MAPPING CHINA JOURNAL

China's domestic politics in the era of Xi Jinping: New developments and challenges

MAPPING CHINA

CONTENTS

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Mapping China is a young professional network and NGO dedicated to a political science based analysis of contemporary China. We are the first network in Germany with the purpose of connecting young scholars of modern China from different universities in Germany and beyond. We are also the first think tank to offer young China watchers a publication platform for their own academic work specifically on China in order to engage in an academic discussion within a wider audience early on in their academic career. Kindly note that Mapping China publishes work in both German and English and does not translate any original work.

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01

INTRODUCTION AND NOTE OF THE EDITORS

AYA ADACHI, TATJANA ROMIG AND JULIA TATRAI

INTRODUCTION

Xi Jinping, in power since 2012, is the most powerful Chinese president and party head since Mao Zedong. A charismatic leader, his leadership is underpinned by his far-reaching institutional reforms in areas as diverse as anti-corruption, economic and military development, as well as his vision of a "Chinese Dream" that has engrossed Chinese politics and society. He has more institutional backing than any other Chinese president in recent history which was further emphasized by the abolition of presidential term limits during the 19th party congress, allowing Xi to stay in power beyond 2023. With his policies and initiatives Xi has addressed widespread social grievances that challenge societal and party stability such as endemic corruption and the growing divide between urban and rural areas as well as low- and high-income groups. Internationally, he pushed for the further use of the "Theory of Peaceful Development" -- a paradigm that is free of hegemonism and instead emphasizes win-win cooperation, mutual benefit and a multipolar world order more inclusive to non-Western voices.

Yet Xi's achievements remain controversial at the same time. Social control has become more restrictive in recent years. The space for domestic NGO work is narrowing, and the work of human rights lawyers and labour activists has increasingly become more confined over the past decade. Media and civic freedoms are once again in retreat. The internet is increasingly censored and under supervision. National security is now tied to ideology and culture. Under Xi, China made negative headlines with its treatment of dissidents like Liu Xiaobo. Most recently, the situation in the autonomous region of Xinjiang has gained international attention where the Uighur Muslim minority community face comprehensive surveillance and detention in labour and re-education camps. In the realm of academic freedom, the Chinese and international academic community has faced attempts to influence academic discourse and new party cells are being set-up at foreign universities.

Domestically, institutional reforms have been questioning long-held truths about China's political system. The abolition of presidential term limits has shaken up established structures of leadership succession. Fragmented and decentralised decision-making processes – a characteristic of the Chinese political system for decades - have been centralised at the highest party level and new institutions like the Central Leading Group for Comprehensively Deepening Reform spearheaded by Xi himself integrate former cross-compartmental policymaking directly under the party leadership. As a result, state organisations have seen a decrease in power relative to party organs. On a societal level, the implementation of the anti-corruption campaign has also reached China's formerly untouchable political elite. The *huji* 户籍 (*hukou* 户口) [household registration] system has seen its biggest reform in years as have property rights. Through these institutional reforms in the past years, China, somewhat paradoxically, managed to both strengthen autocratic and meritocratic institutional structures.

To account for these ongoing transformations under the Xi administration, the Mapping China Journal No. 2 in 2018 aims at exploring "China's domestic politics in the era of Xi Jinping – new developments and challenges." In doing so it selected six research papers focusing on different perspectives of China under Xi Jinping. It is interesting to note that while the papers explore different topics, there is a recurring theme that focuses on social control and management as well as censorship under the current administration of the Chinese Communist Party.

Daniel Rechtschaffen analyses how and why China has changed its censorship strategies to be more reactive in the internet era by examining the inner workings and manipulation strategies of the Fifty Cent Party. Rechtschaffen demonstrates how they are used as an instrument of Chinese "disaster politics." It draws on two primary sources—an in-depth interview with a Fifty Cent Party member and a series of leaked emails from the Zhanggong District Internet Information Office—and examines the responses of the Fifty Cent Party to two events, the 2015 Tianjin explosions and the 2013 Shanshan riots.

For an international perspective, **Paul Naudascher** and **Frederik König** are asking to what extent China conforms with the Westphalian state model, reaching the somewhat surprising conclusion that China is most globalized in its political dimension, yet less so in its economic one. China under Xi Jinping is therefore not yet as globalized as it could be.

Xiaoxue Jiang Martin takes on exploring CCP's increasing control over cyberspace since 2013 and argues that by means of securitisation of the internet and cyberactivity, the Chinese government has created a virtual panopticon. To make this case, the Copenhagen School's Securitisation Theory and Foucault's concepts of panopticism and disciplinary power are applied to the CCP's censorship and surveillance of the Chinese internet.

For a legal perspective, **Marianne von Blomberg** looks in depth at the Social Credit System (SCS) to answer the difficult question what the heavy impact of the SCS means for the rule of law in China. Von Blomberg points out that a nation-wide legal framework for the SCS has not been developed so far, resulting in a number of future challenges for legal and social management personnel in the PRC.

The research paper by **Fanny Prouté** offers a unique perspective on the freedom of expression in the PRC by examining the role and censorship of what is considered sexual media in the Chinese discourse. Therefore, Prouté argues that the targeting of material that is considered pornographic by censors serves as a placeholder strategy to silence critical political voices. Vice versa the author also shows how critical voices are using expressions of sexuality and nudity as an alternative form of political resistance in the PRC.

Another discursive perspective is offered in the essay of **Miquel Vila**, who is challenging the perception of Xi Jinping as a populist leader. Using the Gramscian concept of a "passive revolution" Vila explores how the political discourse under Xi has integrated already existing demands within Chinese society into the Chinese Dream as a new collective narrative, arriving at the conclusion that the purpose of the Xi administration is to prevent any populist uprising as a potential challenge to party leadership.

NOTE OF THE EDITORS

Mapping China was founded in 2016 as an academic network connecting Masters and Doctoral students as well as young professionals working on China with a social science approach to foster exchange and knowledge among the new generation of China watchers. Although founded, based and registered as a non-profit (a so-called e.V.) in Germany, Mapping China now connects students and young professionals from all over the world. Out of the network grew a think tank explicitly aimed at giving young voices a broader audience to share their research findings and the opportunity to contribute to academic and policy discussions early on in their career.

In December 2017 the inaugural issue of Mapping China Journal (MCJ) was published focusing on integration processes and challenges linked to Chinese engagement in three regions of the world: Asia-Pacific, Africa, and the EU. The numerous submissions to this project and subsequent exchanges reflect the eagerness of a new generation of young China scholars to participate in the dynamic discourse on contemporary China. This second edition of Mapping China Journal (2018) offers a fresh take on the developments and challenges under the current leadership in the People's Republic of China.

This year's MCJ is the product of the cumulative effort of our Editorial Advisors, the Editorial Team, the Proof-Readers, the Layout Designer, the Editors and the Authors. All of them volunteered their time and without their support the second edition of MCJ would not have been possible. We are grateful for all the dedicated people investing time and effort into increasing the visibility of young scholars in the discourse on China and allowing for fresh and new perspectives.

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02

HOW CHINA HAS ADOPTED A REACTIVE CENSORSHIP MODEL FOR THE INTERNET AGE

DANIEL RECHTSCHAFFEN

ABSTRACT

This article examines the inner workings and manipulation strategies of the Fifty Cent Party and demonstrates how they are used as an instrument of Chinese "disaster politics." It draws on two primary sources—an in-depth interview with a Fifty Cent Party member and a series of leaked emails from the Zhanggong District Internet Information Office—and examines the responses of the Fifty Cent Party to two events, the 2015 Tianjin explosions and the 2013 Shanshan riots. To frame the role of the Fifty Cent Party in China's censorship monolith I use the theoretical framework of disaster politics. First, I introduce existing literature on disaster politics and protest management. Next, I examine how and why China has changed its censorship strategies to be more reactive in the internet era. Then I examine the inner workings of the Fifty Cent Party by analysing my two primary sources. Finally, I use two studies to show how the Fifty Cent Party responded in real-time to two "sudden public emergencies" that occurred in China in recent years.

1. INTRODUCTION

China came online in the 1990s. Since the establishment of the People's Republic of China (PRC) in 1949, the Communist Party (CCP) had attempted to censor the country's media platforms, but the internet posed a new challenge because of the breadth of its reach and its ability to instantaneously transmit information. Bill Clinton in 2000 said: "We know how much the internet has changed America ... Imagine how much it could change China ... [The Beijing regime] has been trying to crack down on the internet–good luck. That's sort of like trying to nail Jello to the wall." (Clinton, 2000).

To deal with this new challenge, the CCP has had to change its censorship strategies[1] (Feng, 2017; Zou, 2015; Li, 2010; Zhang, Li & Xu, 2010). Whereas it previously employed a more preventive censorship approach, social media has forced the CCP to become more dynamic and manipulate information in real time. One important way they have done so is by creating an 'army' of web commentators whose job it is to guide online public opinion in internet forums. This group is known as the *wumaodang* 五毛党 [Fifty Cent Party], named after the alleged monetary amount they are paid for each posting.

This article examines the inner workings and manipulation strategies of the Fifty Cent Party and demonstrates how they are used as an instrument of Chinese 'disaster politics'. It draws on two primary sources—an in-depth interview with a Fifty Cent Party member and a series of leaked emails from the Zhanggong District Internet Information Office—and examines the responses of the Fifty Cent Party to two events, the 2015 Tianjin explosions and the 2013 Shanshan riots. To frame the role of the Fifty Cent Party in China's censorship monolith I use the theoretical framework of disaster politics. Although disaster politics typically deals with governments responding to natural disasters, in China the CCP groups natural disasters with man-made accidents, protests, and public health emergencies as 'sudden public emergencies' (Yan & Liu, 2005; Lu & Lu, 2010; China Digital Times, 2010). These events have the potential to create a political backlash and upset the social order and have become more volatile in the internet age because of the speed at which information travels online, and the ability of social media to disseminate news to huge audiences. The CCP employs a similar reactive censorship strategy in dealing with all of them. Namely, they use the Fifty Cent Party to redirect online public discussions about politically sensitive events through 'strategic distraction' (King, Pan & Roberts, 2017).

This topic merits investigation for several reasons. First, disaster politics is a volatile arena and Chinese governments from the ancient period until now have been wary of the tendency of sudden, often unexpected, calamities to unseat them. For this reason, the CCP pays particular attention to censoring the reporting of attention-grabbing events that they believe could harm their credibility as rulers. Second, the internet has greatly increased the speed information travels, making it important for politicians to react immediately and dynamically to sudden public emergencies and control online

narratives. Third, in a country flush with media attention on pollution and corruption in the CCP, these emergencies are viewed as incredibly sensitive, since they can be rapidly politicized and used as fuel for social activists. Finally, the adoption of the Fifty Cent Party by the CCP shows a regime adapting to the information age by becoming more dynamic in the ways it controls information.

This paper is divided into four sections. First, I examine the existing literature on disaster politics and protest management. Next, I examine how and why China has changed its censorship strategies to be more reactive in the internet era. In the third section I introduce the Fifty Cent Party, the reactive censorship agents of the CCP, and examine their inner workings by analysing two primary sources: the Fifty Cent Party member interview and the leaked Zhanggong District emails. In the final section, I use two studies to show how the Fifty Cent Party respond in real-time to two 'sudden public emergencies' that occurred in China in recent years, the 2015 Tianjin explosions and the 2013 Shanshan riots.

2. DISASTER POLITICS

Disaster politics focuses on how governments respond to disasters. The politics surrounding disasters was first explored in depth by Abney and Hill (1966), who used the example of the influence of Hurricane Betsy in Louisiana on the 1965 New Orleans mayoral election to argue that how a government responds to a natural disasters can impact its governing legitimacy. Bommer (1985) expanded on this by looking at the politics surrounding a 1972 earthquake and a 1982 flood in Nicaragua and exploring how an effective government disaster response is determined by the state of a country's domestic politics as well as a country's relation with the international community. In 1983, two separate books by Fred Cuny, an international disaster relief specialist, and academic Michael Hewitt, argued that the negative impact of natural disasters is directly correlated with a country's socioeconomic conditions (Hewitt, 1983; Cuny, 1983).

Hewitt also noted that the growing international recognition that the destructive effects of disasters were not just 'Acts of God' but the result of 'misapplication of technology'. (Hewitt, 1983: v) This argument reapportioned blame and posited that the bad consequences of disasters depend to a large extent on disaster preparedness and response of governments.[2] Cuny asserted that disasters often bring 'changes in the structure of community leadership' who rise to replace leaders killed in the disaster itself 'but more often to replace those who have proved ineffective or unable to cope in the aftermath of a disaster.' (Cuny, 1983: p.13).

Albala-Bertrand (1993) examined the long-term political consequences of 28 natural disasters through a political economy framework, noting that disasters were likely the root cause of political regime change in the cases of the 1972 Managua earthquake, the 1970 East Pakistan typhoon, and drought-induced famines in Ethiopia in 1973 and 1974 (Pelling & Dill, 2010: p.24). This direct correlation between disaster response and

regime change was further explored by Olson and Gawronski (2003), who argued that two major earthquakes in Latin America in 1972 and 1985 represented a 'critical juncture' in the national and local political regimes of Nicaragua and Mexico City, respectively.

Drury and Olson (1998) measured the political unrest following a disaster by using a Poisson regression on disasters between 1966 and 1980 that killed more than 1,500 people. This study proved statistically the connection between disasters and political unrest. In 2010, Pelling and Dill identified the 'post-disaster political space' that opens in the wake of disasters and argued that in the case of the 1999 Marmara earthquake, the Turkish government breached a 'social contract' to protect its citizens. The breach of said contract opened a post-disaster political space that threatened the legitimacy of the Turkish government. More recently, mishandled response efforts to Hurricane Katrina caused George W. Bush's approval ratings to plunge.[3] US News and World Report reported the comments of a former Bush advisor: "He never recovered from Katrina. The unfolding disaster with the Iraq war [a conflict which Bush ordered] didn't help, but it's clear that after Katrina he never got back the popularity that he had." (Walsh, 2015).

Finally, since the Chinese government groups natural disasters with man-made accidents, protests, and public health emergencies under the official designation *tufa gonggong shijian* 突发公共事件 [sudden public emergency] (Ministry of Emergency Management of the PRC, 2018) and works to shut down their political spaces, it may also be useful to briefly examine literature on popular protest management in authoritarian regimes. Although consolidation of power in high-capacity autocracies like China has made successful revolutionary movements bringing about regime change more difficult to achieve (Goodwin 2001: p.25–30, 296), popular protests are nevertheless a recurrent feature of non-democratic regimes, and often lead to changes in personal composition and policies of elites (Vladisavljević, 2014).

Andersen, Møller, Rørbæk, and Skaaning (2014) used a cross-national, large-N analysis to demonstrate a correlation between state capacity and regime survival both in democracies and autocracies. They write, 'A capable state can, on the one hand, increase the legitimacy of democracy and the sanctity of political and civil rights and, on the other hand, help tighten an autocrats' hold on power.' They further argue that two factors affect regime stability in autocracies: monopoly on violence and administrative effectiveness. Forceful and sometimes violent suppression of popular uprisings is not enough to keep an autocratic regime stable; instead, governments must also maintain a performance legitimacy outside of brute force.[4]

Shock (2004) examines why some non-violent insurrections in the 'third wave' of democratization in the late 20th century were unsuccessful (anti-regime movement in Burma and pro-democracy movement in China), while others succeeded (anti-apartheid in South Africa, people power movement in the Philippines, pro-democracy movement Nepal, and the antimilitary movement in Thailand). In China, the students'

rapid occupation of Tiananmen Square and ensuing hunger strikes turned the insurrection into a zero-sum 'moral crusade' after which 'a head-on collision was almost inevitable.' (Zhao, 2001: p.232). When the well-organized and heavily armed Chinese government ultimately decided to crush the insurrection, the fragmented resistance was quickly ended.

In summary, disaster politics is a field of academic study that focuses on how governments respond to disasters, and the political consequences that may arise because of them. Disasters open a political space in their wake, which, if not properly managed, can mark a critical juncture in the political legitimacy of a government. In China, disasters are grouped by the government with other sudden public emergencies that similarly open post-disaster political spaces.

In the following sections I will examine how the Chinese government uses the Fifty Cent Party as an agent of Chinese disaster politics. First I contextualize the Fifty Cent Party by explaining how the rise of social media has forced the CCP to shift to a reactive censorship strategy. Next, I examine two primary sources: a phone interview by Ai Weiwei with a Fifty Cent Party member and a leaked email archive of Fifty Cent Party directives by the Zhanggong District propaganda bureau. Although academics like Jennifer Pan have exchanged brief online messages with internet commentators (see p. 11), Ai Weiwei's interview is the only extended on record discussion with a self-identified Fifty Cent Party member. Similarly, the more than 2,700 Zhanggong District emails sent in 2013 and 2014 that were hacked and subsequently leaked by the anonymous blogger 'Xiaolan' represent the only large-scale repository of Fifty Cent Party directives by government officials. Consequently, they offer a rare view of the inside mechanics of how the Fifty Cent Party operates.

In the final section I use a regression analysis by Blake Miller and Mary Gallagher as well as an analysis of the Zhanggong District leaked email archive by Gary King, Jennifer Pan, and Margaret E. Roberts to examine how the Fifty Cent Party responded to the 2015 Tianjin explosions and the 2013 Shanshan riots. These are the only large-scale, multiple-source analysis of how the Fifty Cent Party manipulates the post-disaster political space of 'sudden public emergencies'.

3. CHINA'S NEW CENSORSHIP STRATEGIES IN THE INTERNET AGE

China came online in 1994 after completing its first cable connection to the World Wide Web (Yang, 2009: 2). By the end of 2003 the number of Chinese net users had grown to 79.5 million (CNNIC, 2003). Social media took off in the following decade and the country saw the launch of now industry giants Renren, Sina Weibo, and Wechat in 2005, 2009, and 2011, respectively. In 2017, these three social networking sites had a combined monthly active user base of about 1.35 billion people[5] (Tencent, 2017; Renren, 2017; Sina, 2017).

CCP officials are instructed to *chuli* 处理 [handle] public opinion emergencies, a euphemism for making the problem go away (China Digital Times, 2017). A situation that has been 'well-handled' maintains social stability and does not affect the credibility of the CCP. (Shirk, 2011: 32). One way they do so is through censorship, which broadly speaking can be divided into static (preventive) and dynamic (reactive) censorship (Spirk, 2014: p.12). Of the two, preventive censorship allows information to be more easily controlled, since the publication never occurs in the first place. The press and publishing houses never allow the mass population to see the censored material. On the other hand, reactive censorship requires officials to search out already published content and remove it. The sheer size of the internet as well as the ability of social media to disseminate information and quickly metastasize public opinion has greatly increased the importance the CCP must place on reactionary censorship. Even if the censors remove a sensitive posting, it can quickly be cached and shared across social media.[6]

This speed has sharply reduced the amount of time the Party has to control narratives in the 'sudden public emergency' post-disaster political space. The article 'New Media Era: The Golden Four-Hour Rule for Handling Sudden Emergencies' published in the state-owned *People's Daily* identifies the 'golden four hours' immediately following an 'incident' in which media shapes public opinion (Li, 2010). Referring to the pre-internet age, Li writes: 'The traditional view is that emergencies should be handled within a 'golden 24 hours', meaning that authoritative news should be released within 24 hours of the incident to quell [rumours of] the incident.' However, 'With the advancement of communication technology… information that used to be delivered in a few days or months can now be achieved in a matter of minutes, or even in live broadcast.' This means public opinion can quickly metastasize around events: 'The rapid dissemination by online media can lead to [the spread of] misinformation… Within a few hours, the 'Golden 4-Hour Media' could spread and ferment an emergency into an event with a major public opinion impact.'

And this forced the Party to recalibrate how it censors. Peter Marolt divides the ways the Party censors the internet in China into 'direct censorship, self-censorship, and dynamic manipulation of online discourse.' (Marolt, 2011: p.54) Direct censorship includes projects like what has become known as the 'Great Firewall of China', a series of legislative actions and technologies that actively block entire websites and keywords the government considers politically sensitive. Self-censorship is a government fear tactic that tries to make net users think twice before posting sensitive topics. Censorship mascots Jingjing and Chacha (a 'cute' reference to *jingcha* 警察 [police]; the 'cuteness' is signalled by the repetition of characters) appear all over the Chinese internet and official speeches and party slogans echo the desire to suppress dissidence and make China into a 'harmonious society' —the catchphrase and socioeconomic vision of the Hu Jintao Administration (Marolt, 2011:p.54). Susan L. Shirk writes that the 'very visible hand of the censor is intended to intimidate users with the omnipresent authority of the CCP' (Shirk, 2011: p.33).

However, 'dynamic manipulation of online discourse' is specific to social media. Excluding several outright banned topics like the 1989 Tiananmen Square protests, netizens are generally allowed to debate politically sensitive topics online. The censors closely monitor these spaces and intermittently interject to shape the debates. A study by three students[7] from the Beijing University of Posts and Telecommunications and presented at the 2010 International Symposium on Emergency Management in Beijing argued for the need for governments to 'guide internet public opinion' in the wake of disasters, since the spreading of misinformation can cause 'unrest of people and insecurity of society' (Zhang, Li & Xu, 2010: p.192). It is unrealistic, the authors argue, for the government to completely shut down public discussion of events in the internet age and must instead work to shape the online narratives by 'using the mass media to disseminate information from the government.' (Zhang, Li & Xu, 2010: p.192). In the next section, I will examine how they do so with the Fifty Cent Party.

4. AGENTS OF REACTIVE CENSORSHIP: THE FIFTY CENT PARTY

The Fifty Cent Party began as online forum moderators at Nanjing University in March 2005. In the decade prior, the number of college internet bulletin board systems (BBSs), which were online forums where students at different universities share school-related information with one another, had been rapidly increasing. BBSs were initially open to anyone with an internet connection, but as these communities quickly expanded in size and began including outside members of the public—the Christian Science Monitor reported in 2005 that some college message boards had 'hundreds of thousands of users, even though the host-school [had] only 10,000 to 20,000 students'—they became an 'unofficial news alternative to state-run TV, radio, and newspapers.' (Marquand, 2005). Discussions on BBSs included sensitive topics, like Tibet and Taiwan, that were normally censored by the party in official media outlets (Open Net Initiative, 2005).

