

Social Credit, Datong Dreams\

Description

[GODFREE ROBERTS](#)

Social Credit - type unknown

The ethical is always more robust than the legal. Over time, it is the legal that should converge to the ethical, never the reverse. Laws come and go but ethics remain.

Sextus Empiricus, 200 AD.

For centuries Western monarchs derived legitimacy from a God Who lent authority to the laws they promulgated. The simultaneous demise of God and the monarchic principle in 1918 left the law legitimized by force alone and, a century later, our distrust^[1] suggests that it has failed to converge with the ethical.

Things were little better in China two thousand years ago but, before we examine the evolution of its legal system, we must recall that it exists not only to suppress crime but to serve a national goal that ninety percent of the population shares: the creation, in two stages—xiaokang and dàtóng—of a radically advanced society.

Confucius' Book of Rites, in one of its most celebrated passages, reads:

Once Confucius was taking part in the winter sacrifice. After the ceremony was over, he went for a stroll along the top of the city gate and sighed mournfully. He sighed for the state of Lu. His disciple Yen Yen, who was by his side, asked: 'Why should the gentleman sigh?'

Confucius replied: 'The practice of the Great Way, the illustrious men of the Three Dynasties—these I shall never know in person and yet they inspire my ambition! When the Great Way was practiced, the world was shared by all alike. The worthy and the able were promoted to office and men practiced good faith and lived in affection. Therefore they did not regard as parents only their own parents, or as sons only their own sons. The aged found a fitting close to their lives, the robust their proper employment; the young were provided with an upbringing and the widow and widower, the orphaned and the sick, with proper care. Men had their tasks and women their hearths. They hated to see goods lying about in waste, yet they did not hoard them for themselves; they disliked the thought that their energies were not fully used, yet they used them not for private ends. Therefore all evil plotting was prevented and thieves and rebels did not arise, so that people could leave their outer gates unbolts. This was the age of Grand Unity, dàtóng.

Now the Great Way has become hid and the world is the possession of private families. Each regards as parents only his own parents, as sons only his own sons; goods and labor

are employed for selfish ends. Hereditary offices and titles are granted by ritual law while walls and moats must provide security. Ritual and righteousness are used to regulate the relationship between ruler and subject, to insure affection between father and son, peace between brothers, and harmony between husband and wife, to set up social institutions, organize the farms and villages, honor the brave and wise, and bring merit to the individual. Therefore intrigue and plotting come about and men take up arms. Emperor Yu, Kings Tang, Wen, Wu and Cheng and the Duke of Chou achieved eminence for this reason: that all six rulers were constantly attentive to ritual, made manifest their righteousness and acted in complete faith. They exposed error, made humanity their law and humility their practice, showing the people wherein they should constantly abide. If there were any who did not abide by these principles, they were dismissed from their positions and regarded by the multitude as dangerous. This is the Age of Lesser Prosperity' xiaokang.

In 2011, the Prime Minister defined xiaokang as 'a society in which no one is poor and everyone receives an education, has paid employment, more than enough food and clothing, access to medical services, old-age support, a home and a comfortable life' and, when China reaches that goal on June 1, 2021, there will be more drug addicts, suicides and executions, more homeless, poor, hungry and imprisoned people in America than in China.

Guided by Xi Jinping Thought (which, like Deng's Thought which preceded it, is a plan and its ethical justification) the National Family will then attempt to create a dàtóng society, an advanced version of Marx's notion of Communism, 'from each according his ability, to each according to his need'. Once it is clear that virtually every Chinese is on board with this program, this account of the steps towards it makes sense.

Anciently, laws protected the State from the people (not vice versa) and the elite assumed that everyone was naturally wicked, controllable only by impersonal laws, "Applied to rich and poor alike for offenses large and small because, if small faults are pardoned, crimes will be numerous". Yet, though Legalism had prevailed for a thousand years, crimes were stubbornly numerous because, Confucius explained, "If people are ruled by uniform laws and punished uniformly they'll certainly try to avoid punishment but will never develop a sense of shame. If, on the other hand, they're led by morally admirable people and encouraged by rules of good behavior they'll emulate their leaders, internalize the moral code and gradually become good".

