core. The content of social credit legislation should meet the basic requirements of "good law". The operation of the system and the development of credit regulation practices should meet the basic requirements of "good governance". For example, the state should exercise appropriate restraint in the credit scoring and rating process, and it is not appropriate to conduct comprehensive and comprehensive scoring and ratings on individuals' credit status, so as to avoid the imbalance of legitimacy caused by the evaluation of personality.

At the beginning of 2021, the Central Committee of the CPC issued *the Planning for the Construction of the Rule of Law in China (2020-2025)*, emphasizing the importance of the rule of law in the modernization of the national governance system and governance capacity. As an important national governance system, the Social Credit System should start from the *perspective* of legal thinking and emphasize the embodiment of the principle of governing the country according to law in specific procedures. Due to the established limitations of national governance capacity, some illegal and unethical behaviors in society cannot be effectively regulated. The country has no choice but to strengthen the construction of Social Credit System and strengthen credit supervision to solve this problem. Therefore, with the improvement of national governance capacity, the Social Credit System under the national governance system has also been further improved, promoting the construction of the Social Credit System to truly revolve around credit, achieving the standardization of the construction of the Social Credit System.

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