To tighten control on this space, in March 2005 the Chinese Ministry of Education ordered individual universities to censor these bulletin boards and remove any users who were not matriculated at the associated schools. To comply with this mandate, Nanjing University party officials recruited a team of students to act as web commentators and moderate the university's BBS. Instead of outright deleting sensitive posts, this group would browse the forum and engage net users by arguing against 'undesirable information' (Bandurski, 2008: p.42) from a party standpoint. Other Jiangsu party officials and then the central government adopted this model of internet moderating and these commentators came to be known as the 'Fifty Cent Party' (Bandurski, 2008: 42). In 2007 President Hu Jintao gave a speech where he called on party officials to use the internet as a "new platform" for "spreading healthy information" about core socialist values (Xinhua, 2007). Immediately after central party officials and the State Council circulated a document that called for 'comrades of good ideological and political character, high capability and familiarity with the internet to form teams of Web commentators … who can employ methods and language Web users can accept to actively guide online public opinion.' (Bandurski,

2008: p.42). This process has been continued under Xi Jinping, who in 2014 created the Cyberspace Administration of China—the country's central internet regulator, censor, oversight, and control agency—in an ongoing effort to centralize internet control. Laws and regulations designed to wrap censorship in a cloak of legitimacy have followed since then.[8] Speaking at a cybersecurity conference in April 2018, Xi Jinping said: 'We must not allow the internet to become a platform for disseminating harmful information and causing trouble... We must mobilize the enthusiasm of netizens and mobilize all forces to participate in [internet] governance.' (Xinhua, 2018).

This style of moderation represented a divergence from traditional censorship methods, where arguments not in line with CCP thinking were simply removed. This new approach was in part due to the difficulty of censoring a body as massive as the internet, but also upheld a view by the country's leadership that the internet could be a powerful tool for CCP propaganda if successfully manipulated (Bandurski, 2008: p.42).

Inner Workings of the Fifty Cent Party
The Fifty Cent Party operates largely in secret and most of the information available about their inner workings comes from leaked emails and whistle-blowers. In March 2011, Chinese artist and dissident Ai Weiwei posted on his blog the transcript of a phone interview that he had conducted with a member of the Fifty Cent Party, which was quickly removed by Chinese censors. (Three months later Ai was arrested and illegally detained for three months after he tried to board a flight to Hong Kong, an incident which drew outrage from the international community).

In the interview, the internet commentator, referred to as 'W' told Ai that he had decided to become a member of the Fifty Cent Party as a side job after being recruited by a friend. There was no onboarding or training; each commentator was hired through connections and immediately assigned specific websites to monitor. "Generally, around 9 am every day you receive an e-mail, which basically tells you which major stories you'll be commenting on that day. Sometimes it also tells you which website to comment on, but mostly the websites aren't specified, and you go yourself and find relevant news. And then start commenting." (*Ai Ai Weiwei*—Love Ai Weiwei, 2011). These emails also go into specifics on what line the Fifty Cent Party member should take: "[The emails give] instructions on which direction to guide the netizens' thoughts, to blur their focus, or to fan their enthusiasm for certain ideas, and so on. After we've found the relevant articles or news on a website, we start to write articles, post, or reply to comments according to the overall direction given by our superiors." (*Ai Ai Weiwei*—Love Ai Weiwei, 2011).

According to 'W' the commentators had to 'hide their identities' as government-hired astroturfers and coax other net users into agreeing with the party line through specific manipulation strategies. "This requires a lot of skill. You must conceal your identity, can't write in an official manner, must write articles in many different styles, and must sometimes even have a dialogue with yourself, argue, debate, and so on. In short, you

want to create illusions to attract the attention and comments of netizens." (*Ai Ai Weiwei*—Love Ai Weiwei, 2011). To "have a dialogue with yourself," 'W' posted on article threads under a series of different usernames, each of which took on a specific role in the discussion. The first role was that of the 'follower', who would enter the discussion with weak arguments against the party line. Later, the 'leader' would enter the discussion, writing authoritatively and discrediting the earlier opinions laid down weakly by the follower. Eliciting agreement from other followers—who were all the same person—made the leader's argument seem more credible (*Ai Ai Weiwei*—Love Ai Weiwei, 2011).

The information in this interview was corroborated by a series of leaked emails posted online by anonymous blogger 'Xiaolan' from the Jiangxi Province, Zhanggong District Internet Information Office. In these more than 2,700 emails, drawn from 2013 and 2014, the Zhanggong propaganda office issued daily directives to its nearly 300 hired commentators on which subjects, websites, and online users to target. Web commentators then submit reports back to the propaganda office on the threads they have commented on (Xiaolan, 2014).

One event discussed in the leaked emails that the web commentators were particularly successful at moderating was an online town hall with Shi Wenqing, a local CCP official, in 2014. Similar to the Ask Me Anything section on Reddit, where celebrities or authorities sign in and answer questions posed by the internet community, Shi was interviewed by local news website China Ganzhou Network, who asked him questions posted on a forum by net users.[9] In Xiaolan's leaked emails, it was revealed that Shi had instructed web commentators to flood the forum with pre-designed questions and consequently praise his answers, in the hopes of gaining political acumen (Sonnad, 2014).

An in-depth empirical analysis of the Zhanggong District leaked emails in 2017 by Gary King, Jennifer Pan, and Margaret E. Roberts revealed some interesting findings (King, Pan & Roberts, 2017). The first was that 99.3 percent of the Fifty Cent Party members identified in the emails were full-time government employees, representing a concerted effort by the government at information control and unlike the internet commentator interviewed by Ai Weiwei, who had been invited into the Fifty Cent Party by a friend. Second, the postings by web commentators came in bursts at specific times throughout the day, suggesting the government had developed a coordinated strategy in responding to events that drew large online activity (King, Pan & Roberts, 2017: p.487,488). Third, the commentators exposed by the leaked emails and contacted by Jennifer Pan responded positively to questions about their work. Speaking to Foreign Policy, Pan hypothesized why the commentators she spoke with were so candid: "If you participate in online sentiment guidance, you might see yourself as someone who helps improve the general tenor of online discussions — this would not be something to be embarrassed about or ashamed of" (Wertime, 2016). This was a view shared by Ai Weiwei's interviewee, who argued it was necessary in China for the government and

people like him to control public opinion, because of how susceptible Chinese net users are to rumours (*Ai Ai Weiwei*—Love Ai Weiwei, 2011).

A final and most important finding of the paper was that, contrary to a popular assumption put forth by the media and academics[10], the Fifty Cent Party did not directly engage sceptics and redirect discussions with pro-government rhetoric, but rather shaped narratives through a method of distraction that moved conversations away from sensitive subjects. Sometimes this involved a 'cheerleading' strategy, whereby web commentators incite 'positive discussions of valence issues' (King, Pan & Roberts, 2017: p.485). The attempts of the Fifty Cent Party to engage by distraction was also corroborated by Ai Weiwei's interviewee, who argued that net users are too savvy to be fooled simply by pro-party rhetoric. Instead, he said one strategy to redirect anger away from the government was to make himself the target of online trolling by posting inflammatory remarks. Since they post under different usernames, they mostly end up debating or condemning themselves, and actively work not to engage other net users in debate (*Ai Ai Weiwei*—Love Ai Weiwei, 2011).

5. THE FIFTY CENT PARTY DURING TWO "SUDDEN PUBLIC EMERGENCIES"

As previously mentioned, the Communist Party groups natural disasters, man-made accidents, protests, and public health emergencies collectively as 'sudden public emergencies', and works to guide public opinion in their post-disaster political spaces. Their main reactive agent to dynamically censor in real time is the Fifty Cent Party. In this section, I will introduce two examples of sudden public emergency events and show how the Fifty Cent Party responded to them.

The Tianjin Explosions. On August 12, 2015, about half an hour before midnight, a series of convulsive explosions ripped through Binhai New Area in Tianjin, releasing a fireball hundreds of meters into the sky. An inferno consumed the surrounding warehouses, quickly engulfing the firefighters, police, and workers who had arrived at the scene. The disaster killed an estimated 165 people, injured hundreds more, and damages were assessed to be in the billions.

Who was to blame for the incident became a hotly debated topic online (Lim, 2015). The firefighters who had responded to the fire that would ignite the explosion 40 minutes later at 11.30 pm were not told of the dangerous chemicals being stored in the warehouses and were caught unaware by the blasts. The event exposed a series of chemical mismanagement practices by the company, Ruihai International Logistics, as well as lax government oversight and corruption. The fact that dangerous chemicals were being stored so close to residential buildings was a particular point of outrage.

According to Fu Kingwa, the founder of Weiboscope—a website dedicated to tracking censorship in the PRC—the Tianjin explosions was the second most censored event of 2015 (Lim, 2015). Censorship instructions from the government were immediately issued to media outlets, ordering them to stick to official reports and not post privately

about the disaster.[11] The preventive censors blocked articles and certain key words like 'explosion', 'rumour', 'truth', and 'boss', while the Fifty Cent Party interjected to guide public opinion.

A study by Blake Miller and Mary Gallagher—using a profiling method detailed in an earlier paper[12] (Miller, 2016)—analysed Fifty Cent Party posts from a database of about 50 million comments posted to Chinese new websites in the wake of the Tianjin explosions. The posts were clear and directed, and 'discussed firefighters and trust in government in high volume while minimizing discussion of negative or threatening opinions' (Miller & Gallagher, 2017:p.7). Figures 1 and 2 visualize how web commentators guided discussions away from sensitive topics, like attributing blame for the disaster, instead bringing positive talking points to the forefront of online discussions. This strategy of redirecting discourse with what the authors term 'positive energy posts' mirrors the strategies discovered by King, Pan, and Roberts' analysis of the leaked emails from the Zhanggong District Internet Information Office, and demonstrates guiding opinion through distraction instead of engagement, as corroborated by Ai Weiwei's interviewee.

Shanshan Riots. In their analysis of the leaked Zhanggong emails, King, Pan, and Roberts identify 'bursts' of activity where Fifty Cent Party members under the direction of the Zhanggong District Internet Information Office post more than usual (King, Pan & Roberts, 2017: p.487, 488). These occur during or immediately before or after specific dates like national holidays, riots, highly publicized government meetings, among others, and indicate a coordinated reactive strategy by the commentators in response to particular events. Figure 3 shows these bursts over the period January 2013 to December 2014.

One event they identify as having attracted many Fifty Cent Party postings was the Shanshan riots in June 2013. Chinese state-owned news agency Xinhua reported that at around 6 am on June 26, 2013, knife-wielding mobs converged on police stations and government buildings in Lukqun, in China's Xinjiang Uighur Autonomous Region, and 35 people were killed in the ensuing altercation, including 11 attackers (Shang, 2013). Xinjiang is a region marked by ethnic tensions between Han Chinese and the Uighur minority population, and discussions of events in the area are closely monitored by the government.

According to the leaked email archive, in the days following the event the Fifty Cent Party members working under the Zhanggong office posted 1,100 times on online forums (King, Pan & Roberts, 2017: p.489).[13] The messages were primarily posted on social media websites Sina Weibo, Tencent Weibo, and the *zhongguo ganzhou wang* 中国赣州网 [China Ganzhou Network]—Zhanggong District is the administrative centre of the city of Ganzhou (Xiaolan, 2014).

Most of the posts were nationalistic, likely designed to redirect attention away from the events in Shanshan by 'cheerleading' for China (King, Pan & Roberts, 2017: p.489). In

one post, a user named 'sugus' wrote: 'Bringing about the great revival of China is the greatest modern-day dream of the Chinese people. This dream, which reflects the long-cherished wish of the Chinese people, as well as the overall interests of the nation and the people, is the common expectation hope of every Chinese child.' (Xiaolan, 2014). Most other posts echoed this nationalism, discussing the local economic boom in Ganzhou, calling for unity and continued growth, and expressing hope for the future of the country.

6. CONCLUSION

To maintain control over information flow in the internet age, the Communist Party has fostered an army of web commentators who can immediately respond to 'sudden public emergencies' as they unfold. This reactive form of censorship is much more dynamic than traditional, preventive models of censorship, and is especially useful to the government in moderating online discussions of sudden, unexpected events. The evidence presented in this paper—the two primary sources as well as the analyses of how the Fifty Cent Party responded to two 'sudden public emergences'—shows how the CCP uses the Fifty Cent Party to manipulate online discourse by trolling other net users with positive valence issues. **This builds on previous research of disaster politics, state capacity, and regime survival by demonstrating how one authoritarian government has recalibrated its censorship methods to deal with online post-disaster political spaces.**

Analysing censorship in the PRC is difficult. The CCP runs an opaque government in which domestic policies are closely guarded, especially when they involve politically sensitive matter. This makes researching and drawing inferences about the Fifty Cent Party and censorship difficult. However, the adoption by the CCP of a new reactionary form of censorship has important implications, because it shows a government quickly—and arguably, successfully—adapting to new trends in the internet age.

The number of Chinese netizens is growing. In January 2017, the China Internet Network Information Centre (CNNIC) released a report stating that the country now has 731 million net users (CNNIC, 2017)—a number roughly the same as the total population of Europe—up nearly 43 million from the year before. Controlling how Chinese discuss sudden, unexpected events online requires well-rehearsed and coordinated strategies, and as the internet base continues to grow, the Fifty Cent Party will likely continue to be an important part of the government's censorship model.
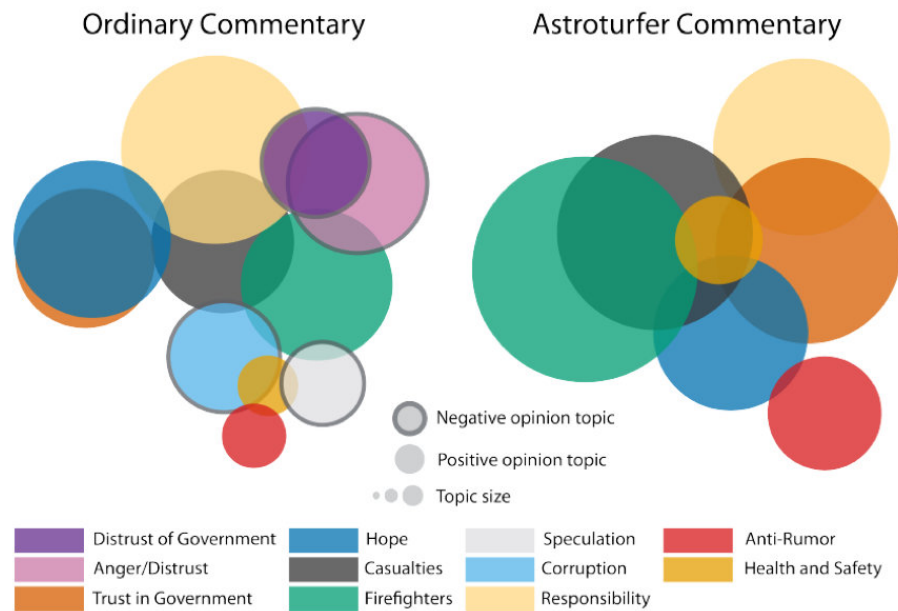
Figure 1: Topics in Ordinary and Astroturfer Comments on the Tianjin Explosions. *Source: Copied from Blake A. Miller and Mary Gallagher, "Astroturfing in China: Three Case Studies," Blake, February 17, 2017,* http://www.blakeapm.com/research/astro_report.
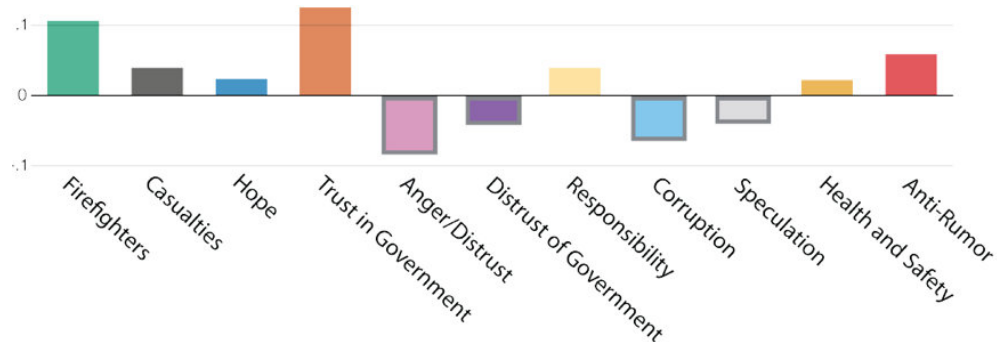
Figure 2: Change in Topic Proportion from Ordinary to Astroturfer. *Source: Copied from Blake A. Miller and Mary Gallagher, "Astroturfing in China: Three Case Studies," Blake, February 17, 2017, http://www.blakeapm.com/research/astro_ report.*
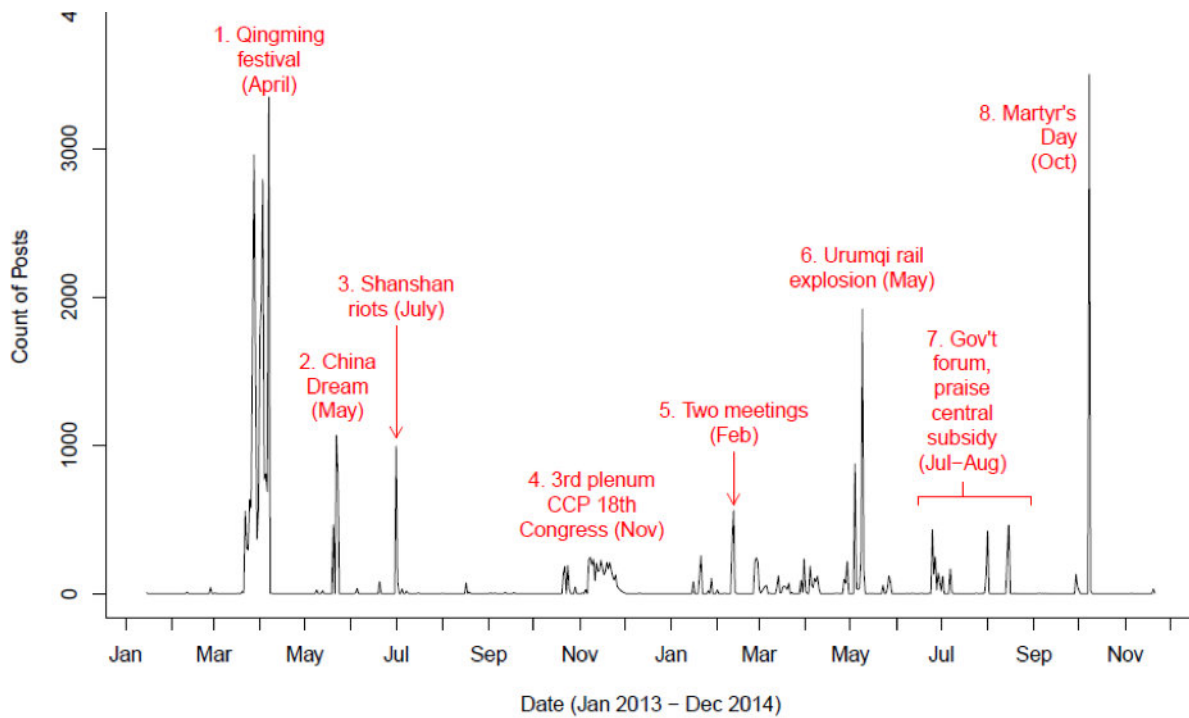
Figure 3: Time series of 43,757 known Fifty Cent Party social media posts, with qualitative summaries of the content of volume burst. *Source: Copied from Gary King, Jennifer Pan, Margaret E. Roberts, "How the Chinese Government Fabricates Social Media Posts for Strategic Distraction, not Engaged Argument," American Political Science Review (Forthcoming): 12.*

NOTES

1. The importance of moderating *tufa shijian wangluo yuqing* 突发事件网络舆情 [online public opinion emergencies] comes up repeatedly in Chinese journalistic and academic articles. The justification for this censorship is typically to dispel the spread of rumours and maintain a harmonious society.

2. In China, however, governments have long faced the wrath of the people after disasters strike. The Mandate of Heaven was an imperial Chinese political and religious doctrine that asserted Chinese state leaders had a divine right to rule. Natural disasters indicated displeasure from the heavens and were often interpreted as a sign that a ruler had lost their mandate to govern.

3. George W. Bush made many unnecessary blunders after Hurricane Katrina that negatively impacted his approval ratings. Instead of immediately returning to Washington DC to oversee federal response to the disaster, he instead elected to remain on vacation at his ranch in Texas. When he finally did respond, he faced severe backlash for a photo taken of him looking down on New Orleans from inside Air Force One, which critics said encapsulated his disconnectedness from the disaster. In Disaster Policy and Politics, Richard Sylves attributes heavy Republican losses in the Senate and the House in 2006 in part to Bush's mishandling of Hurricane Katrina. How a government manages disasters is incredibly important to maintaining credibility.

4. The Chinese government uses a combination of violent suppression, censorship, and performance legitimacy to maintain regime stability (Ong, 2015).

5. The monthly active users (MAU) of these three social networking platforms were taken from the 2017 second quarter reports of the three companies.

6. This happened in 2017 when Sixth Tone—a Chinese state-owned news agency—published an article criticizing Xinhua News Agency for releasing a racist video about Indians. Sixth Tone's article was quickly removed by Chinese censors, but was cached by journalists and shared around social media, eventually making it to the Washington Post, who wrote about the incident the following day. See Andrew deGrandpre, "Chinese state media made a racist video about India and is censoring its critics," Washington Post, August 17, 2017, www.washingtonpost.com/news/worldviews/wp/2017/08/17/chinese-state-media-made-a-racist-video-about-india-and-is-censoring-its-critics/?utm_term=.c02f270cad0e.

7. One of whom, Li Yuxiao, has gone on to become the secretary general of the Cyberspace Administration of China, China's central internet regulator, censor, oversight, and control agency.

8. These include the National Security Law (July 2015), the Counter-Terrorism Law (January 2016), Cybersecurity Law (June 2017), National Intelligence Law (June 2017), and the Draft Encryption Law (draft available as of April 2017).

9. The video of Shi Wenqing's interview is available at Ganzhou Wang, January 16, 2014, *jianchibuxie jiuzheng 'si feng' ning xin ju li cujin zhenxing* 坚持不懈纠正'四风'凝心聚力促进振兴 [Persevere Unremittingly to Correct the 'Four Winds' to Promote Revitalization], available at: wz.gndaily.com/2013zhuanti/1217. [Accessed 23 Dec.

2018]

10. For a full literature review of these sources, see King, Pan & Roberts (2017: 485, 486).

11. These leaked directives were published by China Digital Times, see China Digital Times, August 13, 2015, *zhenli bu: tianjin tanggu kaifa qu baozha shijian* 真理部: 天津塘沽开发区爆炸事件 [Ministry of Truth: Tianjin Tanggu Development Zone Explosion Event], available at: chinadigitaltimes.net/chinese/2015/08/【真理部】天津塘沽开发区爆炸事件. [Accessed 23 Dec. 2018]

12. The method used metadata of the work procedures and behavioral patterns of government astroturfers to construct a profile, which was then applied to comment metadata from tens of millions of posts.