Provincial governors began experimenting with his ideas and, four centuries later, the emperor formally adopted them and urged his officials to set a virtuous example and make repression unnecessary. Despite failures and setbacks, the rule of virtue proved popular, the spread of literacy introduced it to the masses and, just as the Master had predicted, the people gradually became good says^[2] F. W. Mote, "More important than penal law and judicial procedures in maintaining order in the community were the methods of arbitration and compromise. That route to resolving disputes allowed the parties to retain their dignity, utilized social pressures as understood by all and gave problem-solving roles to senior figures acting as arbitrators that reinforced the community's recognition of its shared ethical norms. Some regions of China were known to be more litigious, more quarrelsome, less placid than others but, throughout their observations of ordinary Chinese life from the sixteenth century onward, early European travelers remarked on the mannerliness, good humor and social graces of the common people".

Then as now, China's investment in crime prevention is astounding. The common people still address older strangers as 'auntie,' 'uncle,' 'grandfather,' or 'grandmother' and act, literally, as their brother's keepers. Social pressure, amplified by social media, is immense and even strangers commonly address mischief-makers in the street. Instead of sliding down a slippery slope, would-be criminals must struggle through a briar patch of family, workmates, classmates, neighbors and strangers intent on socializing them. Mass media regularly explain new laws and schools, offices, factories, mines and even army units discuss them. Volunteers on every block liaise with police who know everyone in their precinct by name and who have tools—temporary restraining orders and home confinement among them—their Western colleagues can only dream of. Citizens have won the right to video police who must publish the status of all active cases online. Regulations have clarified concepts like the exclusion of illegally obtained evidence and made police and court officials responsible for wrongful prosecutions—for life, with no statute of limitations. All criminals, from arrest to release, must receive humane levels of material comfort and dignity and can prosecute prison staff if their rights are breached. Criminologists assume that even murderers can reform and inmates must participate in career, legal, cultural and a course of moral education that considers the social consequences of their crime.

As in France magistrates, traditionally regarded as neutral truth seekers, interrogate suspects, examine evidence, hear testimony and render verdicts. Since most have no formal legal training President Xi, who experimented with judicial oversight committees as a provincial governor, required jurists to be selected on their professional track records rather than political correctness and, by 2016, Shanghai's Judicial Selection and Punitive Committee Trial Point^[*] had expelled a High Court prosecutor, two sub-prosecutors, the Vice President of the Provincial Supreme Court and a senior circuit court judge.

In 2016, Xi^[3] explained to a study group, "Law is ethics expressed in words and ethics is law borne in people's hearts. In state governance, law and ethics have equal status and play the role of regulating social behavior, adjusting social relations and maintaining social order. If rule of law embodies moral ideals they provide reliable institutional support for ethical behavior. Laws and regulations should promote the virtuous, while socialist core values (prosperity, democracy, civility, harmony, freedom, equality, justice, the rule of law, patriotism, dedication, integrity and friendliness) should be woven into legislation, law enforcement and judicial process".

The culture's traditionally low opinion of lawyers received a boost from current Prime Minister Li who, as a freshman, translated commentaries on British Common Law and the Supreme Court's internship program now attracts top students. Trained appeals court judges have been overturning decades of wrongful convictions, ordering restitution and requiring courts to study the reversals. The court's website—which has live-streamed six hundred thousand trials, explains unfamiliar concepts like due process, invites criticism of new laws and provides a database for legal scholars—has received five billion hits.

A Shanghai Trial Spot provides defense lawyers for every criminal defendant (mandatory only for juveniles, the disabled and those facing life imprisonment or death) and wealthier provinces are following suit. Others are trialling neighborhood mediation committees. One jurisdiction found that locating mediation offices in courthouses dramatically reduced litigation costs and now Beijing wants all lawyers to take mediation training. An Internet Trial Spot bundles free mediation, dispute settlement and legal aid on a platform that connects plaintiffs to thousands of lawyers, notaries and judicial

appraisers. Another uses facial and speech recognition technologies and electronic signatures so that all parties can participate in online legal proceedings. In another Trial Spot plaintiffs go all the way to trial using Weisu, an app that lets them join the courtroom from home while the program verifies their ID, submits their files and transcribes their testimonies using voice-to-text. The government plans that, by 2020, everyone will be able to afford legal proceedings and, should they wish to appeal, the courts will have electronic records of their case.