13. This number is probably higher since the archive is not all-inclusive.

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03

A GLOBALISED WESTPHALIA? CATEGORISING CHINESE STATEHOOD

FREDERIK KÖNIG AND PAUL NAUDASCHER

ABSTRACT

Globalisation is highly debated in contemporary political science, because it challenges the discipline's focal unit of analysis: The Westphalian nation state. Tectonic plates of global hegemony are shifting, questioning the United States' unipolar position. Often framed as a Neo-Westphalian state, China emerges as the most prominent contender state. However, so far it remains unclear to which degree the notion of Westphalian statehood prevails. This paper assesses the impact of globalisation on statehood by answering the research question: To what extent does China conform to the Westphalian state model? First, current literature on statehood and the concept of Westphalia with regards to China are discussed. Second, Sørensen's concept of state transformation is operationalised along a political, a social and an economic dimension. Third, building on the KOF globalisation index, the framework is applied to China, and the findings are benchmarked to North America – the world's most globalized region. Eventually, the descriptive findings are cross-validated with recent IR literature. We find that China is most globalised in its political dimension, even surpassing North America. This is surprising since much of the presented literature highlights the role of China's economy. In this category, however, China is rather weakly integrated. In the social dimension, in spite of fast increases in the past, China is currently in an intermediate position, suggesting growth potential for the near future. Overall, rather than conforming to the Westphalian state model, China should be considered a state in transformation. This process can be expected to continue through the political leadership of a constitutionally embedded rule under Xi Jinping. Hence, it appears that many scholars have misinterpreted the strong role of government in the Westphalian model. Considering that the most prominent challenger of the liberal world order is actually more embedded in the prevailing system than widely presumed, this has significant implications for the scholarly debate about the transition of hegemony.

1. INTRODUCTION

Past decades were accompanied by the emergence and subsequent dispersion of a seemingly new set of challenges for humanity. The range of potentially affected regions has increased with the same speed as each individual's exposure to distant events – whether it is climate change and environmental disasters, terrorism and other forms of extremism, uncontrollable epidemics, large migratory movements within and across countries or highly professionalized tax evasion. Globalisation is highly debated in contemporary Political Science, because one of its focal units of analysis – the state – is challenged. This is alarming since not only a *reaction* to this transformation is demanded, but also its general *functions* have to be reassessed. The predominant agent within this discipline has traditionally been the *Westphalian nation state*, a box hermetically sealed by sovereignty. Nonetheless, under the conditions of globalisation, it is unclear to which degree this notion of statehood prevails.

Furthermore, while a concerted reaction to these events would require political leadership, tectonic plates of global hegemony are shifting. Scholars of International Relations (IR) and policy strategists alike are divided into 'primacists' and 'declinists', debating whether the United States' unipolar moment is coming to an end (Layne, 2018: pp. 93-94). The most promising, and hence most widely discussed, contender state is the People's Republic of China (PRC). As a point of departure for the assessment of this emerging hegemon, many scholars, again, refer to *Westphalia*, often without reflecting on the suitability of this concept (Hameiri & Jones, 2016). The suspicion of a Neo-Westphalian China has been reinforced by the Communist Party's vote to enshrine President Xi Jinping's name in the constitution and the abolition of term limits on the presidency. Consequently, Western media widely characterizes him as the most powerful leader since Mao Zedong.[1]

Against this background, we assess the impact of globalisation on statehood by answering the research question: To what extent does China conform to the Westphalian state model? We hypothesize that it plays a transformative role. Besides its outstanding relevance in contemporary IR scholarship, a case study of China also has advantages for the research design: Labelled the "new Prussia" (Goldstein, 2003), it can be considered a typical case. The paper addresses the question in three steps. First, we review and discuss both the literature on rethinking statehood and the accuracy of Westphalia with regards to China. Second, we operationalise state transformation along a political, a social and an economic dimension in order to distinguish a globalized *post-Westphalian* state from its *modern* predecessor (Sørensen, 2004). Third, we apply this framework to China, building on the KOF globalisation index (see Gygli, Haelg & Sturm, 2018) and benchmark the findings to North America, which is – according to the index – the most globalized region. Furthermore, we cross-validate the descriptive findings with recent IR literature to reveal how China's global role and its form of statehood are *implicitly* discussed.

2. STATE OF THE ART

To outline the scholarly debate on statehood in general and the statehood of China specifically, three steps are completed. Firstly, the importance of rethinking the role of the state is presented (2.1). Then, three central standpoints in the debate about statehood are brought forward as a response to the problem (2.2). Eventually, the perception of Chinese statehood in academic literature is summarized (2.3).

2.1 RETHINKING THE ROLE OF THE STATE

In the opinion of many scholars, globalisation poses a serious threat to the traditional forms of statehood. Increasing interconnectivity requires old regimes to adapt and allows new ones to evolve. Alexander Wendt provides one of the most prominent and radical suggestions of what a future state system may look like (1994). He argues that the intensive contact of individuals across national borders can result in the creation of a *collective identity*, which then triggers the evolution of an *international state*. This state unifies national differences and hence overthrows the nation state perspective of the Westphalian system that has dominated political theory for the past 350 years. More precisely, this development "points towards a gradual but structural transformation of the Westphalian state system from anarchy to authority" (p. 393). In other words, the anarchic dispute among nation states – as described by neorealist scholars – is settled by a collective global authority replacing the national ones in place.

This vision is not purely fictional. Shaw (1997) notes that "within the West, 'nation-states' are no longer classical nation states. They are 'postmodern' in the sense that they are fully articulated with transnational Western and global power networks" (p. 511). So even without a formal international state in place, nation states seem to grow closer together. In this context, Sørensen (2004) finds that governments become more embedded in complex networks of international government organizations (IGOs) and international non-government organizations (INGOs). Thereby, non-state actors enter spheres that in the past used to be reserved exclusively for government functionaries, proposing new interests and motives to government, nationhood, and economy (Sørensen, 2006: p. 205). Due to the introduction of new actors and a greater diversity of pursued goals, the complexity in the modes of interaction and in the institutions within which action takes place has risen (Cox, 1981: p. 126). However, to date, not all models of statehood have incorporated this complexity. Depending on the polity configuration and global integration of a state, the leverage of international and non-state actors in each dimension differs. In this sense, it is quite possible that different interests challenge the functionality of a mode of statehood.

The evolution of tax havens is a suitable example for this phenomenon. Palan (2002) points out that tax havens are the result of the incompatibility of national sovereignty and the internationalization of capital. While governments attempt to enforce tax laws within their national borders, multinational corporates simply move their capital to those territories with the most favourable laws. In contrast to tax laws, which are

restricted by national territories, capital flows are so globally integrated that borders cannot restrain them. Hence, the nationally bounded character of law plays out to be a major disadvantage in accomplishing the government's goal of making tax evasion impossible. However, tackling this problem is difficult since „[t]he abolition of tax havens would require a degree of cooperation among the major industrialized countries and a limit on the sovereign rights of states, which effectively would spell the end of the so-called Westphalian system" (Palan, 2002: p. 173). Consequently, the role of the state needs to be reassessed in order to remain capable of acting in a changing environment.

2.2 PERSPECTIVES OF STATEHOOD

Sørensen (2004) distinguishes between three views of the state in this reassessment: the state centric or realist view, the liberalist view and the critical view. An overview of these perspectives is given in table 1.

State-centricism and the Westphalian model
The state-centric or realist view focuses on states as its unit of analysis. These states are the major source of power and the governments set the rules for everyone. Consequently, the influence of communities or economic actors is ignored. Traditionally, state-centric accounts aim to limit the influence of actors that could potentially constrain state authority. Kenneth Waltz (2000) states: "What requires emphasis is that, either way, among the forces that shape international politics, interdependence is a weak one" (p. 14). This position clearly opposes the arguments in favour of globalisation brought forward by proponents of a state model that is more world-open (e.g. Cox, 1981; Wendt, 1994, Sørensen, 2004). Nevertheless, it follows a certain strategy: "If I depend more on you than you depend on me, you have more ways of influencing me and affecting my fate than I have of affecting yours" (Waltz, 2000: pp. 15-16). This attitude is also reflected in the perception of international organizations. Realist accounts consider IGOs and INGOs to be a simple tool to pursue national interests (Waltz, 2000: p. 21). Following this argument, a strong nation state is needed, and a retreat would be unfavourable. The view dates back to the conditions established during the Peace of Westphalia in 1648 and is hence often referred to as the Westphalian model. Since this model is, by the majority of scholars, still considered the *modus operandi* of international politics, its underlying claims are discussed more in detail.

Westphalia symbolizes "a transition from strict hierarchy to equality or from a vertical ordering with the Pope and the Emperor at the pinnacle, to a horizontal order composed of independent, freely negotiating states" (Simpson, 2004: p. 30). The "package of sovereignty" is commonly perceived to be the core of the Westphalian model. It points out five major claims (Kelly, 2005: p. 375): (1) equality of states within the international community; (2) general prohibition on foreign interference with internal affairs; (3) territorial integrity of the nation-state; (4) inviolability of international borders; and (5) sovereign immunity of the state engaged in state action.

Consequently, any Westphalian state should theoretically comply with all of these categories.

	State-centric (realist)	Liberalist	Critical
Approach	Focus on states as sovereign entities with defined territory, government and population.	Focus on states as a group of people. Government provides rule of law and rights of citizens.	Focus on capable governments interacting with a capitalist world system.
Major actors	States/governments set rules for each other actor.	Individuals and groups in civil society run and set the rules.	States set rules in cooperation with actors from civil society.
Power	Strong states have many power resources. Power concentrated in states / governments.	Non-material, intangible resources of power important. Power diffused among many actors.	Capable states have autonomy, administrative capacity, and are embedded in civil society (infrastructural power).
State in retreat	No	Yes	Transformation

Table 1: Views of the state (adopted from Sørensen, 2004: p. 20).

In practice, however, this hardly happens. Even though many states aim to maintain a state-centric approach, globalisation poses challenges to the practicability of the original model. Therefore, a more applicable *Westphalian sovereign state model* was introduced, which more generally points to "political authority based on territory, mutual recognition, autonomy and control" (Krasner, 2001: p. 18). In this context, territory describes authority as being enforced over a geographic area, rather than over ethnic or religious groups. Mutual recognition outlines that different states reciprocally acknowledge their status and enter contractual arrangements accordingly. Autonomy means that external actors do not possess authority within a given territory. Control defines that all states mutually enforce these principles. Nevertheless, these principles are flexible and allow compromise through conventions, contracting, coercion, and imposition (Krasner, 2001: p. 18).

That such compromise is indeed needed becomes evident when considering the atrocities committed in the 1990s in the Balkans and Rwanda, where political leaders purposefully infringed upon the human rights of their peoples and used the principle of autonomy to shield their actions. The United Nations (UN) reacted in contrast to its charter, art 2, para. 7[2], with the introduction of the Responsibility to Protect (R2P) at the World Summit 2005, which concluded that territorial integrity can be infringed upon, in accordance with the security council, if "genocide, war crimes, ethnic cleansing and crimes against humanity" can be observed (UN, 2005). This shows that the Westphalian state had to open legally in the past and that its principles are not completely irrefutable.

This trend can also be observed in areas where nation states lack the capabilities to enforce the Westphalian model. Demchak and Dombrowski (2014), for example, use the term *Cyber Westphalia* to label the challenges that are brought by the internet. They proclaim the evolution of a "new interstate system, based on a resurgent Westphalian state will not, in all likelihood, display the same characteristics as in periods prior to the digital information age" (p. 30). Since digital information does not physically cross borders and can nowadays be anonymously uploaded and accessed, the control of nations' cyber territories has advanced to be one of the major challenges of the Westphalian state model. If the control and enforcement of the described principles are almost impossible to realize, is the retreat of the state an adequate alternative?

Liberalist view

In contrast to realists – who base their assumptions on the configuration of capabilities – liberals believe that the configuration of state preferences is most important in world politics. This belief is based on three core assumptions. Firstly, liberals assume that the central actors in politics are individuals and private groups. Secondly, politicians are supposed to represent the interests of these individuals and groups, changing state interests accordingly. Thirdly, they assume that the interaction of interdependent state interests determines state behaviour. In this bottom-up approach, the government simply executes the will of the people (Moravcsik, 1997: p. 513; 516-521). Accordingly, the realist hierarchic pyramid with the government on top is turned upside down. In brief, it may be that "the drug barons of Colombia ... are just as important as states in determining the who-gets-what questions" (Strange, 1996: p. 68). Consequently, the government loses meaning, resulting in a *retreat of the state view*.

Kenichi Ohmae's book "The End of the Nation State" (1996) outlines in a rather populist way what a state in retreat could look like. The author demands the introduction of regional states whose borders are determined by their economic affiliations. In a way, he prefers economic over historical, cultural or geographical variables in drawing borders. Hence, states should simply formalize "natural economic zones" (p. 80). In contrast to Westphalian states, these regional states do not look to central governments, but to the global economy as a guideline for solving their problems. In consequence, their boundaries are highly flexible and adapt to economic circumstances. Since the retreat of the state perspective does most certainly not apply to China, it is primarily presented as a matter of completeness and is not as extensively discussed as the other views.

Critical view

The critical view focuses on state transformation. By that, it adopts insights of both the state centric and the retreat perspective, but also criticizes major shortcomings of the approaches (Sørensen, 2006: p. 191). It argues that states must develop in harmony with their environment in order to remain competitive. This view is multidimensional and includes transformations in economy, politics, community and sovereignty. Economic transformation describes the internationalization of economic spaces, the formation of regional economic blocs – as noted by Ohmae (1996) – the growth of more local

internationalization through the development of cross-national economic ties, the extension of multinational companies, the widening of international regimes and the introduction of global norms and standards (Sørensen, 2004: p. 27). To deal with these challenges, the state has to transform from its former statist and nationalist orientation towards a more "polymorphous entity, diffused into complex networks involving a range of other actors" (p. 36).

Political transformation involves the transition from national government to multinational governance. This urge arises out of the increasing number of interstate relations across government organizations, the expansion of trans-governmental relations among government agencies and eventually the expansion of transnational relations between non-state actors (pp. 60-61). Due to the persisting dominance of the Westphalian model, to date no comprehensive system of global governance has been established. However, the growing role of public policy networks indicates a shift towards the organization of politics on a more global level.

The transformation of community includes two dimensions: the community of citizens and the community of sentiment. While the first refers to the relation between citizens and the state, the latter describes the relation between citizens as a group. The major challenges for the community of citizens is based on the loosening state-citizen relation, which is caused by the guarantee of certain (e.g. human) rights, by global (e.g. UN) or supranational (e.g. European Union (EU)) institutions, reducing the peoples' dependence on national governments (pp. 86-90). The community of sentiments is challenged by the peoples' change of identity. Since self-identity has become a project for the individual, the identity assigned through nationality is not necessarily accepted. Many Westerners consider themselves to be rather global than national citizens and accordingly seek collective identity in movements 'above' the nation (pp. 90-96).

The transformation of sovereignty is initiated by problems that either cannot be administered nationally due to their global size and relevance (e.g. financial markets, climate change) or that cannot be reliably controlled and restricted by national governments because of their fast pace and agility (e.g. computerized data transmissions, media broadcasts, global companies) (p. 107). For the future, this could mean that while the constitutional sovereignty will most likely prevail (core of sovereignty), regulated intervention in internal and domestic affairs will have to be made possible to enforce global security (regulative rules). Also, it is likely that the substance of statehood will change from a territorially defined polity – based on the Westphalian model – to multilevel governance structures incorporating economic cross-border networks and supranational community movements (p. 115). In opposition to realist accounts – with state-centricism – and liberal accounts – with the retreat of the state – the critical view is process-oriented. This particular strength enables us to consider states as historically grown and evolved entities. To summarise these changes that are still underway, Sørensen proposed the term 'postmodern state' to express the inability to name where we are going, while being certain to tell where we departed (2006: pp. 204-205). We get back to this concept in the research design.

2.3 PERSPECTIVES ON CHINESE STATEHOOD

Coming back to our initial case, it is reasonable to ask which of the presented perspectives matches China best. Especially in Western literature, the country is frequently portrayed to be state-centred and hence 'Westphalian' in nature. Goldstein (2003), for example, calls it the "new Prussia". For reasons of practicability, we decided to only focus on Western perspectives. Since the Westphalian model has its origins in the West, so does its philosophical foundation. That makes it difficult to wholeheartedly apply Eastern (i.e. Chinese) perspectives to the model without implicitly confusing or mixing up different conceptions. A prominent claim is, for example, that the Chinese state has constituted its very own interpretation of Westphalia, namely *Eastphalia*. Although both terms are often used synonymously, there are several differences in the justification of a quite similar type of statehood. First of all, "[t]he key difference of the two is that in the West, the Empire 'failed' and … in the East, the Empire won" (Coleman & Maogoto, 2013: p. 254). Moreover, in contrast to the Westphalian model, which traces back to the *package of sovereignty* established during the Westphalian Peace, the Eastphalian model draws from the five principles of peaceful co-existence. These are: (1) mutual respect for territorial integrity and sovereignty; (2) mutual non-aggression; (3) mutual non-interference in internal affairs; (4) equality and mutual benefit; and (5) peaceful coexistence (Coleman & Maogoto, 2013: p. 244). Comparing these principles with the five traditional principles of Westphalia – as outlined in the preceding section – it becomes evident that they also include moral claims. Especially the principles (2) mutual non-aggression, (4) equality and mutual benefit and (5) peaceful coexistence leave room for interpretation and provide rather a motive of action than a fixed set of rules. While one has to be aware of the variety of perspectives on Chinese statehood, we find that a conceptual consideration of both could impede a clear analysis and cause confusion due to certain implicit differences.

From a purely Western perspective, the conception of China as a Westphalian state is highly contested. Hameiri and Jones (2016) demonstrate that it is "in reality a complex, multilevel governance system driven by contending interests" (p. 90). This development was primarily caused by the country's shift from Maoist state socialism to state-managed capitalism, enabling international state actors and multinational corporates to shape Chinese policy (pp. 82-84). However, following the authors' claims, hardly any Western country fulfils the criteria of a Westphalian state either. Consequently, they rather show that the original Westphalian system is generally outdated and that it is not revived by Chinese statehood. Nevertheless – as could be shown in the preceding section – many attributes of the original Westphalian model are still valid for numerous states. Referring to a more contemporary definition of the term – such as the one provided by Krasner (2001) – China could still be labelled Westphalian. It is also notable that some authors seem to associate the Westphalian model with being in favour of globalisation. Wang (2015), for example, states: "The imposed Westphalia system forced the Chinese to see a much bigger real world that their rulers were simply unable to keep away" (p. 53). Thus, it appears that in some

instances, Westphalia is only a set phrase without a definition that is commonly agreed upon. Accordingly, before labelling China 'Westphalian', it should be mentioned whether a classical or contemporary definition of the term is chosen. That's why, in the following, we opt for a contemporary definition of the term as provided by Krasner (2001), referring to "political authority based on territory, mutual recognition, autonomy and control" (p. 18).

Looking at China's history, a change of attitude is visible. During the Early Republican Era (1911 - 1949) and under Deng Xiaoping in the 1980s and 1990s, the country followed the motive *taoguang yanghui* (韬光养晦), which can be translated as "hide capacities and bide time". However, it is widely agreed upon that since the beginning of Xi Jinping's rule, a development towards *yousuo zuowei* (有所作为) or *fenfa youwei* (奋发有为) – loosely translated as striving for achievement – can be observed. In this context, Gottwald and Bersick (2013) argue that the global financial crisis of 2007 and 2008 has pushed the PRC to the centre of economic governance, opening it for foreign influences. And more obviously, a number of initiatives, such as the Belt and Road Initiative (BRI), along with the foundation of the Asian Infrastructure Investment Bank (AIIB) and the Shanghai Cooperation Organisation, indicate that China today is keen on taking on a leading role when it comes to global institutions and politics. Nevertheless, these power aspirations follow a much less aggressive approach than, for example, the colonial strategy of the British Empire or the arms race of the USA and the Soviet Union during the Cold War. That is why, "a China-centred world, should it emerge, might be a more peaceful one than the Europe-dominated world of the past few centuries" (Ginsburg, 2010: p. 37, 40).

In sum, it is contested whether China is a Westphalian state or not. This can be explained by different definitions for the same terms and diverging or incomplete units of analysis (economy, politics and nationhood). Ergo, a well-structured and comprehensive empirical analysis is needed to further our understanding of the research question: To what extent does China conform to the Westphalian state model?

3. RESEARCH DESIGN

Based on the findings of the literature review we aim to provide a comprehensive analysis to determine whether China meets the criteria of a contemporary Westphalian state. In the state of the art, we outlined the three main perspectives of statehood: the retreat of the state view, the state-centric view – which is in line with the Westphalian model – and the state transformation view. This helped us to map the scientific landscape and then to allocate the specific debate on China's position within this field. We have seen that a vast amount of the literature on China applies a state-centric view. Nevertheless, the discussion of the perspectives on Chinese statehood have also shown that the concepts applied are either incomplete or unclear. Furthermore, we argue with the transformationalists that we cannot use this concept to test whether the claims of state transformation as a consequence of globalisation apply to our case, simply because it is too static. Its categories solely draw a distinction to the *pre*-Westphalian

state, but can hardly be operationalised for assessing its future development. In consequence, testing 'non-intervention' as one of its core-defining pillars against reality, such as humanitarian interventions under the R2P doctrine, would not arguably *prove* the end of Westphalia. Nonetheless, it does fundamentally challenge sovereignty claims and emphasises the necessity to develop categories for assessing a potential *post*-Westphalian state.

	The modern state (Westphalia)	The postmodern state
Government	A centralized system of democratic rule, based on a set of administrative, policing and military organizations, sanctioned by a legal order, claiming a monopoly of the legitimate use of force, all within a defined territory.	Multilevel governance in several interlocked arenas overlapping each other. Governance in context of supranational, international, trans-governmental and transnational relations.
Nationhood	A people within a territory making up a community of citizens (with political, social and economic rights) and a community of sentiment based on linguistic, cultural and historical bonds. Nationhood involves a high level of cohesion, binding nation and state together.	Supranational elements in nationhood, both with respect to the 'community of citizens' and the 'community of sentiment'. Collective loyalties increasingly projected away from the state.
Economy	A segregated national economy, self-sustained in the sense that it comprises the main sectors needed for its reproduction. The major part of economic activity takes place at home	'Deep integration': major part of economic activity is embedded in cross-border networks. The 'national' economy is much less self-sustained than it used to be.

Table 2: Three dimensions for transformation of statehood (adopted from Boxes 1.1 and 9.1 in Sørensen, 2004: pp. 14, 162).

This line of thought is picked up by Sørensen's dynamic model for a transformation of statehood (2004). By pointing to the importance of history, he outlines three historical dimensions along which this development can be observed: the government (i.e. the system of rule and institutions), nationhood (i.e. the community of citizens, culture, ideas) and the economy (i.e. the degree of integration in the world market). He goes on to explain the modern, Westphalian ideal type of state (pp. 7-14), with an emphasis on the structural differences to what would constitute a *post*modern state (p. 162). This framework helps us to operationalise state transformation and apply it to our case of China. We can now scrutinize the changes that have occurred in these three theoretical dimensions and assess whether these are sufficient to label China a postmodern state

or whether it is in fact still a modern (Westphalian) state. We hence test the robustness of the Westphalian model under the expectations of the transformationalist perspective. The categories for analysis are summarised in table 2.

4. ANALYSIS AND DISCUSSION

Sørensen (2006) proposes to operationalise the postmodern state according to a comprehensive index for measuring globalisation, the A.T. Kearney Foreign Policy Globalisation Index (pp. 204-205). It served as a prototype for more recent indices, like the one developed by the KOF Swiss Economic Institute of the Eidgenössische Technische Hochschule (ETH) in Zürich, which is used for this analysis.[3] The KOF Index is now widely cited in the literature (see Potrafke, 2015). In its latest update in 2018, it measures the political, social and economic globalisation in the period from 1970-2015 on a scale from 1 to 100. Social globalisation consists of three subcomponents (an interpersonal, informational and a cultural dimension); economic globalisation of two (a trade and a financial dimension). The (sub)components comprise of *de facto (df)* and *de jure (dj)* variables, hence distinguishing between *activities* and *policies*. This is important, because often legal frameworks are not implemented, or action precedes regulation (Gygli, Haelg & Sturm, 2018: p. 7). We argue that the three primary components of the index and their constitutive variables cover the three dimensions of state transformation: government (political); nationhood (social); and economy (economic globalisation). A summary and description of the indices and variables can be found in the Appendix. The data can be accessed via the institute's homepage[4] and a description of the methodology is provided by Gygli, Haelg, and Sturm (2018).

Relying on the data from the KOF has one limitation: since the variables are already grouped into the (sub)components of the index, it is not possible to use single variables. This is not optimal, because alternative and more suitable groupings are made impossible, although this could lead to more valid results, considering that some (sub)components cover very diverse variables. But overall, the indices are sufficiently distinct for the analysis. Furthermore, the authors provide convincing and very detailed arguments for the chosen methodology, which is well in line with the literature on globalisation and points of critique that were expressed in reaction to previous indices (Gygli, Haelg & Sturm 2018: pp. 13-17).

The analysis proceeds as follows: with a particular emphasis on the changes since 2004, the year of publication of Sørensen (2004), we test whether his approach is now applicable to non-European or non-Western countries – an idea he was then critical of (Sørensen, 2006: p. 205). Moreover, we test whether the *state-centric,* and hence *Westphalian* state model, applies to contemporary China. This is done by gathering data on China along the dimensions mentioned above. Subsequently, we compare this data to North America, which is the most globalized region, according to the index. The degree of similarity helps us to evaluate whether China can still be considered a Westphalian state under the conditions of globalisation. In this context, a relatively low

value on the KOF index is an indicator for a state-centric or modern state, while a high value is an indicator for a transformative or postmodern state. Furthermore, we include articles from the field of IR and International Security in order to cross-validate our descriptive findings. The articles will help us understand the following questions: how do recent publications (not older than 2012) discuss China's role on the global stage *implicitly?* Do authors describe it as a *Westphalian (modern)* state?

4.1 GENERAL TRENDS

Before we briefly summarise global trends in globalisation and outline the general patterns for China and North America, we give a working definition for this concept. According to the authors of the index, who are building on the work on globalisation by Nye and Keohane (2000), it is defined as:

> "the process of creating networks of connections among actors at intra- or multi-continental distances, mediated through a variety of flows including people, information and ideas, capital, and goods. Globalisation is a process that erodes national boundaries, integrates national economies, cultures, technologies and governance, and produces complex relations of mutual interdependence" (Gygli, Haelg & Sturm, 2018: p. 5).
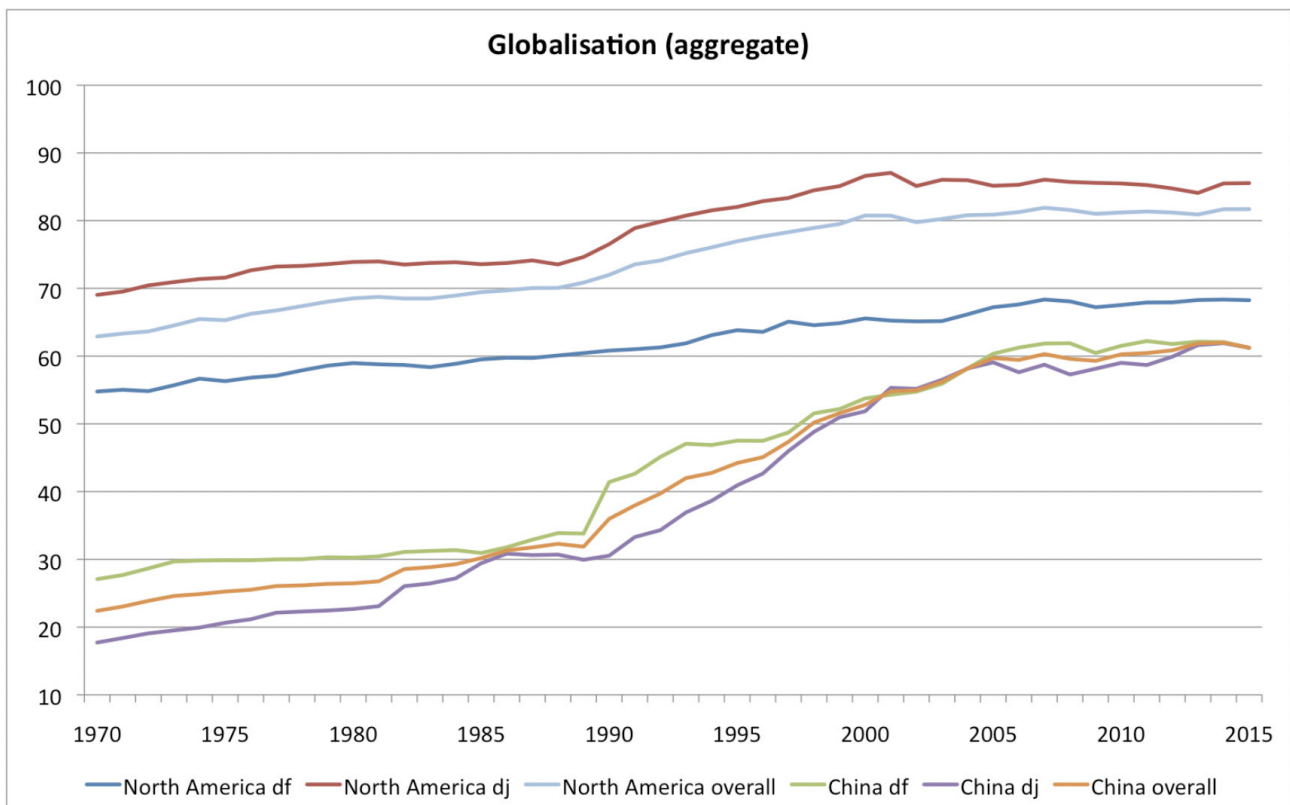

Chart 1: Globalisation (aggregate), own composition according to Gygli, Haelg & Sturm (2018).

After having witnessed long years of continuous globalisation on a global level, this trend appears to have come to an end in 2015, when the KOF detected decreasing figures for the first time. According to a KOF Director Jan-Egbert Sturm, this trend can

be expected to continue in the near future – supposedly as a consequence of the isolationist turns in Western countries, such as the US and Britain.[5]

Additionally, China and North America have continuously globalized since the 1970s. Around the end of the Cold War and well throughout the 90s, this trend became more nuanced, with China catching up significantly until 2005. Since then, both regions are in stagnation, reflecting – or rather preceding – the global development outlined above. Comparing *de facto* to *de jure* globalisation, it is the former where China has narrowed the gap to North America more. This has certainly to do with a general lower level of North American globalisation in this area (see Chart 1). In order to further differentiate between the three dimensions of state transformation, let us now turn to the main components of that index: the political (4.2); the social (4.3); and the economic dimension of globalisation (4.4).

4.2 GOVERNMENT: POLITICAL GLOBALISATION

The first dimension of state transformation encompasses "[m]ultilevel governance in several interlocked arenas overlapping each other [in the] context of supranational, international, transgovernmental and transnational relations" (Sørensen, 2004: p. 162). We hence assess the development of relations between, across and above at least two governmental institutions. The KOF component "Political Globalisation" does not have subcomponents as the other two. It provides us with a *de facto* index comprising the absolute number of foreign embassies, the personnel contributed to UN Security Council Missions per capita and the number of INGOs in a particular country. Its *policy* counterpart counts membership status in IGOs and the number of signed international (investment, bi- and multilateral) treaties (see Annex). To begin with, this is the only component where China has not only *caught up* with, but even *surpassed* the most globalized region in the world. It is even more interesting that this happened as early as in the 1980s, or in the 1970s for *de facto* variables, respectively. Overall, Political Globalisation has been rising steadily in China, while figures for North America have been stagnating since the 1990s (see Chart 2).

A differentiated investigation into the variables considered for this component helps to shed light on the question of where exactly this development originated. Two observations shall be highlighted. First, *de facto* political globalisation in China rose above North American figures as early as the late 1970s, and skyrocketed after the end of the Cold War, eventually reflecting the effective state-led implementation of Deng Xiaoping's opening policies. In consequence, the number of foreign embassies, INGOs and Chinese personnel in UN missions now account for about half of China's lead in political globalisation vis-à-vis North America, whose numbers do not show much variance since the collection of the first data point. This observation, which reflects a strong engagement in *activities* of global governance, is supported by Chen (2016), who outlines the potential, which stems from a rising China to contribute to global peaceful order-shaping via multilateral cooperation mechanisms. This claim is particularly interesting in the light of the background of the author; he is not the only Chinese

scholar having internalized liberal institutionalist thought of this kind, as we see in the following section on informational globalisation.
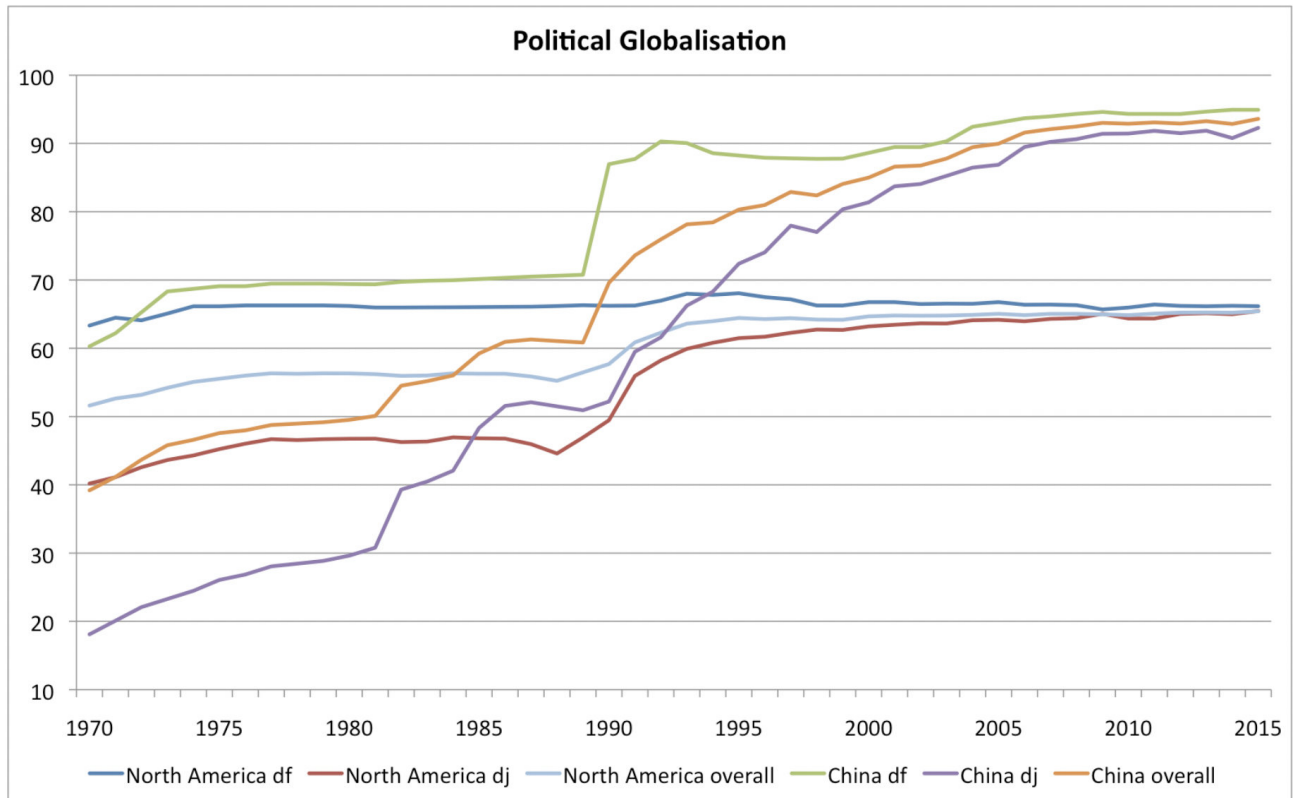

Chart 2: Political Globalisation, own composition according to Gygli, Haelg & Sturm (2018).

Second, *de jure* variables on the other hand started from much lower levels in both cases – particularly in China. Against this background, it is striking that China was able to increase its figures by more than 400% to over 90 index points in 45 years, while North America added 'only' 50% in the same period. This long-term and steady rise in membership status in IGOs and the number of treaties signed is even more revealing than the *de facto* figures mentioned above. It reflects how rising powers like China are being transnationally integrated into the institutional governance framework established by the liberal West (Stephen, 2014), while at the same time challenging the existing system through new institutions like the Asian Infrastructure Investment Bank (AIIB) and the Belt and Road Initiative (Layne, 2018).

The figures clearly indicate that China has globalized rapidly and steadily on the governmental dimension, including in the past 20 years during which North American figures came to a halt. *De facto*, China is willing to accept foreign (non)governmental influence on its territory and to pool resources on a multilateral level. *De jure*, the continuous efforts to enhance cross-border communication between different governmental levels and agencies demonstrate a clear desire to create networks, which – considering that the number of *distinct* partners is included in the index – can be considered truly global. All in all, on a political level, China fulfils all the criteria to be considered a postmodern state.

4.3 NATIONHOOD: SOCIAL GLOBALISATION

According to Sørensen (2004), the second dimension of state transformation refers to "[s]upranational elements in nationhood, both with respect to the 'community of citizens' and the 'community of sentiment'. Collective loyalties [are] increasingly projected away from the state" (p. 162). We are hence interested in detecting a sociological dimension of globalisation, one that is more closely linked to human interaction and points both in- and outwards of the state.
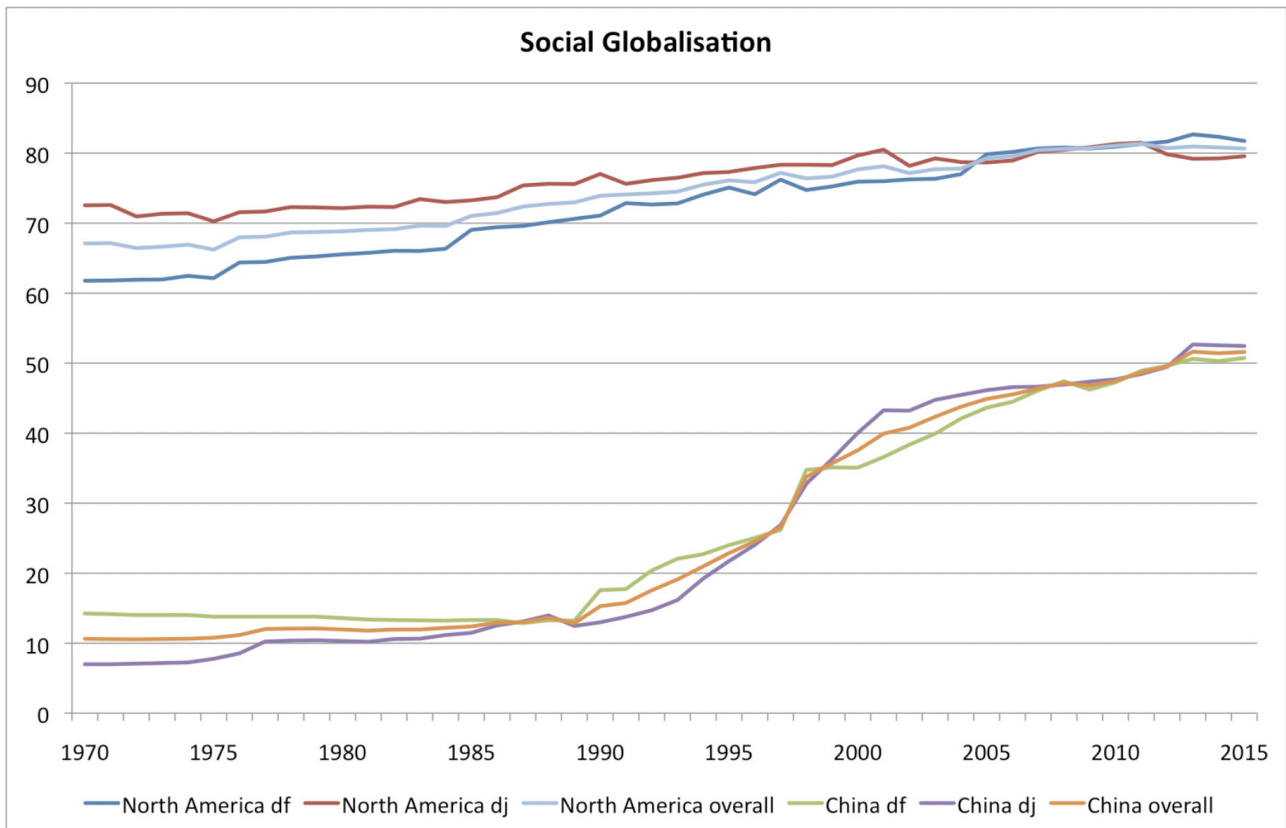
Chart 3: Social Globalisation, own composition according to Gygli, Haelg & Sturm (2018).

The KOF component "Social Globalisation" assembles a wide range of indices and variables for measuring the *practical* and *legal* diffusion of ideas, culture and technology, interactions like telecommunication or cross-border movements, and the enhancement of civil and press freedom, education and gender parity (see Annex). Most of the variables control for a country's population size. Overall, since 1970, social globalisation in China has increased four times as fast as in North America. Considering its significantly lower level of departure, this is not necessarily surprising (see Chart 3).

Let us now take a more specific look into the three subcomponents: 1) interpersonal, 2) informational and 3) cultural globalisation (see Charts 4, 5, 6). Two observations stand out: first, the general trend of China catching up in terms of social globalisation, as indicated above, is particularly evident in five of the six possible groupings. Chinese *de jure* figures for interpersonal, and its *de jure* and *de facto* figures for both informational

and cultural globalisation can be expected to continue narrowing the gap – especially because North American figures stagnate or retrocede.

Interpersonal Globalisation

Chart 4: Interpersonal Globalisation, own composition according to Gygli,, Haelg and Sturm (2018).