Hangzhou, home of Jack Ma and Alibaba, launched the first cyber court in 2017 to handle exclusively online disputes like e-commerce complaints, online loan litigation and copyright infringement. On its website, Beijing's Internet Court provides artificial intelligence-based risk assessment tools as a public service and automatically generates legal documents, applies machine translation and allows people to interact with its knowledge base orally to accelerate and simplify settlements. In 2018, it heard TikTok and Baidu contest ownership rights to user-generated content in short video apps.

In Taoist-Confucian China, of course, no-one is really separate: the government is part of the family and the courts are part of the government and nobody is under any illusion that they're independent since, to reach dàtóng, everyone must be on the same page and navigating to dàtóng is the responsibility of the Communist Party. That's why Chief Justice Xiao Yang told a shocked British journalist, "The power of the courts to adjudicate independently doesn't mean independence from the Party at all. On the contrary, it embodies a high degree of responsibility vis-à-vis the Party's [dàtóng] program". The program, with ninety-five percent popular support, will deliver xiaokang prosperity and the Party's logic is ancient: once everyone has a home, an education, safety, plentiful food, clothing, medical and old age care in 2021 then everyone can afford to improve their manners, good humor and social graces. But if the logic is ancient, the technology is not.

Technologies that revealing details about personal integrity have always caused alarm. In 1968, when credit bureaus were reporting debtors' sexual and political preferences, The New York Times^[4] warned, "Transferring such information from a manual file onto a computer triggers a threat to civil liberties, to privacy, to a man's very humanity—because access is so simple". Fifty years later, three credit bureaus evaluated everyone, The NYPD surveilled New Yorkers with drones, the Federal Child Support Registry tracked parents, the No-Fly List grounded troublemakers, an IRS list blocked delinquents' passports, the Federal Sex Offenders List wrecked offenders' lives and the National Security Agency's mission^[5] was, 'Know It All, Collect It All, Process It All, Exploit It All'.

The absence of capitalism, the efficiency of its crime prevention and the traditional preference for all cash, face-to-face transactions rendered credit records unnecessary until the 1980s, when Beijing launched Consumer Rights Day as a trust-building exercise. Officials and vendors took to the streets, experts discussed product quality and TV screens flashed shots of fake merchandise being shredded, crushed and burned. Though consumers are more sophisticated today, one element of the campaign remains popular: and 'awards' ceremony in which CEOs of cheating companies are hauled before a billion gleeful viewers, beg forgiveness and promise to change their companies' wicked ways. Most are local but, when Apple was called out for persistently defying the two-year warranty law, CEO Tim Cook apologized and conformed. The CEOs of Volkswagen and Nikon have also taken the Walk of Shame, altered policies and groveled satisfyingly.

Then, in 2001, Internet fraud exploded, a cycle of distrust caused consumer confidence to plummet. Concerned, The People's Daily called for 'corporate and individual credit dossiers,' to promote

sincerity, chengxin, and trustworthiness, yongxin. Scholars extolled the benefits of accountability and American consultants went on TV to explain that credit records would make online transactions trustworthy. President Xi promised[6] to govern the country by virtuous example, hide zhiguo, and create a spiritual civilization, jingshen wenming, and called for Trial Spots to advance dàtóng. In response, Congress legislated[7] ethical manufacturing, truthful advertising, secure distribution, honest payment and trustworthy delivery and required retailers to accept returns unconditionally within seven days, to pay doubled fines for false advertising and to refund three times the price of counterfeits (Nike ran ads urging consumers to make money off the counterfeits).

Suining County[8] in Jiangsu Province had launched the first ‘mass credit’ Trial Spot in 2010. Citizens were initially given a thousand credit points and lost them for infringing legal, administrative and moral norms: a drunk driving conviction cost fifty points, having a child without family planning permission (this was before it was abolished) cost thirty-five points and delinquent loans cost thirty to fifty points. Lost points could be recovered after two to five years depending on the gravity of the infraction and participants were categorized A-D on the basis of their scores. A-class citizens received preferential access to employment opportunities while others faced scrutiny when applying for desirable jobs, government contracts, low-cost housing, social welfare, business licenses and permits. But when the county published the entire list Xinhua News compared it to the Good Citizen Cards, liangminzheng, Japanese occupiers issued during the war. Though crude and embarrassing, the trial provided valuable data on calibrated disincentives, the effects of naming and shaming and rewarding compliance with local rules and regulations.