Informational Globalisation

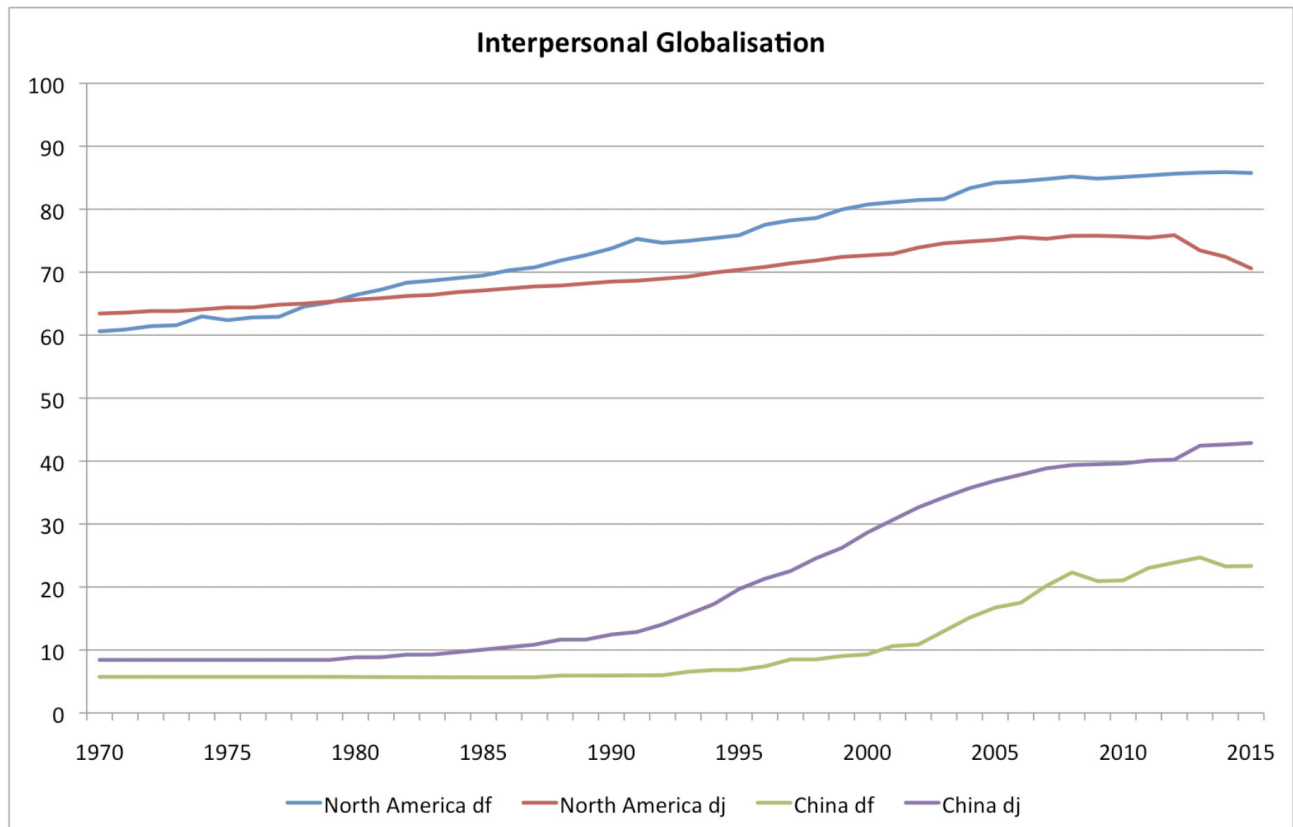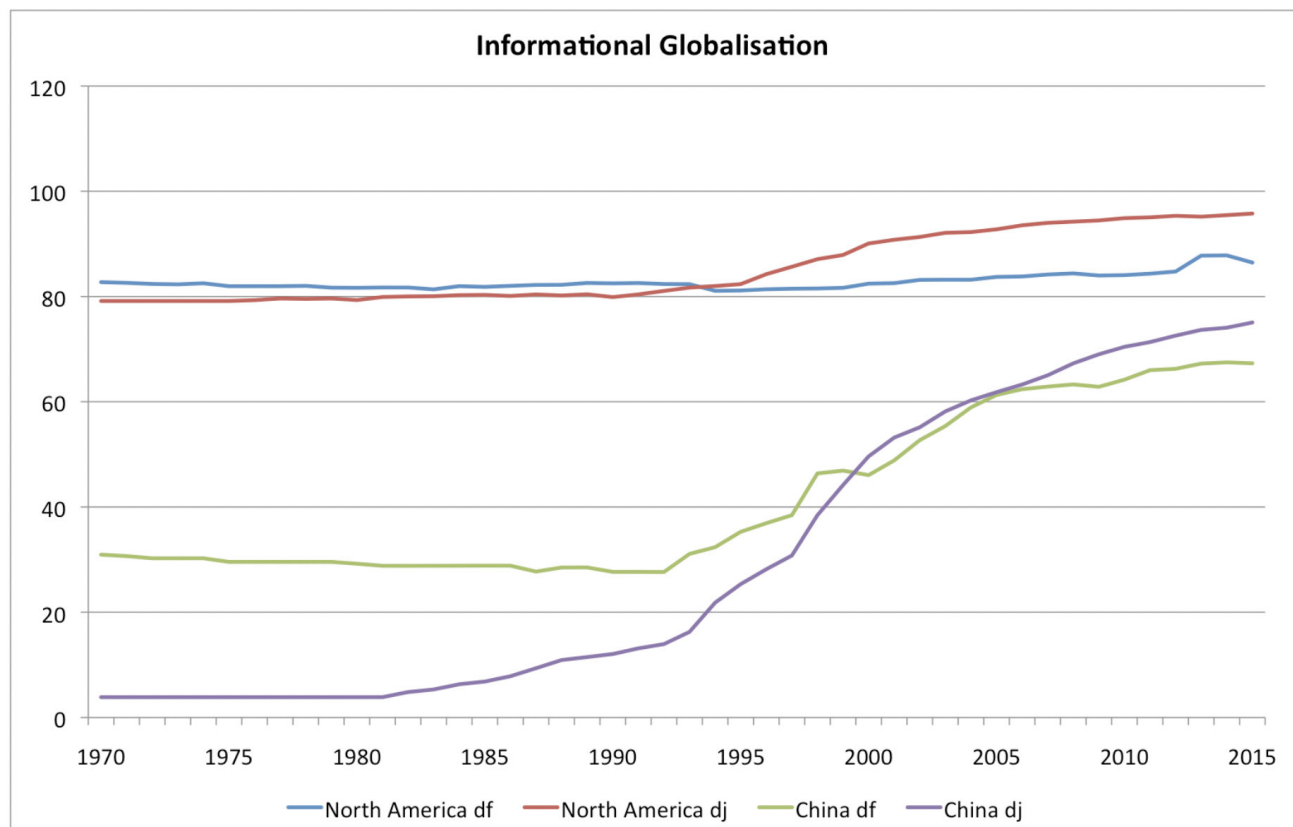**Chart 5: Informational Globalisation, own composition according to Gygli, Haelg & Sturm (2018).**

Research on China's innovative and technological capacities provides further evidence for the sharp increase of Chinese informational globalisation by putting the variables in the composite *de facto* index into perspective. Building on Beckley's arguments (2012), the international students variable can be traced back to this country's massive brain-drain (p. 66), while high technology exports reflect large quantities of predominantly foreign products assembled in China (p. 68). Furthermore, the flow of people and ideas also occurs in the opposite direction. One example for the informational globalisation of scientific traditions can be found in the literature on China's International Political Economy (IPE) scholarship. Yong and Pauly (2013) argue that many Chinese authors have picked up Anglo-American ideological traditions, like neo-imperialism, liberal institutionalism (see also Chen, 2016), and recently, constructivism.

Second, somewhat representing the other side of the coin, the variables that are most likely to explain the prevailing difference in social globalisation between both regions can be found in the low share of *activities* that would reflect interpersonal globalisation. So, while the *technical possibilities* for cross-border communication (telephone subscriptions) and travel (visa requirements, international airports) in China have been improving for some years, that potential appears to be barely realised. Additionally, another variable within the index could also be involved in skewing the curve: the number of foreign-born residents as a percentage of total population (Gygli, Haelg & Sturm, 2018: p. 14).
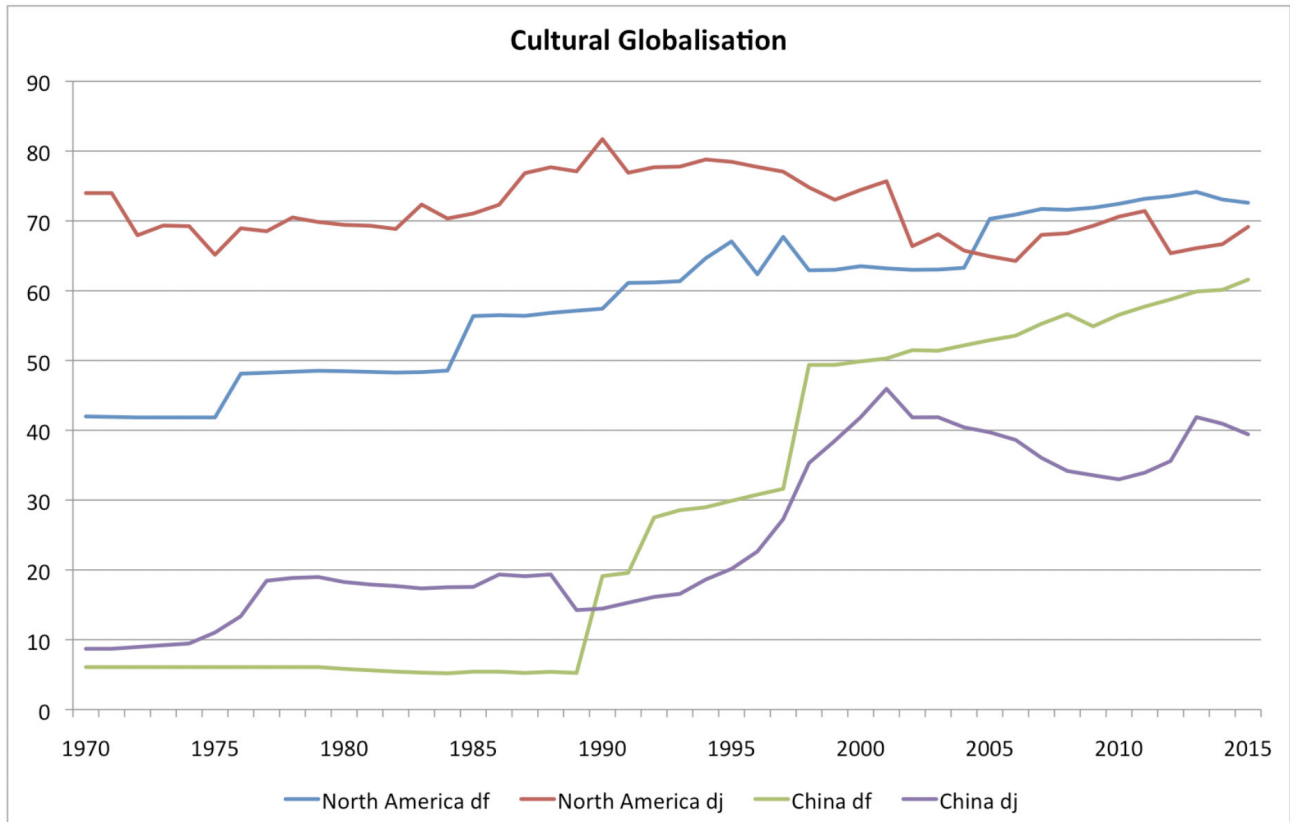

Chart 6: Cultural Globalisation, own composition according to Gygli, Haelg & Sturm (2018).

So, although China globalized significantly in the nationhood dimension, this is largely due to its low level of departure. The fact that both regions share long s-shaped curves in most of their subcomponents suggests a general trend of decreased potentials to further globalize socially. Nevertheless, on technological terms, China can be expected to witness further integration.

While low levels of *de jure* cultural globalisation reflect the Chinese government's attempt to reduce possibilities for its citizens to get in touch with values and customs from abroad, de facto levels seem to indicate the possibility to do so effectively – at least in the commercial realm. In the social dimension, China seems to be in a hybrid position between the modern and the postmodern ideal type. While on an interpersonal level the Chinese society is still broadly isolated from foreign influences, activities of cultural exchange are reaching moderate to high levels of globalisation. Particularly the prospects for development in informational globalisation suggest some further steps in the direction of a postmodern society in the near future.

4.4 ECONOMY: ECONOMIC GLOBALISATION

The third dimension to observe state transformation towards a postmodern state is the economy. In the light of globalisation, this means "'[d]eep integration' is [the] major part of economic activity embedded in cross-border networks. The 'national' economy is much less self-sustained than it used to be" (Sørensen, 2004: p. 162). We are therefore not focussing on economic power or growth here – at least not in the sense of a proxy for capabilities. These measures are primarily of interest to deflate the figures, so they can be compared as shares of GDP. Our focal points of interest are rather the degrees of interdependence in trade and financial flows between states.

For the former, the KOF component "Economic Globalisation" summarises trade *activities* in both goods and services plus trade partner diversification, complemented with regulations, taxes and tariffs on the *policy* side. For the latter, it considers the levels of foreign direct and equity portfolio investments, as well as international debts, reserves and income payments (*de facto*), while investment restrictions and two indices for capital account openness are added for its *de jure* dimension (see Annex).

To begin with, North America witnessed rising overall levels of economic globalisation until the economic crisis in 2008 / 2009. Since then, its level remains around 25 index points above China. In the case of China, slowdown in all figures manifested itself already some years before the crisis, at a point where the gap between *de facto* figures had decreased by more than 300% within 20 years. In North America, the downward trend dates back to changes in the *legislative* environment during the Bush presidency (see Chart 7).[6]

A closer look on the economic subcomponents helps to understand these developments more profoundly (see Charts 8, 9). Two observations stand out. First, the figures from both regions seem to be closely related to each other. On the one hand,

China's low figures in *de jure* terms are in both subcomponents heavily affected by changing globalisation levels of North American *legislation*. On the other hand, except for trade *activities,* changes in one particular subcomponent of economic globalisation are always paralleled by similar developments in the other region.
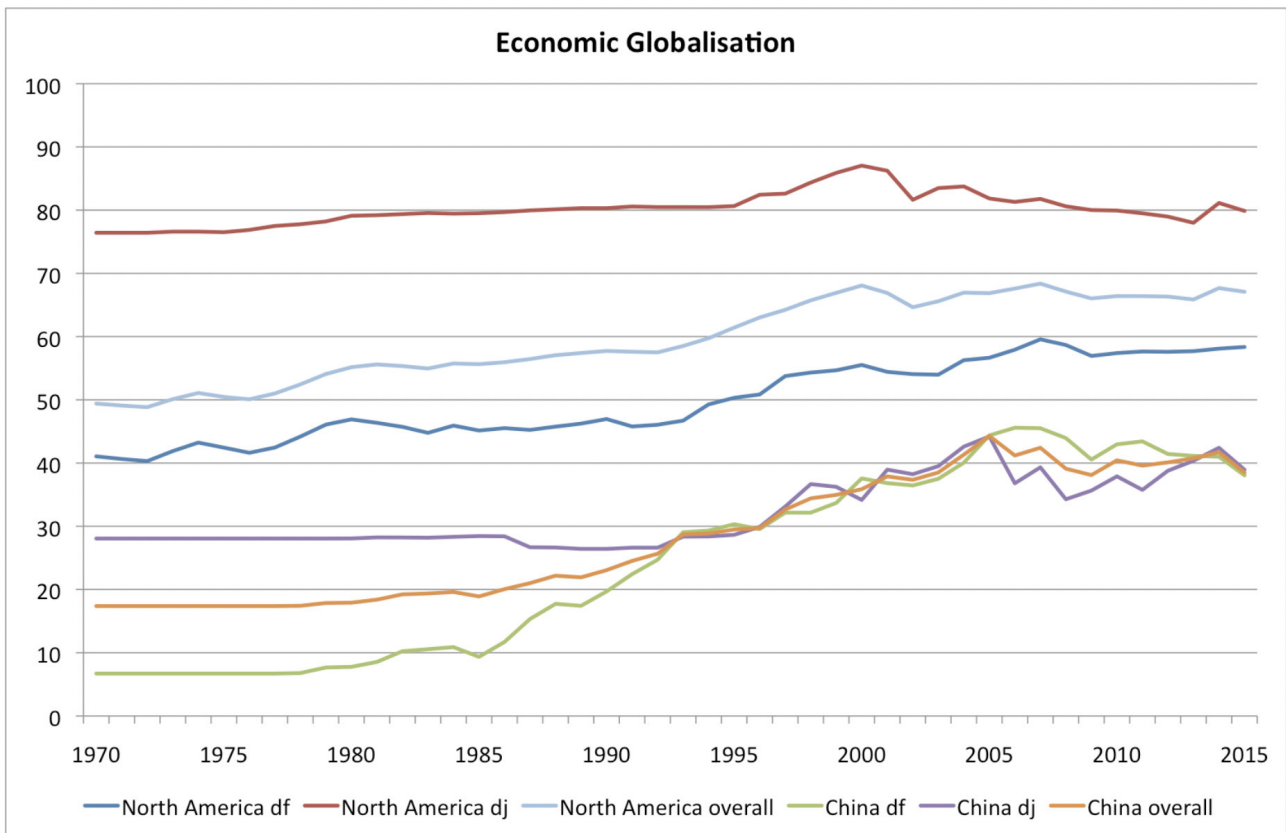
Chart 7: Economic Globalisation, own composition according to Gygli, Haelg & Sturm (2018).

The literature provides us with supporting evidence and a tentative explanation. Stokes' economic analysis (2014) shows that China's growth has always been largely embedded in the US dollar's monetary regime. Consequently, changes in US legislation on trade or finance can be expected to result in fluctuations in the China's flow of goods, investments and regulations. Another explanation for the parallel movements is provided by a historical materialist account of the BRICs challenge. Stephen (2014) explains how rising powers like China are integrated into the historical structure of global capitalism. He concludes that the "[i]ntegration into the transnational structures of production and exchange of neoliberal globalisation is a fundamental determinant of the orientations of rising powers towards global governance" (p. 930).

Second, the reason why China is still significantly below North American levels of economic globalisation seem to be its *regulative* barriers to trade, particularly investment, and the fact that its trade *activities,* which were able to surpass its Western counterpart for a period of more than 10 years, have been plummeting dramatically since 2005. The comparative literature provides us with nuanced explanations for this. Nölke et al.'s varieties of capitalism approach to "state-permeated economies" (2015)

emphasises domestic reasons such as the state-led and selective allowance of market mechanisms, the dominance of national and family capital, and the possibility to rely on a large domestic market. Building on the domestic market argument, Beckley (2012) argues that China will face severe economic problems stemming from its fading demographic dividend and a shrinking internal market, manifesting itself already in lower imports, vice versa the US (pp. 60-62). Another explanation – possibly complementary in nature – is provided by Hameiri and Jones (2015) and Layne (2018). The authors depict that the Chinese economy's transnationalisation (e.g. in the Greater Mekong Subregion) and its economic integration (OBOR, AIIB) occur to a large extent in Asia. North America's relative geographical isolation on the other hand makes comparable regional integration more difficult. These structural differences are consequently deepened by the KOF's methodology, which explicitly discriminates against regional flows of trade and investments, favouring longer distances and hence global patterns (Gygli, Haelg & Sturm, 2018: p. 13).
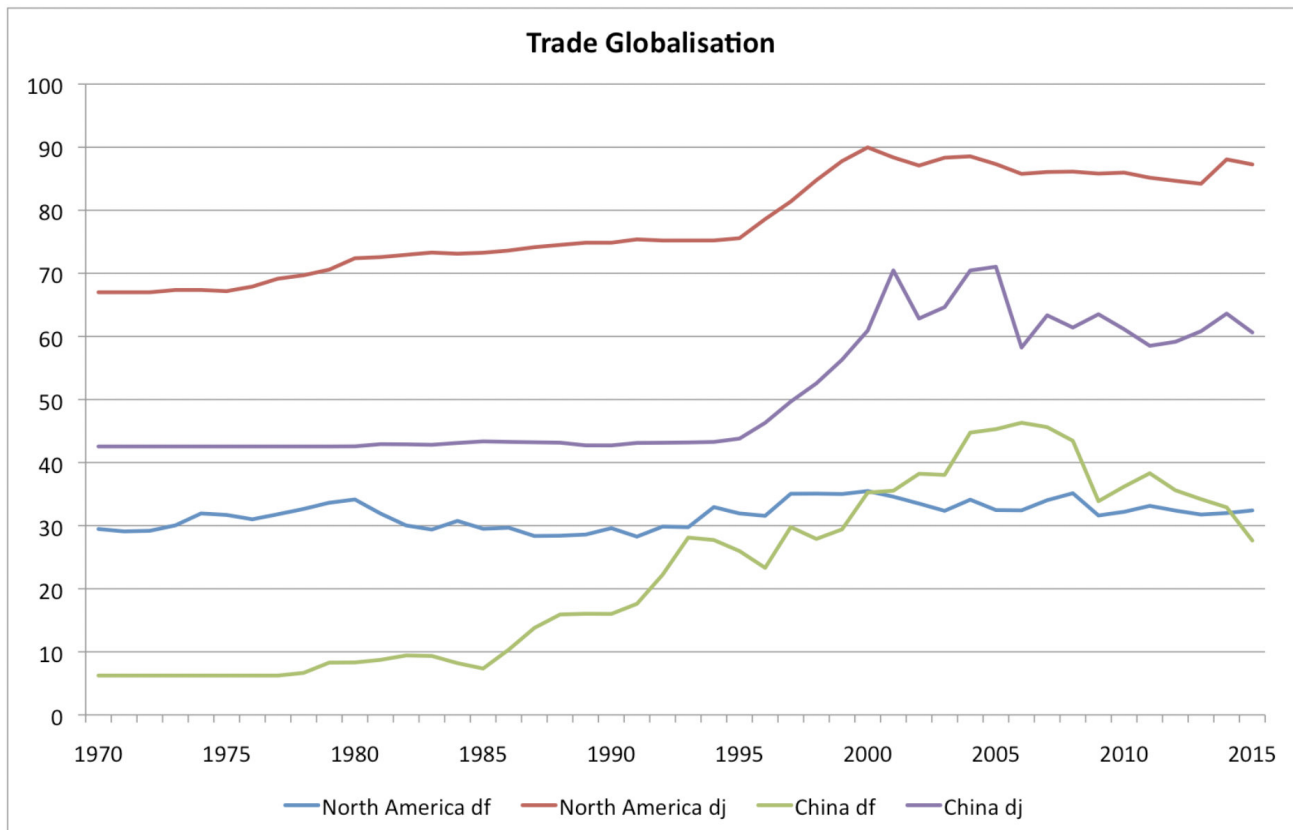
Chart 8: Trade Globalisation, own composition according to Gygli, Haelg & Sturm (2018).

We have seen that China's integration into the world economy seems to have come to a halt at intermediate levels. Part of this may be attributed to its emphasis on proximate regions, with larger and more distant markets playing an important but not pivotal role. Furthermore, it may also be hindered by its close interdependence with the US economy. Since the early 2000s, North America has only globalized regarding on financial figures in its *legal* environment, while all other indicators show retrocession. Even though there is evidence for stronger effects on China due to the prevailing dollar hegemony, a bi-directional interdependence of these major economic regions is very

likely. To sum up, China again shows signs for a hybrid position in between the two ideal types. For trade, its regulative openness to foreign goods correlates with high and globally integrated trade volumes, clear indicators for a postmodern state. Restrictions to investments and on foreign capital on the other hand explain why China overall only scores moderate on economic globalisation.
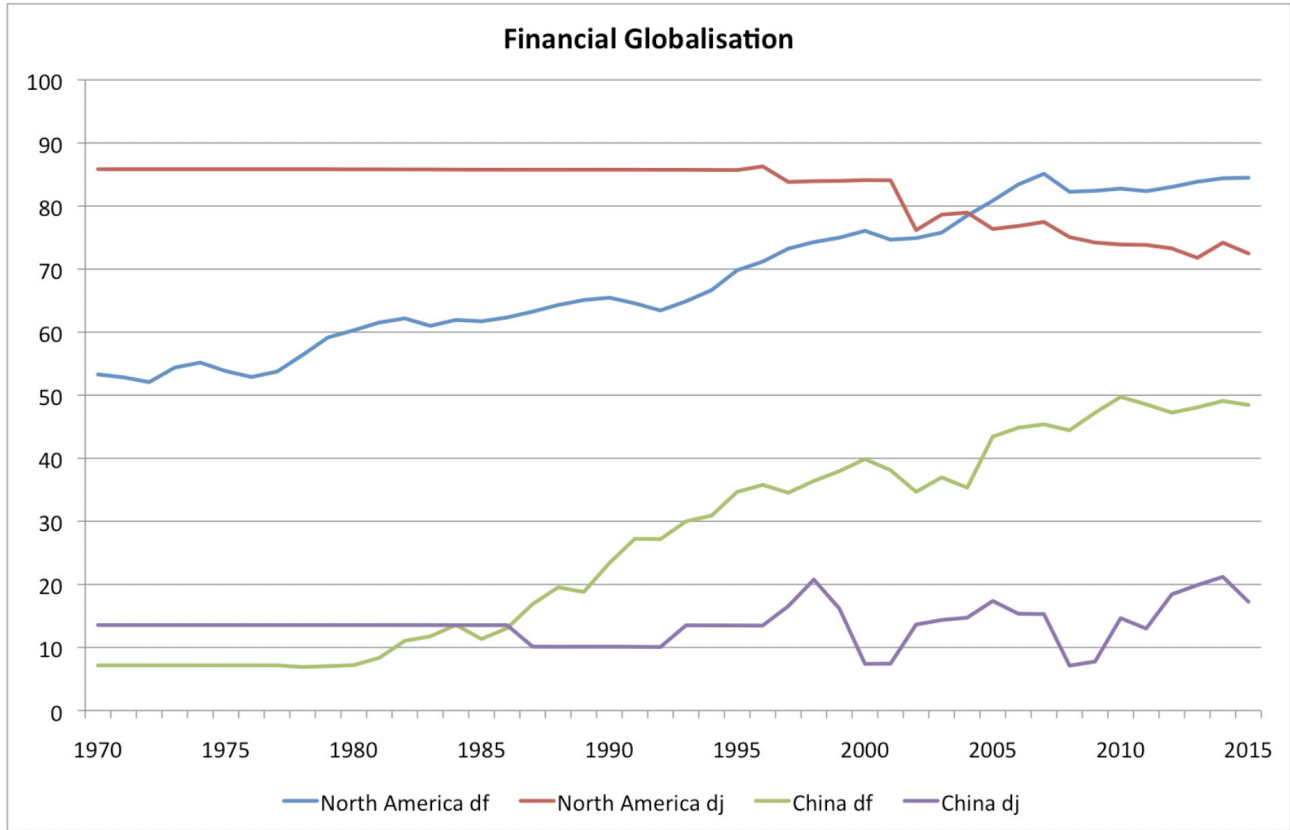
Chart 9: Financial Globalisation, own composition according to Gygli, Haelg & Sturm (2018).

5. CONCLUSION

In sum, it is evident that the proposed model is applicable to the case of China. The country is most globalised in its political dimension, where it even surpasses North America. This is especially surprising since much of the presented literature specifically emphasizes the role of Chinese economic relations as a cause for its shift towards globalisation (e.g. Hameiri & Jones, 2016; Wang, 2016). In this category, however, China is rather weakly integrated, only being held up by its strong engagement in trade activities. The high value in political globalisation is also surprising, because it contradicts Goldstein's argument (2003), highlighting the closed and self-centred nature of the polity. In the social dimension, in spite of a fast increase in the past, China has only an intermediate position, mostly due to low interpersonal levels. This suggests that the potential for globalisation in this category is not yet exhausted – especially within the community of sentiment.

Based on the conducted analysis in this paper, China should be considered a state in transformation, which is why the research question is answered differently for any

considered category. It was shown that the country is globally too integrated along all three dimensions of statehood for a modern, Westphalian regime. It can be expected that this interim position is the starting point to push for further transformation through the political leadership of a constitutionally embedded rule under Xi Jinping. It appears that many scholars have simplistically misinterpreted the strong role of government as notions of Westphalia. This has significant implications for a theory of state transformation under globalisation in general, which will have to be assessed by individual case-to-case studies. It has also implications for IR discussions about hegemony transitions, considering that the type of actor challenging the current liberal world order is actually more embedded in this system than widely expected. Globalisation appears to be in the clear interest of both the political elite and the country's economic development itself, considering that – relative to 1990 – no other country's per capita income has been induced more by this development than China (Weiss, Sachs & Weinelt, 2018: pp. 20-21).

NOTES

1. See articles in The Economist (https://www.economist.com/china/2017/10/24/xi-jinpings-thinking-is-ranked-alongside-maos); The Guardian (https://www.theguardian.com/world/2017/oct/24/xi-jinping-mao-thought-on-socialism-china-constitution); TIME (http://time.com/4994618/xi-jinping-china-19th-congress-ccp-mao-zedong-constitution/); The New York Times (https://www.nytimes.com/2017/10/24/world/asia/china-xi-jinping-communist-party.html); and BBC (https://www.bbc.com/news/world-asia-china-41730948).

2. "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state" (1945).

3. See Dreher, (2006) for the original contribution introducing the index.

4. https://www.kof.ethz.ch/en/forecasts-and-indicators/indicators/kof-globalisation-index.html

5. The press release can be found at: https://www.kof.ethz.ch/en/news-and-events/media/press-releases/2018/01/kof-globalisation-index-globalisation-down-worldwide-in-2015.html

6. Bush for example raised tariffs on steel imports provoking a trade war with the EU (for a discussion see Ho, 2003).

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04

THE VIRTUAL PANOPTICON IN CHINA: SURVEILLANCE THROUGH THE SECURITISATION OF THE INTERNET

XIAOXUE JIANG MARTIN

ABSTRACT

The essay comments on the debate of the CCP's increasing control over cyberspace since 2013. Specifically, it will argue that, through the securitisation of the internet and cyberactivity, the Chinese government has created a virtual panopticon. To make this case, the Copenhagen School's Securitisation Theory and Foucault's concepts of panopticism and disciplinary power will be explained and applied to the CCP's censorship and surveillance of the Chinese internet. Through securitisation of an issue and putting it in the realm of emergency politics, a government can legitimise exceptional measures that would not be possible under normal circumstances. Several examples of the securitisation of cyberspace will be discussed, such as the 2013 law that made the "spreading of false rumours online" a punishable act, as well as the establishment of the Cyberspace Administration to conduct dataveillance in 2014. More recently, homosexuality has been re-criminalised as "abnormal sexual activity" with the 2017 ban of LGBTQ content on the internet. The CCP's actions were all justified on the basis of national security, framed as a necessary act to protect Chinese citizens from alleged dangers to society. However, these developments are highly problematic as the freedom of speech is increasingly curtailed under rising authoritarianism. The consequence of this successful securitisation is that the CCP has created a virtual panopticon in cyberspace, effectively controlling people's online behaviour. First of all, like in a panopticon, surveillance feels constant and ubiquitous, with netizens' activities permanently visible online. Furthermore, the government's power is visible yet unverifiable, as it is not clear when the CCP is monitoring internet users' activities, nor exactly which activities are illegal. This leads to the internalisation of the CCP's values, as netizens and internet services engage in self-censorship to avoid punishment. The government therefore does not coerce, but discipline. Lastly, it does not matter who conducts the surveillance for the panopticon to function. Everyone can survey and be surveyed. In these ways, it is unsettling to see how efficiently the CCP has created its virtual panopticon.

1. INTRODUCTION

In 2017, for the third year in a row, China had the dubious honour of being named the "world's worst abuser of internet freedom" by the NGO Freedom House (2018). It is not undeserved: in an impressive demonstration of its pervasive control over Chinese society, the Chinese Communist Party (CCP) has been worryingly successful in tightening and systematising its regulation over cyberspace and the internet over the last five years. The Party's position on freedom of speech on the internet was succinctly conveyed by President Xi Jinping at the second World Internet Conference in Wuzhen, as he commented: "On the one hand, we should respect the freedom of expression. On the other, we need to create a fine cyberspace order following relevant laws" (Griffiths, 2015). What is problematic here is that the Party does not allow citizens to influence the legislation process, and its laws are designed to keep the Party in place. As such, in practice, cyberspace activity and discussion are allowed, as long as they adhere to party ideology, limiting true freedom of expression. Ironically, while President Xi held his speech about the Chinese understanding of the concept of freedom of expression at the Wuzhen World Internet Conference, Chinese free speech advocate Pu Zhiqiang was held in Beijing's detention centre for posting tweets critical of the CCP on Twitter (Blake, 2015; Evans, 2015). Many Chinese netizens interpreted this as a warning to other dissidents, showing that critical voices on the internet are not tolerated and will be punished with jail sentences and fines. The CCP thus gives the illusion of free speech on the internet, while in actuality censoring and conducting surveillance in search of nonconformists. How does the CCP justify these actions? And what effects do they have on Chinese netizens?

Once again, a quote by President Xi can serve as elucidation of the CCP's logic. In April, he proclaimed: "Without web security there's no national security, there's no economic and social stability, and it's difficult to ensure the interests of the broader masses" (Reuters, 2018). In this way, censorship and surveillance are rationalised and enabled by portraying them as necessary 'invisible' tools for so-called web security. Accordingly, the government's omnipresent and all-seeing eye conditions netizens to self-censor and remain uncritical online. This essay will debate these findings and argue that, through the securitisation of the internet and cyberactivity, the Chinese government has created a virtual panopticon. It will be shown that this structure is used to discipline online behaviour to adhere to its censorship rules through the impression of constant and pervasive surveillance. To make this argument, the Copenhagen School's Securitisation Theory will be applied, as well as Foucault's concepts of panopticism and disciplinary power to the case study of the CCP's control over cyberspace in China. The following sections will review previous literature on the CCP's internet securitisation and its panoptic effects, highlight the concrete ways in which the Party has justified its progressive securitisation of the internet, and demonstrate how China's cyberspace administration resembles a virtual panopticon. This essay will thus provide a theoretical basis to explain why the Chinese government has been successful in continuing to restrict free speech despite the advent of the internet.

2. LITERATURE REVIEW

As a controversial issue, the Xi administration's intensifying practices of online surveillance and censorship have received considerable attention both in popular media and in academic literature. Optimistic beliefs as expressed in articles like Liu and Chen's (2012) *Why China Will Democratize,* which pointed towards the internet as democratising force, were crushed by the CCP's repressive internet policies under the new President. Books like Economy's (2018) *The Third Revolution: Xi Jinping and the New Chinese State* provide an overview of the growing cyberspace regulations. However, these works generally focus on placing these developments in the broader context of growing authoritarianism under President Xi, rather than on how they are justified by the Chinese government, as this essay does. One short article by Caster (2014), did remark the CCP established a link between social media and security regarding its law against 'spreading rumours', as does this essay. However, Caster did not explicitly draw the link to Copenhagen School's Securitisation Theory, nor did he make explicit the mechanisms of securitisation move as elaborated upon in this essay. This work adds to Caster's by explaining why the CCP made its first securitisation move, why it was effective, how it was followed by deeper securitisation of cyberspace over the following years, and what the effects on netizens' behaviour were.

These panoptic results of self-censorship of internet surveillance in China were discussed as early as 2003, when Tsui warned of "the potential to have the internet turn into a full-blown Panopticon" (p. 66). Tsui, as well as Zhen in 2015, noted how the panoptic characteristic of the fear of being monitored by the government contributed to online self-censorship. This essay elaborates upon their observations by showing Tsui's prediction indeed came true under the CCP's newest internet regulations, and arguing this was enabled through securitisation of the internet. Furthermore, it will emphasise two other crucial panoptic factors that deepen the disciplinary power of the Chinese government: that non-governmental actors also participate in surveillance, and that the government's power is visible, yet unverifiable. The next sections will present this argument.

3. SECURITISATION THEORY

Securitisation is a concept mainly associated with the constructivist Copenhagen School in Security Studies, consisting of scholars Waever, Buzan, and colleagues from the Copenhagen Peace Research Institute. They define securitisation as "shifting an issue out of the realm of 'normal' political debate into the realm of emergency politics by presenting it as an existential threat" (Peoples and Vaughan-Williams, 2010b: p.76). In other words, securitisation portrays an issue dangerous to such a degree that it has the potential to undermine national security, and poses it therefore does not belong in the a-securitised sphere of society. Normal politics need to be suspended in order to deal with the issue, which legitimises an actor to take exceptional measures, according to the Copenhagen School (Buzan *et al.* 1998; McDonald, 2008; Peoples and Vaughan-Williams, 2010b). For example, to prevent a life-threatening disease from spreading,

states have the legal authority to impose a quarantine and restrict freedom of movement, which under normal circumstances would be problematic. However, most issues are more ambiguous than this example in endangering national security. As securitisation can authorise controversial and far-reaching actions, it is important to understand the securitisation process.

According to the Copenhagen School, securitisation occurs through 'speech acts', in which an issue is being framed as a security matter by authoritative actors, mostly in the political sphere (Buzan *et al.,* 1998; McDonald, 2008; Peoples and Vaughan-Williams, 2010b). As in Constructivist theory, discourse is crucial, as for securitisation there is always a speaker and an audience involved. Not all attempts at securitisation, or securitising moves, are successful: securitisation is an intersubjective process, a negotiation where a securitising move only succeeds when it is accepted by the intended audience. There are several facilitating or felicity conditions that contribute to the success of a securitisation move, such as the role and authority of the speaker. Furthermore, the Copenhagen School warns against overstretching the concept of security, as it has political and intellectual dangers. After all, securitisation allows a militarised mode of thinking that restricts open discussion and criticism of state actions, so that a certain agenda can be pushed through. In the name of security, a state can justify questionable 'emergency' practises that would otherwise be opposed, which is alarming if the securitisation actor has dishonest intentions. Overstretching the concept of security has intellectual consequences as well: if too many issues are labelled as a security matter, the idea of security loses its meaning and usefulness. Waever (1993) therefore calls for 'desecuritisation', or shifting securitised issues back into the normal political sphere, and urges critical analysis of securitisation moves.

4. SECURITISATION OF CYBERSPACE IN CHINA

Applying theory to practice, we can see how securitisation of cyberspace has transpired in China. The rise of cyberspace, social media, and the internet posed a new challenge to the Chinese government, empowering citizens in several ways (Tai, 2007; Robinson, 2013). With the World Wide Web, the information that flows from, to, and within China became much harder to control. The internet thus stimulated diversity of ideas and opinions diverging from the official Party line, endangering internal stability of the CCP rule. In immediate response to this challenge, in 2000, the Ministry of Public Security started the Golden Shield Project, often referred to as the Great Firewall, as a surveillance and censorship system based on online data (James, 2009; Deibert *et al.,* 2011; Punyakumpol, 2011). Therefore, since the beginning of the internet in China, cyberspace has been politicised to be part of the political sphere. Cyberspace has also increasingly been securitised. Already in 2000, Chinese provinces started forming Internet Police Forces, who would "administrate and maintain order on computer networks" (Tai, 2007: p.99) by finding and censoring controversial web content for the Ministry of Public Security. This shows that the CCP has always imposed cyberspace regulations.

However, though developments like this set the stage for securitisation of cyberspace, they cannot be identified as true securitisation moves yet, according to the Copenhagen School's criteria, since cyberspace was not explicitly linked to security in a speech act (Peoples and Vaughan-Williams, 2010b). True securitisation of cyberspace only started under President Xi's rule, when China passed a law against the spreading of rumours online in 2013. Circulating 'false rumours', of which the definition was left ambiguous, could now lead to detention and trial. According to Xinhua, the spreading of false rumours "mislead[s] the public and disrupt[s] social order", and "freedom of speech does not mean freedom to disseminate information" (Mengjie, 2013). Here, we can see how cyberspace activity was explicitly linked to security, justifying the limitation of the (Western interpretation of) freedom of expression in the name of social stability. This shows the dangers of securitisation, as opinions and information countering the CCP's view could now be framed as harmful rumours, and punished in the name of security ('China: New Ban on 'Spreading Rumors' About Disasters', 2015; Tokmetzis, 2016).

The securitisation movement intensified over the next years, as in 2014 when the Cyberspace Administration of China (CAC) was established under Lu Wei as the central cyberspace control agency to ensure 'cybersecurity' (Freedom House, 2018). Its powers were justified with a speech act by President Xi, as he stated that "national security no longer exists without network security" (Kaja and Luo, 2015). The CAC's powers have expanded significantly since its creation. New cybersecurity laws in 2015 and 2016 enabled it to not only supervise and censor online content by requiring operators to comply and register users under their real names, but also to limit the overseas transfer and storage of personal information of Chinese citizens (Cheung, 2015; Kaja *et al.,* 2015). Furthermore, it demanded that internet companies also monitor and censor their content themselves, with failure resulting in fines or forced closure. The new Counter-Terrorism Law also required internet services to give the CAC decryption keys and access to interface information if needed, allowing the government to access users' data without difficulty (Carlson *et al.,* 2016; Stratford and Luo, 2016). Another more recent example, is the re-criminalisation of LGBTQ expressions as 'abnormal' and 'deviant' sexual activity on the same level of sexual abuse and violence, with several attempts to ban gay content on the internet (Hernández and Mou, 2018; Shepherd, 2018). Cyberspace is now almost completely surveyed by the CCP, all in the name of counter-terrorism, protecting national security, and enabling quick response to security incidents (Economy, 2018). This would not be possible without the completion of securitisation of cyberspace, allowing freedom of speech to be increasingly curtailed under rising authoritarianism.

5. FOUCAULT'S PANOPTICON AND DISCIPLINARY POWER

The consequence of successful securitisation is that the CCP has created a virtual panopticon in cyberspace, effectively controlling people's online behaviour. Panopticism is a concept developed by post-structuralist Foucault (1995), as he analysed the mechanisms of power (Simon, 2005; Peoples and Vaughan-Williams,

2010a; Burke, 2013). He believed that a new form of power relation had emerged since the 17th and 18th century, called 'disciplinary power', which relies mainly on surveillance. Here, the notion of the panopticon comes into play. Originally, the panopticon was developed by English philosopher Jeremy Bentham in 1785. It referred to a prison designed in a circle, with a watchtower in the middle that would be able to view every single cell. Inmates could not see each other or know whether they were being watched. With this set-up, in which power is always visible but never verifiable, the illusion of constant surveillance would prevent misconduct in the most efficient way with the least coercion and actual force. In a disciplinary society, panopticism is infinitely extended to all aspects of daily life. Through surveillance, or the possibility of it, individuals are classified and made to conform to the ruler's norms. Furthermore, regardless who surveys, whether it be the government, strangers, or even friends, the power of the panopticon is not diminished. Each observer can be observed. Those within the pervasive panopticon are then trained to internalise discipline, not with the use of force, but by making the possibility of punishment always present.

As for the case study of cyberspace and surveillance and censorship, the CCP has been successful in creating a virtual panopticon to control its population. The Chinese government uses disciplinary power to engage in dataveillance, or the "monitoring and 'mining' of multiple forms of data [...] with the aim of identifying potentially 'risky' groups and individuals" (Peoples and Vaughan-Williams, 2010c: p.185). These actions are possible for the state, because it has been able to securitise cyberspace. And, just like in a panopticon, the goal of the government in doing this is to control people's behaviour (Foucault, 1995; Tsui, 2003; Tokmetzis, 2016). The CCP perceives dataveillance as crucial for its regime's stability. Like in Chinese offline media, freedom of expression had to be limited in cyberspace, and dissident opinions had to be identified and punished. Just like the prison panopticon, cyberspace surveillance is seemingly constant and ubiquitous. Netizens' activities are permanently visible and punishable. Interestingly however, as King, Pan, and Roberts (2013) found, the CCP does not censor all cyberspace content critical of the state. Instead, censorship mainly focuses on the content that could spur social mobilisation, curtailing collective action. The lines between what is allowed and what is not are always blurred, indicating another clear characteristic of a virtual panopticon. Power is visible but unverifiable: it is not clear when the disciplinary power of the sovereign will be exercised, and it is ambiguous which cyberspace activities will and will not be punished. This uncertainty is used to control internet services and netizens, forcing them to first consider whether their activities are in line with the Party before conducting them.

This leads to another important panoptical characteristic of China's securitisation of cyberspace, namely that the structure of the panopticon internalises the values of the sovereign in its subjects by making punishment always possible. The CCP has structured its cyberspace censorship in such a way that it does not have to use force constantly to ensure compliance. By punishing a small number of dissidents harshly and publicly, the CCP gives off a warning to all other netizens. This has led to self-censorship of web services and users, reducing public debate about political and social

issues: "The idea is that if you're never quite sure when, why and how hard the boom might be lowered on you, you start controlling yourself, rather than being limited strictly by what the government is able to control directly" (James, 2009). This applies to companies as well, as the CCP considers them responsible for their online content. Since they can be fined or shut down if their censorship is not deemed sufficient, internet services themselves also become more cautious and self-aware (Tsui, 2003; Tokmetzis, 2016; Chong, 2018). This connects to the last panoptic characteristic of our case study: that the disciplinary power of the panopticon is not dependent on who conducts the surveillance. Internet services monitor and censor their own content, netizens censor themselves, but also other netizens. Friends warn each other when cyberspace activity is perceived too risky, as association with dissidents is also dangerous. With China's new developing social credit system giving every citizen a score dependant on criminal offences, online activity, and even the online activity of friends, self-censorship and surveillance of other will become even more common. After all, dissident online activity could lead to a bad score, which will affect citizens' ability to receive a loan, get a job, and will even influence the search for a romantic partner (Hatton, 2015). Thus, through the securitisation of cyberspace, enabling dataveillance, the CCP has successfully created a virtual panopticon.

6. CONCLUSION

To make my argument, I have shown through several examples that cyberspace has been securitised in China, enabling dataveillance and censorship. These actions have been justified on the basis of national security, framed as necessary to protect citizens from harm. The consequence of this successful securitisation is that the CCP has created a virtual panopticon in cyberspace to effectively control users' online behaviour. First of all, like in a panopticon, surveillance feels constant and ubiquitous, with netizens' activities permanently visible online. Furthermore, the government's power is visible yet unverifiable, as it is not clear when the CCP monitors users' activities, and exactly which activities are illegal. This leads to the internalisation of the CCP's rules, as netizens and internet services engage in self-censorship to avoid possible punishment. The government therefore does not coerce, but discipline. Lastly, it does not matter who conducts the surveillance for the panopticon to function. Everyone can survey and be surveyed. In these ways, it is unsettling to see how efficiently the CCP has created its virtual panopticon. As President Xi Jinping said: "Cyberspace is not a place [that is] beyond the rule of law" (Phillips, 2015).

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05

THE SOCIAL CREDIT SYSTEM
AND CHINA'S RULE OF LAW

MARIANNE VON BLOMBERG

ABSTRACT

In 2014, the PRC's central government formally declared the construction of a Social Credit System (SCS) a national task. Meanwhile, government-designated localities and companies are experimenting with scoring systems for businesses, citizens and the administration. The government's initiative introduces mechanisms for a massive aggregation and exchange of data about 'credit subjects', pushes for the application of such credit information in the decision-making processes in both the public and the private sector, and elevates the punishment of naming and shaming to new prominence. Its conceptual heritage is social management, a governance strategy born in the political apparatus of the PRC that does not operate with the traditional notion of law. The SCS' potentially heavy impact, as well as its conceptual heritage in social management, begs the question of what difference it makes to the rule of law in the PRC. A legal framework for the SCS does not (yet) exist. This thesis aims to bring to light challenges that arise from the SCS for the rule of law. It does so by considering the SCS' conceptual cradle, and further mapping what has surfaced of the SCS to date in policy and legislative documents, the commercial credit market, and local pilot projects. Drawing on this comprehensive picture of the SCS, elements which appear at odds with rule of law will be pointed out. They include a lack of legal definitions for SCS key terms such as 'trustworthiness', opaque procedures and possible penalties that bypass the law. Ways to integrate them into the Rechtsstaat will be considered, all of which necessitate a re-definition of what law is. Finally, the angle of social management offers a meta-social credit system as a solution to conciliate the SCS and rule of law. The question remains whether the SCS can truly solve all problems that it brings about merely by means of its own conceptual heritage, social management theory – or whether an independent organ outside of itself is indispensable.