E-commerce took off but, by 2014, the People’s Daily had become concerned, “Our national family currently suffers from socially unhealthy phenomena like economic disputes, telecommunications fraud, lack of trust and indifference to human feelings, perhaps because our integrity system is weak..Integrity systems are vitally important: they should start with government-level honesty, promise-keeping and respect for basic morality and customs, and make a genuine effort to strengthen social integrity”.

The timing was fortuitous: smartphones were becoming ubiquitous and the creating an online economy bigger than the rest of the world’s combined (during a twenty-four hour sale one merchant[9], handled a billion transactions, peddled 140,000 new cars and delivered a billion packages worth \$30 billion and generated a billion credit records) and data showed that sales, profits and societal satisfaction rose with trust—a discovery that unleashed a flurry of Trial Spots designed to promote the virtuous and demote the vicious.

The first target was deadbeats, laolai, who stonewalled loan repayment because the police refused to collect debts so, in 2017, the Supreme Court ruled that anyone who failed to carry out a valid court order or administrative decision could be placed on a public list for up to two years. A Trial Spot began publishing laolai’s names, Social Security numbers, photographs, addresses and outstanding debts and restricting their access to ‘luxurious activities’ like traveling first-class. By 2018[10], the program had blocked twelve million laolai flights, five million high-speed train trips and—to Beijing’s dismay—blacklisted a thousand government officials. One laolai Trial Spot told callers, “The person you are calling is listed as dishonest by the Dengfeng People’s Court. Please urge them to fulfill their obligations”. After featuring local laolai in a video clip set to dramatic music, a court website in Henan claimed its first victory when a Guangxi deadbeat saw himself and promptly paid his \$78,000 debt.

?Image: Douyin

?Image: Douyin

Xi invited citizens to oversee opaque government departments and by 2019, one hundred towns and cities had been listed as dishonest, their top officials banned from taking high-speed trains, visiting golf courses and high-end hotels or purchasing real estate. Their cities' credit ratings were downgraded and local governments began realizing that they are not only administrative entities but also civil subjects subject to civil laws. The Ministries of Ecology, Finance and Customs created a joint Trial Spot that, by 2018, had punished [\[12\]](#) fifty-thousand corporations and reduced crimes like counterfeiting, food and drug violations and regulatory flouting. By 2019, the corporate watchdog had integrated existing laws into a transparent system of universal accountability and begun publishing every company's inspection results and corporate behavior began to improve [\[13\]](#):

Rules broken by corporations can lead to their being unable to issue corporate bonds and individuals officers being blocked from company directorships. Trust-breakers can face penalties on subsidies, career progression, asset ownership and the ability to receive honorary titles from the government. Penalties include limiting ability to establish companies in the financial sector, issue bonds, receive stock options, establish social organizations or participate in government procurement programs or receive government subsidies or in-kind support. Trust breakers are barred from senior positions in State Owned Enterprises, financial sector companies and social organizations, entry into the civil service, the Communist Party and the military; they are restricted from industry sectors including food, drugs, fireworks and dangerous chemicals and refused authentication for customs purposes; special procedures are required when they apply for loans and they are barred from purchasing real estate, land-use rights, exploiting natural resources and subject to restrictions on conspicuous consumption, no longer allowed to travel first class, on high-speed trains or civil aircraft, to visit star-rated hotels or luxury restaurants, resorts, nightclubs and golf courses, to go on foreign holidays, to send their children to fee-paying schools, purchase some high-value insurance products, or buy homes or cars.

As much as government and corporate dishonesty sap national strength, antisocial behavior, incivility and petty cheating dilute the quality of social life and

Tentative Trial Spots addressing antisocial behavior, incivility and petty cheating have begun to bear fruit, too. The national railways Trial Spot [\[14\]](#) curtails travel for fare dodgers, disruptive behavior, smoking, scalping tickets, using false ID, invalid tickets and handles enforcement automatically. Personal Trial Spots, [\[15\]](#) while controversial, have stimulated a national debate about ethics: a private [\[16\]](#) university in Zhejiang told a businessman's son they could not complete his enrollment because his father had failed to settle a \$30,000 bank debt. While the father promptly paid the debt some netizens decried what they saw as collective punishment saying that parents, not their children, are responsible for their own misdeeds. Others argued that children should not enjoy privileges paid for with unpaid debt. Unleashed dogs, long a source of concern in Chinese cities, disappeared from Jinan after the city launched its "Civilized Dog-Raising Credit Score System" in 2018, and its success was duplicated elsewhere. Some personal Trial Spots are experimenting with credit objections, appeals and credit repair and protection of citizens' rights.