"The internet is truly God's gift to China"
— 刘晓波 —

"Sincerity, the Way of Heaven. Thinking about sincerity is the way of man."
— 孟子 —

"This word [government] must be allowed the very broad meaning it had in
the sixteenth century. 'Government' did not refer only to political
structures or to the management of states; rather, it designated the way in
which the conduct of individuals or of groups might be directed – the
government of children, of souls, of communities, of the sick...
To govern, in this sense, is to control the possible field of action of others."
— *Michel Foucault* —

1. INTRODUCTION

As the PRC remains shaken by fraud, bribery, and weak implementation of laws, as well as court judgments (*zhixing nan* 执行难), Xi Jinping`s administration has taken the fight against what it summarizes as 'trust-breaking behaviour' to new heights. Making use of the new possibilities that digitalization has opened up, he pushes forward the concept of 'social management' (*shehui guanli* 社会管理) to build a moderately wealthy, harmonious socialist society. Because sharing information about a person or an organization's trustworthiness is now possible effortlessly and in real time, the consequences of (un)trustworthy behaviour can follow legal and natural persons further into other areas of their lives than ever before. Based on this, the State Council published its Planning Outline for the Construction of a Social Credit System in 2014. It shares a vision of how social management supported by big data can help the PRC`s government to achieve its goals. 'Social credit' (*shehui xinyong* 社会信用)[1] is a record (not necessarily a score!) of trustworthiness of an individual, a private organization, or a public organ. These so-called credit information subjects (*xinyong xinxi zhuti* 信用信息主体) shall enjoy benefits in all areas of life if behaving in a 'trustworthy' manner and face restraints and punishments when engaging in 'untrustworthy' conduct. 'The trustworthy shall roam everywhere under heaven, while those who breach trust shall not be able to move a single step,' as Xi Jinping puts it (NDRC, PBOC 2017).

An ambitious governance project, the Social Credit System (*shehui xinyong tixi* 社会信用体系, hereafter SCS) is developed in several realms simultaneously. This paper will focus on the SCS development in the legal realm.

Despite its major impact on every actor in society, no national legislation for the SCS

exists to date. Merely the people`s congresses of some pilot provinces have passed relevant local regulations. The Party and the government have recognized that, in order to operate as an effective mechanism for raising levels of trust, the system requires a national legal framework and therefore declared the establishment of such the first of four basic principles for the acceleration of the SCS (State Council & CCP Central Committee, 2016). It is, according to a statement of the NDRC, already underway (Ohlberg et al., 2017: p.11).

However, the very structure and function of the SCS as it is planned calls into question the currently existing legal system. This paper suggests that by its conceptual nature, the SCS fundamentally challenges the rule of law.

The SCS does so firstly by introducing new forms of punishment parallel to what is laid down by law. In setting up institutional cooperation among government departments, Party organs, and companies, those who break trust in one department's field of responsibility are denied services in another organ's or company's sphere of influence. It is the result of such partnerships, for example, that by early 2017, 6.15 million citizens have been banned from buying plane tickets (O'Meara, 2016). Further, naming and shaming as a mechanism of punishment is called for and implemented through various channels.

Secondly, as the groundwork for the former, government bodies and agencies as well as companies are held to extensively collect information relevant to a (legal) person's credibility. This encompasses the set-up of credit evaluation mechanisms to aggregate such information, which also entails the creation of rules and standards defining trustworthiness. As one's credit status is, according to the plan, to become a central criterion for decisions on recruitment, grants of financial support for a project, and others, such rules will inevitably gain substantial importance.

This underlines the accurate description of the SCS as "evolving practice of control" (Creemers, 2018: p.1). The question this work addresses is: what difference does the SCS make to the rule of law – and what difference does the rule of law make to the SCS?

To explore this question, the SCS will be evaluated against the backdrop of the rule of law as it exists in the PRC. Randall Peerenboom's application of a thin rule of law framework to the PRC will be used as the theoretical basis, in which the idea of rule of law as 'legal systems in which the law imposes meaningful limits on state actors' (Peerenboom, 2003: fn. 81) serves as the starting point.

As to a conceptualization of the SCS, this paper will turn to its conceptual cradle, namely social management theory. Through this lens, the SCS appears as one flexible element in the whole of the government apparatus and its legislative framework may appear as a dynamic operational plan, rather than a static law providing safeguards for subjects.

2. THEORY

2.1. THIN RULE OF LAW

Several attempts have been made to describe rule of law as it exists in the PRC. Donald Clarke reflects on the frequently applied, but only seldomly explicitly stated framework of PRC law analysis, which he terms the 'Ideal Western Legal Order' (Clarke, 2003: p.95). This model describes the end state of a legal system, in particular 'what Western legal orders would look like if their perceived imperfections were eliminated' (Clarke, 2003: p.96). Rule of law therein is closely related to democratic institutions, such as a parliament as the legislative body. When applied to the PRC, this model cannot but detect several flaws, which are largely due to the lack of such institutions in the PRC. It is blind to historical, cultural and political particularities of the PRC system and thus fails to accurately describe its crucial elements.

Clarke further points to a possible and somewhat diametrical opposite alternative, drawing on Thomas Stephens' (1992) work. He suggests that in the pursuit of not imposing a Western ideal on the PRC, we must radically put aside any assumption of the existence of legal institutions in the PRC. If we do not assume, for example, that a judge ought to decide independently, we can observe the nature of influences on courts in more detail. This 'disciplinary model' suggests replacing the notion of order as a liberal democratic one by the kind of order that exists, for example, in a family, a nursery or the army. Such a framework, however, ignores that the majority of Chinese voices do regard their institutions as equivalents to those in the West, just as the PRC Constitution and other legal documents do (Chen, 2016: p.7).

A way out of this trap of theories is introduced by Peerenboom: Thin theories of rule of law avoid negating country-specific particularities and can at the same time accept that rule of law in the PRC is possible. In Peerenboom's words, thin rule of law is the necessary requirement and foundation for thick theories; it is a concept of which thick theories are different conceptions of (Peerenboom, 2003: p.5). Thin rule of law stresses those features 'that any legal system allegedly must possess to function effectively as a system of laws' (Peerenboom, 2002: p.3). He adds that any 'legal systems in which the law imposes meaningful limits on state actors merit the label rule of law' (Peerenboom, 2003: fn. 81). Thin rule of law comprises only positive law (law posited by humans), not natural law (Peerenboom, 2002: p.127). Such law must be general, public, prospective, clear, consistent, capable of being followed, stable, and enforced (following Ion Fuller, 1964). A thin rule of law can exist regardless of the ideological, political and economic systems of a state, which frees the term of many values such as those a liberal democratic order is associated with. This notion of rule of law is useful in the analysis of the SCS as it allows for more variations and possible outcomes.

Peerenboom argues that even though many refuse to accept that the government ever intended to introduce rule of law, the discourse among PRC officials in preparation of its introduction clearly shows that what is strived for cannot be mistaken for rule by

law. This can be held even though from its very beginnings with the judicial reforms in 1978, it was clear that the relationship between the judiciary, the public security organs and the procuratorates shall be one of 'dialectical unity', functional through mutual restraint and cooperation at the same time (People's Daily, 1978). In its fundamental idea, this has not changed - courts safeguard not only the law, but also government policies (Chen, 2011), hence law in the PRC should not be regarded 'as an autonomous sphere, but one intimately connected with politics and governance' (Creemers, 2018: p.5). However, a body of law is continuously expanded, amended, and more vigorously enforced than ever before (Chen, 2016).

As administrative law describes legal relations between the state and the societal actors in it, it appears as a key area when observing the rule of law as it stands. After the development of administrative law began to set off in the 1980s and since 1990, when the first Administrative Procedure Law went into effect, citizens could sue public administrative organs (not, however, CPC organs). Since then, significant steps forward have been taken with the introduction of the principles of due process (Law of Administrative Licensing 2003, Law of Administrative Coercion 2011) and the enactment of the Regulations on Openness of Government Information (2007) which gives rise to administrative litigation and has further been confirmed by a judicial interpretation of the SPC.

Criminal law and criminal procedure law are core instruments to restrict the exercise of state power where it is most intense. The underlying principle of any coded criminal law is nullum crimen, nulla poena sine lege (as first so phrased by Feuerbach, 1801): only if it is stipulated by law may behaviour be regarded as criminal and the state may only punish in strict accordance with a law stipulating the respective punishment and linking it to a certain crime. The PRC's Criminal Law stipulates it most clearly in Article 3. The less severe forms of punishment by the state, administrative penalties, are, since 1996, listed and laid down in the respective law as well. PRC law further adds another, positive dimension to this basic principle which it calls the 'relative nulla poena'. It stipulates that 'where acts are explicitly defined as criminal acts in law, the offenders shall be convicted and punished in accordance with law' (Li, 2010: p.657).

Carl Minzner (2011, 2018) points out that in recent years, the development of rule of law has fallen prey to a revival of authoritarianism. The government's call to avoid litigation and turn to mediation as well as an overall rhetoric emphasizing that adjudication ought to represent the 'mass line' are Minzner's main arguments. Chen (2011) however replies that these two changes, which are not novel to the PRC's legal system, but rather date back to the Mao era, might as well 'be interpreted as a moderate policy adjustment in response to changing social circumstances' (p. 15), emphasizing that the legal system as it stands remains.

2.2. SOCIAL MANAGEMENT: SYSTEMS ENGINEERING FOR GOVERNANCE

Hoffman (2017a) places the SCS in its broader conceptual cradle of social management. The birthplace of social management is the PRC's political apparatus. Since the 1950s, the idea of bringing scientific concepts from systems engineering to the sphere of governance has been developed, with Yu Guangyuan, Qian Xuesen and Song Jian as prominent scholars in the field (Hoffman, 2017a; Creemers, 2018). The notion of 'social management' derived from neoliberal ideas of public management (as the better and newer form of public administration) and in the party-state context have been aerated with the PRC's focus on social stability and security (Pieke, 2012: p.155). Governance was 'increasingly seen as management rather than politics involving both state and non-state institutions' (Pieke, 2012: p.155). The result was the understanding of social management as a comprehensive net of mechanisms outside of the public administration which bridge the gap between the people and the CPC and thus act to help the government resolve upcoming stability problems (Hu, 2005). In this understanding, non-state forces are no longer a potential threat, but an asset to party rule.

Social management took a substantial step forward when the theory of cybernetics and complex systems management emerged. Complex systems are, amongst others, defined by the fact that they cannot be described by observing their component parts. Instead, the multiple variables that determine the overall dynamic of the system by interacting with each other need to be observed. It is the investigation of these variables' interaction that explains the behaviour of a complex system. Despite a strong sensitivity to starting conditions, complex systems also display a long-term stability as they steadily reflect their environment (Svyantek & Brown, 2000; Gallagher & Appenzeller, 1999).

These concepts elevated social management to another level, both in terms of its importance to the PRC leadership – The 12th Five-Year Plan (2011) dedicates a whole chapter to the discussion of the necessity to innovate social management as a major target of the government – and in terms of what it can achieve. Social management in the age of digitalization in the PRC is described as 'complex systems management process through which the Party leadership interacts with both the entire Party and society' (Hoffman, 2017a: p.47).

Hoffman's work demonstrates that a useful framework to describe social management is complex systems management theory. It should be noted at this point that this work does not agree with and does not rely on what she wrote about the SCS in particular (Hoffman, 2018).

An autonomic system is defined by its capability to operate in a constantly changing environment and perform operations necessary to preserve itself, thereby substituting any need for a system administrator manually performing these tasks. It combines several elements, all of which 'must be self-managing and must function

interdependently for the system to achieve equilibrium' (Hoffman, 2017a: p.59). Autonomic computing is thus the application of 'technology to manage technology' (IBM, 2005: p.4), installing control loops which collect and forward information to the next cycle. More precisely, autonomic computing's characteristics can be summarized as self-configuring, self-healing, self-optimizing, and self-protecting. Self-configuring is the process of readjusting to a changing environment. Self-healing describes the capability of the system to detect and repair faults that appear as well as predict threats. Self-optimization refers to a constant search for possibilities to enhance the system's capabilities and make it more efficient. Finally, self-protection is the capability to make out potential dangers in the environment of the system. All four processes support each other and are strongly interdependent (Hoffman, 2017a; IBM, 2005). They each operate by engaging in the following four operations: monitoring their own operations, analysing the environment, planning and deciding, and finally, executing the changes in accordance with the knowledge won in the previous steps (as laid down by IBM, 2005). The system is thus designed to constantly learn and adapt to changing circumstances, thereby keeping itself fit.

Hoffman finds that these four characteristics directly correlate with the CPC's social management objectives as stipulated in the 12th Five Year Plan: a social management system, combining source governance, dynamic management, and emergency response (2017a) and therefore speaks of the PRC's 'autonomic nervous system' (p.12). She situates the SCS in the system's objective of self-optimization. It is part of the responsibility mechanism built to pre-emptively shape and direct behaviour (Hoffman, 2017a: p.106).

3. METHODOLOGY

Other than the theoretical framework, to date, there exists no unified national SCS. The SCS today is a combination of firstly, the central plan designed at national level, secondly, a range of public and commercial pilots (leading Kostka (2018) to speak of SCSs instead of SCS), and finally, the specific local regulations of those pilot provinces which have already passed a version of the SCS. None of these three elements necessarily relate to each other. For example, the Shanghai Sincerity App as a public pilot project seems alien to the municipality's social credit regulation.

Only few have attempted to systematically mark and describe the SCS (Sapio, 2017a-d; Ohlberg et al., 2017; Meissner, 2017; Ahmed, 2017a, 2017b; Kostka, 2018) and even fewer have done so with regard to legal questions (Daum, 2017, 2018; Creemers 2016, 2018; Backer, 2008, 2017a, 2017b; Pelzer, 2018). The result is the lack of a comprehensive account of the SCS(s). This paper hence first sets out to draw together the different strands of hints about the SCS. Even though not every piece of information gathered will reappear in the analysis, because of the lack of comprehensive accounts of the SCS and the many faulty descriptions of it in the media, it is crucial to lay down what this paper refers to when it discusses the SCS it its conclusion.

To provide an idea of where the term and the concept came from, the fourth chapter will contextualize the SCS in its conceptual and historical heritage. Three roots are identified and explained: its predecessor in terms of social control, the Dang'an, the financial credit mechanisms imported to the PRC from the USA, and finally, the discourse around public security informatization.

In the fifth chapter, the PRC's plan for the SCS are investigated. The aims of the system will be summarized and the novel mechanisms it introduces to reach these aims, including mechanisms of data collection, sharing and usage, mechanisms of joint punishment and reward, as well as the mechanisms of creating trustworthiness standards, are laid down. For this purpose, available policy documents related to the SCS and the respective pilot regulations of three SCS pilot provinces are analysed. Local regulations on the SCS were, at the time of research, passed by Hubei, Hebei and Shanghai.

Besides the government's planning at the central level, numerous localities and companies have developed pilot systems which are operating in their respective realms. This paper will investigate one example of each, a public pilot system (Suining County's "the Masses Credit") and a commercial pilot system (Alibaba's "Sesame Credit") regarding experiences they offer for a deeper understanding of the SCS's practical dimension. More than any other public pilot, the Suining pilot system has been vividly discussed inside China and is through today mentioned in connection to the SCS. In addition, the Suining system went much further than any other social credit system that exists today in that it applied a scoring system and its own definitions of trustworthiness. Sesame Credit is by far the most sophisticated and popular among the commercial credit services. The resources used in this chapter range from scholarly works from disciplines such as computer science, law, economics, and philosophy to media reports in Chinese, English and German, mostly derived from online searches.

The final chapter will draw together these findings in the context of the SCS as a measure of social management and evaluate its impact on thin rule of law. A significant short-coming of this research design is its inability to grasp the whole of the SCS due to its fragmentation, the variety of disciplines it touches upon and the lack of literature on the topic. It lacks precision in its analysis due to the fact that there are numerous open questions about the very concept of the SCS, which is reflected in the gaps between what can be observed on the ground and what is stipulated by (local)

government(s). This paper is thus a rather flawed pioneer, limited to pointing out what appears most striking in the field of tension between the SCS and the rule of law.

4. CONCEPTUAL AND HISTORICAL ROOTS OF THE SCS

The SCS came into being as a measure of social management as explained above. More precisely, it serves the end of "dynamic management" (in the language of automatic

computing: self-optimization) by constantly optimizing the overall system's operations. It helps guarantee continued Party control by on the one hand strengthening individual responsibility for state security, and on the other hand enforcing the former through a system of joint punishments and rewards that reaches far beyond the public administration's boundaries (Hoffman, 2017a).

An early instance reflecting CPC-designed social management is the Dang'an (档案, files / records) system, which began operating in 1953. A file about every worker was created, only higher cadres and some farmers were excluded. The work unit (*danwei* 单位) administered the file and a copy was kept at the local police station (Moss, 1996). From an elementary school teacher's assessment, children, hospital visits, and reports by employers, several pieces of personal and professional information were stored in the file. It could not be accessed by the individual it concerned (Yang, 2011). In the 1970s, this first instance of social management had to make way for the market economy.

The beginnings of credit in China merely focused on the concept of financial credit known from Fico and Schufa. Lin Jinyue, referred to as a pioneer of the "Theory of the Social Credit System," (Lin, 2012; Ye, 2015; Zhongguowang Xinwang, 2015; Meissner, 2017: p.6) introduced concepts of credit practices in the USA to China. In the late 1990s, at the Institute of World Economics and Politics of the Chinese Academy of Sciences, his group developed the basic concept of evaluating credit at a central level. Pilot projects began from 2000 and it was through their interpretation of credit evaluations that the notion was further expanded to include its social dimension.

In 2007, the Interministerial Conference on Social Credit System Construction (*shehui xinyong tixi jianshe buji liandu huiyi* 社会信用体系建设部际联席会议) was set up by the government, comprised of 46 members from the CPC, the Ministry of Finance, the State Administration for Industry and Commerce, and the Ministry of Public Security. The members that where added later, such as the Central Discipline Committee, the Central Leading Group for Spiritual Civilization Construction, the Central Propaganda Department, the Supreme People's Court and the Supreme People's Procuratorate, display how the SCS's focus shifted from financial credit to a more encompassing idea of social credit (Creemers, 2018: p. 11). Another driving factor was the overall strategic shift of CPC governance towards morals to counter the moral vacuum which the CPC had diagnosed. In the course of this shift, the concept of credit as a measure of social trustworthiness appeared just in time (Pieke, 2012: p. 155; Creemers, 2018: p.12). The main coordinator of the Conference today is the Central Leading Small Group for Comprehensively Deepening Reforms, headed by Xi Jinping himself (Yuandiancredit, 2016).

Another ideological forerunner of social management is the discourse about public security informatization that started in 2008, pushed particularly by Zhou Yongkang 周永康, an official who ironically was later sentenced to life in prison because of corruption (Hoffman & Peter, 2016). He coined the term 'social management system',

which would measure not only indicators of criminal activity, but also happiness levels and encourage compliance, and presented it as a solution to any kind of social stability problem (Zhou, 2006, 2011). He suggested innovative methods of surveillance by using new technology. Zhou's ideas experienced a backlash when he was dismissed from the Party leadership. However, while the discussion of his concepts was criticized (Hoffman & Peter, 2016), under Xi Jinping, initiatives to combat attacks on public safety stepped up. Social management and the idea of the SCS with it soon moved closer to the state security system than it was the case under Hu Jintao (Hoffman, 2017b: p.6). The 2017 Cybersecurity Law, the 2015 Internet Plus initiative, and the 2006 Golden Shield project (Schwarck, 2018) are all closely intertwined with the SCS.

5. THE GOVERNMENT'S PLAN[2]

5.1. AIMS

Four target fields for the SCS are stipulated. The first, judicial credibility (*gongsi gongxin* 司法公信), entails strengthening the (to date rather poor) enforcement of court decisions and 'safeguard[ing] judicial authority' (State Council & CCP Central Committee, 2016). The second, commercial sincerity (*shangwu chengxin* 商务诚信), is mainly directed at fighting fraud, which is the second most common type of crime in the PRC overall (National Bureau of Statistics, 2017). Further, this aim includes avoiding financial risk, which is prevalent in the absence of a free flow of information (Sapio, 2017c); and enforcing regulations directed at companies (Jingjiribao, 2017; Meissner, 2017: p.3).

Societal sincerity (*shehui chengxin* 社会诚信) is another aim and needs to be considered against the background of a uniquely grave trust problem in PRC civil society. The frequently shared cases of traffic accidents, where for minutes, every passer-by refuses to help, afraid of being sued as the perpetrator, illustrate the issue (Ahmed, 2017b). Deception and scams, such as fake QR-codes on bikes, flourish (Hawkins, 2017). The SCS is designed to strengthen civil society and services in areas such as labour, welfare, public health and education. The overarching goal is creating 'an upward, charitable, sincere and mutually helpful social atmosphere' (State Council & CCP Central Committee, 2016).

Finally, sincerity in government affairs (*zhengwu chengxin* 政务诚信) is to be strengthened. State agencies and administrative entities, including SCS administrators, shall themselves become credit subjects. To this end, the SCS may be a tool to combat corruption and reinstall confidence in public institutions, while at the same time observing changes in the public opinion (Shteyngart, 2016).

All four aims are regarded as keys to further economic growth in the PRC (Wang, 2017; Meissner, 2017; Zhang Zheng in Sapio, 2017d), which complements Hoffman's perspective of the SCS as crucial to ensuring state security. Economic growth is a major element of the CPC's legitimacy narrative.

5.2. GROUNDWORK

Data Aggregation
The analysed local pilot regulations stipulate that public credit information be collected at newly set up public credit information management bodies (Hubei Provincial People's Congress, 2017 (hereafter HU): Art. 9 ff.; Hebei Provincial People's Congress, 2017 (hereafter HE): Art. 10 ff.; Shanghai Municipal People's Congress, 2017 (hereafter SH): Art. 9 ff). All information subjects are encouraged to actively provide their social credit information and are held responsible for the correctness and completeness of their information. Legal persons are further called to share credit information they have accumulated about other (legal) persons during their operations (SH: Art. 13; HE: Art. 17; HU: Art. 14 I).

The type of information collected is restricted to categories stipulated in the public credit information catalogues. They shall include 'information that reflects the credit subject's basic circumstances in public administration and services' (SH: Art. 11 I; HE: Art. 11; HU: Art. 9 II), such as administrative punishments, payments received, volunteer work, and refusals to perform on legal documents.

Some limits on information collection are listed. A legal person may only collect credit information about private individuals if the latter consents (SH: Art. 1; HU: Art. 17;, HE: Art. 16). "Personal data" (for example, Art. 6 VI SPC on JDL) may not be collected; however, this very notion is nowhere defined, neither in the context of the SCS, where it is so frequently used, nor elsewhere in national laws (Chen & Cheung, 2017: p.2). In Shanghai, collection is also limited by 'the principles of truthfulness, objectivity, and necessity' (Art. 6). It is prohibited to collect information on religious faith, genetics, fingerprints, blood type, illnesses, and medical history (HE: Art. 16 II ; SH: Art. 14 III; HU: Art. 17 III).