As the trials mature, high Social Credit ratings have begun winning hearts and minds. Some automatically qualify high scorers for cheaper loans, upgraded flights, no-deposit rentals and—the

ultimate Chinese incentive—desirable schools for offspring. Young people post scores to attract mates and one posted a video showing how Alibaba’s unstaffed automobile vending machine gave him a car for a three-day test drive and a cheap loan to buy it. China Daily regularly talks up the benefits, “After graduation, Zhang Hao, 28, found a job at a securities company in Hangzhou. On his mobile app, Alipay, he saw an apartment he liked. Alipay, Alibaba’s mobile payment service, rates its users’ credit based on their consumption and investment habits and Zhang had a high score so was exempted from the \$1,000 security deposit and the \$200 broker’s fee. The experience not only saved Zhang time and energy in renting an apartment, which is often complicated, but also gave him a fresh look at the city where he was about to build a career”.

Image not found or type unknown



By amplifying existing sanctions and building confidence in the law the plan hopes to make more people honest and fewer dishonest by applying the very Confucian assumption that officials and corporations should do the heavy lifting before citizens are asked to follow suit. Hence first phase^[11] will improve government transparency and public supervision of government actions, enforce commercial regulation, track corporate and industrial violations, uncover welfare and charity fraud and enhance courts’ credibility and capacity to enforce judgments.

Computer-aided virtue is on the march. Social Credit promises to be China’s biggest attitude adjustment since the [Cultural Revolution](#) and, if successful, will reduce costs and friction in trade, commerce, travel, romance and even international relations. More carrot than stick, it will empower good citizens to reap the benefits of a xiaokang society and, in the process, save an enormous amount of money.

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With two percent of America’s legal professionals, one-fourth its internal security budget and unarmed police, China already has the lowest incarceration and re-offence rates on earth and the highest public satisfaction: when Harvard’s Tony Saich^[17] asked about their greatest concern people ranked ‘Maintenance of Social Order’ highest. When he asked which government service they were most satisfied with they again placed ‘Maintenance of Social Order’ first. As the most lawless centuries in its history fade into memory, will Social Credit speed China’s transition to dàtóng?

Notes

^[1] Confidence in Institutions. 2018. Gallup

^[2] Imperial China 900-1800. F.W. Mote

[*] Trial Spots are administrative experiments at the local, provincial or national level to generate the statistical information required for passage of all legislation. Planners built the smaller, downstream Gezhouba Dam, as a Trial Point for the Three Gorges Dam but Congress remained unenthusiastic, finally approving the project by a small majority.

[3] Xi stresses integrating law, virtue in state governance. Xinhua | Updated: 2016-12-10 21:27

[4] Witness Says Credit Bureaus Invade Privacy and Asks Curb. NYT March 13, 1968

[5] Collect It All: The NSA Surveillance Doctrine. Andrew Conry Murray, Information Week, August 2014

[6] 18th Party Congress, November 8, 2012

[7] [Global Policy Watch](#).

[8] China's Social Credit System: An Evolving Practice of Control. Rogier Creemers. University of Leiden

[9] The company also pledged \$300 billion—of which the government guaranteed \$12 billion—to provide finance, insurance, loans, logistics and analytical tools for cash-strapped small firms, street vendors and farmers and to help four hundred million unbanked rural people establish personal credit.

[10] Global Times, 2018/5/20

[11] [Social Credit Overview](#). Jeremy Daum. China Law Translate. 2018/10/31.

[12] China Economic Daily

[13] What Could China's 'Social Credit System' Mean for its Citizens? Foreign Policy, August 15, 2018

[14] Measures on the Administration of Railway Passenger Credit Records 2017 (Provisional) [China Law Translate](#)

[15] China Daily. 2018-7-14. 09:50:51

[16] Public universities are forbidden to discriminate on any but criminal grounds.

[17] [How China's citizens view the quality of governance under Xi Jinping](#). Tony Saich. Apr 2016.