Information collection under the SCS however is most likely not limited to what the pilot regulations stipulate. Plans for a wide usage of big data in connection with the SCS have been announced in the context of the 13th Five Year Plan in 2016. According to the definition provided in the policy paper, this would include administrative data, such as medical information and school records, transactional data, sensor data, tracking data (such as GPS information from mobile phones), and data on online behaviour such as searches and social media comments (Cheng, 2014: p.3).

Data Sharing
In pilot regulations and policy documents, credit information data sharing among public and commercial entities is a key point to building the SCS. Most credit information is not aggregated at the central level but scattered across local administrations and other businesses that directly interact with citizens. However, the whole project is heavily relying on a functioning flow of information (Hulianwang Jinrongjia, 2016; Meissner, 2017; Ohlberg et al., 2017). Information inside the public administration shall be shared horizontally and vertically 'to make it so that social

credit information is interconnected and intercommunicating, and used across departments, fields, and regions (HU: Art. 6 I). Further, state organs at all levels are called to cooperate with enterprises for credit information exchange.

A first step was the assignment of a social credit number to every credit subject, the ID number in case of citizens and a new number for legal persons (Ministry of Civil Affairs, 2017; State Council, 2015). All credit information about one legal entity is exchanged under this number across administrative levels and regions.

A second significant step toward the end of sharing credit information are the governmental Public Credit Information Sharing Platforms, the 'data backbone of the social credit system' (Meissner, 2017: p.6). The National Credit Information Sharing Platform (*quanguo xinyong xinxi fenxiang pingtai*全国信用信息共享平台), for example, gathers credit information from more than 30 central ministries and government agencies, overall around 400 datasets. The central policy documents explicitly call upon all government institutions to forward information to the national platform (for example in State Council & CCP Central Committee, 2016, 3 III).

5.3. PENALIZING

Joint Punishment
As to the application of credit information, policy documents and pilot regulations provide for the establishment of 'joint social credit rewards and punishments that cross departments, fields, and regions, and is jointly participated in by administrative organs, judicial organs, and market entities (SH: Art. 21). The facilitating mechanism behind this is a 'name list system for persons subject to enforcement for trust-breaking' (State Council & CCP Central Committee, 2016, part 3). Such blacklists for trust breakers and redlists for the particularly trustworthy have been set up in different contexts and on several levels. Where foreign media have falsely explained that a 'credit score' is calculated, at least in the current layout of the SCS, there is merely the comparably simple concept of blacklists and redlists. The central level blacklist that has brought about most penalties so far is the Supreme People's Court's List of Judgement Defaulters (hereafter LJD), introduced in 2013. It includes individuals who have been ordered by a court to a certain conduct (payment of compensation, for example), are able to comply with it but do not do so and waived or exhausted all chances for legal recourse (SPC Provisions on the LJD 2016). To be removed from the LJD, one must either fulfil the court's order or file a valid complaint. In any case, the name will be removed from the LJD after two years.

The blacklists provide the ground for a new type of state punishment enabled by partnerships between the private sector and state organs. 'Joint punishments' are the result of such partnerships.[3] To date, 44 departments and 60 companies participate in the trial for this mechanism. 30 'joint incentives and joint disciplinary mechanisms' having been set up (Zhang, 2018). For those enlisted in the LJD for example, this means that they cannot purchase train and plane tickets (ID is required in the PRC for such

purchases), book a room in hotels above the standard class, or send their children to private school. Due to a memorandum signed in 2016 between Alibaba and the NDRC, the blacklisted cannot purchase luxury goods on Tmall or Taobao (Jing, 2016).

In February 2017, the SPC announced that since the introduction of the blacklist system, 6.72 million people had faced LJD-related penalties, an increase of six million in two years (Jing, 2016; Jing & Caoyin, 2015). The NDRC is working on a wider range of punishments (Yang, 2017).

More than individuals, companies have also faced blacklist-based punishments. The requirements for companies to be entered on the most relevant blacklists are lower. The decision of an administrative department on whether a company violated a rule suffices. A court proceeding where the company could possibly defend itself is not part of the process. Punishments include higher taxes, denial of licenses, lower chances to gain public contracts, participation in publicly-funded projects, mandatory government approval for investments in sectors where market access is not usually regulated, and several joint disciplinary measures. Meissner (2017) found that these punishments already lead companies to regulate themselves. She and Sapio (2017) point out that old rules now become self-enforcing and government interference invisible. 'If implemented as planned, the system has the potential to become the most globally sophisticated and fine-tuned model for IT-backed and big data-enabled market regulation' (Meissner, 2017: p.11).

Naming and Shaming
Public shaming has long been a measure of the Chinese government to exert additional pressure on suspects and, more importantly, to make an example out of a person as to warn the public from violating rules (Whitman, 1998; Global Times, 2018; Lim, 2018). Nearly every official document on the SCS stipulates such measures to publicly shame the untrustworthy. It is rarely discussed as a formal form of punishment. However, in connection with the blacklist-based punishment mechanism, naming and shaming gains striking importance.

Not only the public credit information catalogues are publicly available, the Credit Information Sharing Platforms display 75% of the credit information they share, with only the remaining 25% designated for limited sharing (Meissner, 2017: p.7). Most importantly, the blacklists are made publicly accessible online as well.

Courts are explicitly encouraged to use the media and widely forward information on who got blacklisted (SPC Provisions on the LJD, Art. 7) and a website listing both individuals and companies on the blacklist was set up.[4] Information to be entered besides the name, ID number, and in some cases, photos and home addresses, include the delinquency, the responsible people's court, the court's order that is to be fulfilled, and 'the situation of the person' (Art. 6 III). Additionally, the court may enter every information that it deems useful, only excluding information relating to 'national secrets, commercial secrets or personal privacy', the latter of which remains undefined

(Art. 6 VI). Furthermore, in the case of public servants and politicians, the names of the blacklisted shall be forwarded directly to their respective work units (Art. 8), leading to a direct impact on careers and work life even if their superiors do not proactively search them on the list.

The official call for measures of naming and shaming has borne fruit in several local projects as well. Sanmen County in Zhejiang and Dengfeng County in Henan, for example, started experimenting with a partnership between courts and telecommunication companies in June 2017. The latter installed a dial tone on the phones of the blacklisted informing the caller that the person they are calling has not complied with court orders, and further encouraging the caller to convince the defaulter to cooperate (Ohlberg et al., 2017: p.12). As a result, not only business deals but also marriages have been cancelled because people have found their partners to be blacklisted.

Reactions by the public display a strong reluctance to accept reputational damaging as a legitimate punishment. When in Huilai County, Guangdong, police sprayed "drug crime related household" on homes with a family member who was found guilty of drug crimes, a public outcry for privacy ensued. Only a few days later, the police returned to remove the writing on the wall (Global Times, 2018).

In the economic sphere, naming and shaming is more prevalent and less criticized. Companies face a new, non-market yardstick they will be measured by, as any failure to comply with environmental protection policies, for example, could be widely published immediately. Wang (2017) speaks of a 'transformation from the mechanism of enterprise competition to the mechanism of competition on credit'.

5.4. RULE MAKING

Using credit information as bases when evaluating credit subjects
Policy documents and pilot legislation has also called for companies, the public administration, as well as industry associations, to widely make use of the credit information available. They are to integrate the credit information they have access to in their daily operations and decision making. Administrative organs at all levels are called upon to make inquiries into credit information in the course of personnel decisions, granting permits, the transfer of land use rights, administrative punishments, the acceptance of residency cards, financial project support, and so on, shall be influenced by public credit information (SH: Art. 28; HU: Art. 24; HE: Art. 35). Market entities are also called upon to make use of available social credit information when negotiating terms of trade, in production, the provision of services and others, and market entities, favouring high scorers over others (SH: Art. 26; HE: Art. 38).

Formulating trustworthiness standards
Media reports have wrongly described the SCS as already calculating trustworthiness scores for citizens according to their behaviour. Such a central calculation does not

happen, nor does this idea appear in any official document the author could find. However, public organs, market entities, and industry associations are called to develop credit evaluation mechanisms and to experiment with grading systems in their respective realms. For the target area 'government affairs' for example, the Planning Outline encourages the creation of 'credit dossiers' for civil servants which, among others, shall list 'violations of discipline' and 'sincerity and cleanliness in government affairs' (part 2, section 1). Targeting the civil society, evaluation systems that are to be set up mainly concern organizational structures in health care, labour and others. Industry associations shall work out a plan for carrying out credit grading and classification for their respective areas and develop possible rewards and punishments (HU: Art. 14; SH: Art. 27; HE: Art. 33).

Any development of such grading systems will entail the formulation of standards according to which trustworthiness will be evaluated. This adds a crucial dimension to the SCS, expanding its role from a mere law enforcement tool to a source of norms and rules itself.

6. THE PILOTS

6.1. A PUBLIC PILOT: THE MASSES CREDIT

One of the very first experiments with social credit was conducted in Suining (睢宁) county in Jiangsu. Starting in 2010, a score was calculated at the local administration according to trial rules laid down by the county government. Credit subjects started with the highest possible score (1000 points, category A), and could reach the lowest category (D, less than 599 points) when not living up to the laid down rules. For example, a maximum of 150 points was given on the grounds of whether one was indebted or not (with banks or other private persons). The range of relevant actions was broad, including for instance not living up to family virtues and jaywalking. The system subjected local party cadres as well as to companies and included provisions that made a promotion of politicians with a score lower than A or B impossible. Rewards ranged from receiving loans from banks with favourable conditions, preferable treatment in public services, to receiving scholarships. Penalties included restrictions on lending money, receiving social welfare, and the renewal of business qualifications and licenses (Suining County Government, 2010; Xindong Bao, 2014).

Major point deductions were disclosed to the public, as were the actions taken against those with low scores (Yan, 2010). Others could retrieve their own score at the local public administration. With every change in one's credit score, a text message would be sent out to the respective credit subject explaining the reason. If credit subjects found a mistake, they could seek correction with the local administration or the court, though the provisions provide little detail on this process. By 2014, 85% of Suining's residents had a social credit score.

The system led to a wave of criticism from state media and individuals. They found

that the collected data was misleading, that the rating was more directed towards citizens and not seriously implemented towards cadres and government entities, and that the local government had no qualifications to rank according to their self-made categories hidden behind catch-all phrases such as 'public order'. For example, citizens who filed complaints were given lower scores (Boxun, 2014; Economist, 2016). Also, it was criticized that those promoting investment effectively received points. Furthermore, and despite being guaranteed by law, citizens had difficulties accessing their own scores and seeking corrections (Boxun, 2014; Economist, 2016).

Even though the criticism resulted in an overall turning-away of the idea of coercively ranking citizens for the time being, the very concept of the system itself was not challenged. Scrutiny was rather directed at its poor implementation. Later experiments covering all of a locality's citizens and commercial entities did not engage in score calculation but merely recorded incidents of law-breaking or non-compliance with court orders. In the absence of such incidents, later pilot systems assume trustworthiness.

6.2. A COMMERCIAL PILOT: SESAME CREDIT

Developing a credit service industry is a crucial part of SCS construction and a central theme in related documents. Commercial actors are not only regarded as credit subjects themselves, they are also critical in developing technology, aggregating credit information and act as agents for enforcement through partnerships with courts as discussed above. Local regulations call upon companies to innovate by participating in international cooperation projects, making use of technological innovations (SH: Art. 39 II, 42; HE: Art. 36 II HE; HU: Art. 25 II) and establishing experimental zones (Art. 42 II SH). Creemers (2018) points to the long-standing tradition of such blurring between public and non-public actors in China. He holds that 'the "social" dimension of the SCS also entails that members of society create the incentives for each other to act in the desired manner, without direct intervention of State actors' (p.8).

On January 5th 2015, the PBOC granted official licenses to eight private companies to conduct social credit pilot tests. Among them was Ant Financial (subsidiary of Alibaba), who rolled out its pilot called Sesame Credit (zhima xinyong芝麻信用) only weeks later. The smartphone application calculates a score from 300 to 950 for every user. Categories of information include credit history, fulfilment capacity, and personal characteristics, which are applied by traditional credit rating services in other countries as well. A novel category Sesame Credit applies is interpersonal relationships. Being friends with a low scoring peer on Sesame Credit will lower one's own score (Ahmed 2017b). A fifth category is called 'behaviour and preferences'. It is, for example, comprised of a person's shopping habits (Hatton 2015). Taking cheap offers on Alibaba's shopping platforms will lower a person's score, while buying sport and kitchen equipment or handicrafts will raise the Sesame Credit score. People buying diapers are more trustworthy than those playing computer games, Li Yingyun explained (in Lee, 2017).

With the category on behaviour and preferences, Sesame Credit is conducting a rating of trustworthiness clearly exceeding financial credibility. The exact procedures, algorithms and categories used by the rating remain undisclosed, termed as 'trade secrets' (Ahmed, 2017a; Yang, 2015). 30% to 40% of the data used to calculate the score comes from Alibaba-owned companies. The remaining amount is contributed by any other service connected to the Alipay app and from government bureaus (Ahmed, 2017a). As Alibaba has partnered up with the dating platforms Baihe and Didi Chuxing, who run the country's most-used payment service Alipay, the amount of data at its disposal is vast.

Sesame Credit offers several benefits to high scorers, including booking a rental car or a hotel room without paying a deposit, receiving loans at a lower interest rate, having online purchases delivered for trial without having to pay, and skipping the queue when applying for visas to Luxembourg, Japan and Singapore (Ahmed, 2017a). The credit service industry is to date nearly entirely in the hands of Alibaba's Sesame Credit. More than 500 million users have started to adapt their behaviour to raise their Sesame Credit score (Huang, 2017).

In July 2017, the PBOC decided not to grant licenses to any of the companies for a continuation of the experiment (Hornby, 2017), saying commercial actors 'cannot be trusted' (Ohlberg et al., 2017: p.12). The failure was due to insufficient privacy protection, but also to the fact that all eight competed with each other, presenting 'a potential impediment to the centralized vision of social credit that would require these firms to share their proprietary data with one another' (Ohlberg et al., 2017: p.12).

In 2017, a silent conflict between commercial credit entities and the state over their definitions of trustworthiness ensued. Reports pointed out that, very different from the government, commercial credit rating businesses interpreted creditworthiness as loyalty to their services (Ohlberg et al., 2017). Still however, the state relies on the companies' credit information data and scoring technology.

For now, this problem seems to be solved. On January 4th, the National Internet Finance Association (*Zhongguo Hulianwang Jinrong Xiehui* 中国互联网金融协会), a PBOC initiative, 'in cooperation with' the former eight credit information service pilots founded Baihang Credit Scoring (*Baihang Zhengxin*百行征信) (Guo, 2018). The pilots each hold 8% of the shares. The National Internet Finance Association is the largest shareholder with 36%. With a seed capital of one billion Yuan, Baihang will draw on credit information it receives from the eight former pilot companies, all of which are big-data-driven, to create a profile for every credit subject. It is yet unclear whether there will be a unified score (China Daily, 2018; Xinhua, 2018). In PRC media, questions about how coercive this step is, are vigorously cast aside. Alibaba and others may have to share their data, but in return 'receive a good credit environment and better conditions for operating' (Caijing Toutiao, 2018).

The close connection of this association to the government and the fact that eight big-data driven, credit information service companies are its shareholders both indicate that Baihang Credit Scoring is to be the company under which a unified credit information service under the SCS will evolve (Caijing Toutiao, 2018).

7. ANALYSIS

7.1. THE SCS IN THE LAW

It might be possible to integrate the SCS into the legal system. If one applies the thin rule of law theory, it was a legitimate ruling. In the following, the elements of the SCS that appear at odds with the rule of law will be discussed.

Social credit norms and the law
When considering an integration of the SCS as described above into the existing legal framework, a first impediment for a national legislation appears to be the lack of a clear definition of the key concept of the SCS: trust. Not keeping trust (*shixin* 失信), keeping trust (*shouxin* 守信), trustworthiness and credit (*xinyong* 信用), social credit (*shehui xinyong* 社会信用), and sincerity (*chengxin* 诚信) all are key terms in every legislative and policy document, depicting the overall goal that all SCSs aim to reach. None of them are unambiguously defined.

All pilot regulations formally describe trustworthiness in the SCS sense as law-abiding. Provisions on the blacklists also define trust-breaking entities as those who broke the law, or indirectly did so by refusing to comply with court orders. This definition is what several spectators argue for. Luo (2016), observing the Suining experiment, brings up the example of a credit punishment for citizens who do not visit their parents regularly. This may only be implemented because a respective clause exists in the PRC's Law of the Protection of Rights and Interests of the Elderly. In this scenario, the SCS does not necessarily touch upon rule of law.

It remains nebulous however why the new term "trust" is even needed if it can be translated to "law" without losing any of its meaning. If trustworthiness was to be defined as law obedience, the SCS was merely an innovative law enforcement system.

It was shown that in the name of the SCS, rules are to be created to evaluate trustworthiness in different areas. While some of these rules impacting social credit have the quality of law – such as the requirements to be entered on the pilot region's public credit blacklists – some do not. In several instances, rules relevant to social credit evolve which are not law in the formal sense as stipulated in the Legislation Law. For example, local public credit bodies are to draft specifications according to which public credit information is to be evaluated (HU: Art. 23; SH: Art. 23: HE: Art. 29). Such "specifications" will possibly be the de facto-rules according to which punishments and rewards will be granted, although they don't classify as law. That the SCS shall reach beyond what is stipulated by law is also indicated by the educational measures on

trustworthiness introduced in the relevant documents: Shanghai and Hebei's education plans, for example, will cover 'social morals, professional ethics, family virtues and individual morals' (SH: Art. 47; HE: Art. 9). Further, in the name of trustworthiness, companies are steered according to their compliance with the policy directives shown above. All these findings suggest that the SCS makes and enforces norms that are not law. This reflects the finding that in the PRC, several policies have a de-facto power of law (Chen, 2011).

Chen (2011) argues that a clear distinction between what is law and what not is under way. Following his path, a possible way out of this collusion of trustworthiness definition is to clearly define areas where trustworthiness rules emerge (for example inside of the social credit evaluation systems that are to be developed in the public health sector). Then, procedures could be stipulated which will elevate the new rules or criteria to the status of formal law. The definition of trustworthiness as law-abiding, which is so frequently proclaimed, could be kept – and the SCS could, at least in this regard, smoothly be integrated in the legal system.

However, the question regarding the utility of the "trust" terminology would remain. The Fourth Plenum, and particularly Xi Jinping himself, has repeatedly insisted that the rule of law and the rule of virtue need to go hand in hand, suggesting that law shall not stand alone but be supplemented by extra-legal and non-defined guidelines. Viewed through the lens of social management, this lack of clarity might be intentional. It offers space for the leadership to fill with norms that situationally appear necessary, keeping the system from growing stiff. For the social management system to operate automatically, it needs to engage in self-learning. The lengthier the process to formulate trustworthiness rules, the smaller the probability that such rules will effectively serve the ends of ensuring the survival of the system. Static trustworthiness rules halt the control loop mechanism which constantly tests and reacts to new rules. Hence, when viewing the lack of definitions from the perspective of social management, it appears incompatible with thin rule of law, if keeping the above-mentioned definition of law as prospective, clear, and stable.

Social credit penalties and the law
The potential power of the SCS to punish untrustworthy behaviour together with the vagueness about what can be regarded as untrustworthy behaviour cast doubts on whether the SCS can be realized in adherence with *nullum crimen, nulla poena sine lege* (no crime without a law stipulating it as such, no punishment without a law laying it down).

Punishments that are part of the SCS are mostly laid down in Memoranda of Understanding and largely do not exceed what has been stipulated as administrative penalty before social credit came to life. However, measures against blacklisted entities are not laid down the way nullum crimen requires. While stipulated in the respective memoranda of understanding, they are not necessarily connected to a specific conduct but rather apply to the entire group of enlisted entities regardless of the behaviour

which had them be entered on the list in the first place. Nullum crimen sine lege however requires any punishment to be directly bound to a certain legal norm describing the conduct.

More importantly, the penalty of naming and shaming is systematically employed, even though it causes significant harm to not only the perpetrator, but his friends, colleagues and family members as well. It cannot be brought into compliance with nullum crimen sine lege because the deterrence effect it unfolds through punishing for instance the perpetrator's children lies at the core of naming and shaming. As reputational damaging cannot be contained, it is in any case at odds with thin rule of law.

As a measure of social management, punishment is not an act conducted in a separate space, concerning the state and the subject of punishment only. Being one element of the automatic system of the state, punishment must be influencing and itself be influenced by the other elements. In this light, the deterrent power of a punishment heavily defines its usefulness for the system. In other words, the very purpose of punishment is less compensation of guilt or the re-installation of justice (as absolute theories of punishment hold), but the prevention of future crimes (relative theories of punishment). Against this background, a SCS legislative framework from a social management perspective would not control punishment through linking it to a defined set of offences. Rather, punishment is checked through integrating the system threatening external influences, such as an instance of public anger against a particular act of punishment. Not justice, but the equilibrium (critical to autonomic systems) would determine punishment. The legislative framework in this context would consist of operational clauses stipulating the punishment system's setup, unfolding applicability only to this very system rather than to societal actors and their lawyers.

Again, the social management perspective reveals that thin rule of law with a Fullerian conceptualization of law as described above is incompatible with the concept of the SCS.

Transparency
If the trustworthiness definition will in fact reach beyond norms laid down by law, a transparency problem arises. To meaningfully restrict state actors by law, it must be available to the subjects wishing to invoke it (in Fuller's words: public and clear). The Dang'an 'haunting' (Yang, 2011) its respective subjects, blurry score calculation methods throughout the Suining pilot project and the poor procedures for complaints and corrections have demonstrated that the SCS has the potential to impede the rule of law through obscuring norms and procedures.

All three pilot regulations stipulate a right to know one's own credit information (SH: Art. 34; HU: Art. 34; HE: Art. 42). It can be enquired through a platform managed by the public credit information service centres (HE: Art. 24 II, SH: Art. 18 II; HU: Art. 20). The procedure does not mention courts, which would probably only come into play if an

administrative lawsuit was filed against the centres. More importantly, it works merely under the prevalent circumstances where social credit related punishment is only applied in relation to a certain unlawful or trust-breaking act.

7.2. THE LAW IN THE SCS

Several of the observed strands of the SCS point to a future where trust-related acts will not directly be linked to a penalty. They might rather be drawn together to create a more or less complex trustworthiness record, according to which credit subjects will be awarded or punished. This is the concept that was tested in Suining and is now, on a voluntary basis and with rewards instead of punishments, tested with Sesame Credit and the Sincere Shanghai App. It is the alternative to the existing, binary blacklist model which only knows the categories trustworthy and untrustworthy. It responds to both, with foreign media reports painting the Orwellian dystopia of an all-powerful social credit score, but also social management. Precisely because it appears to be in line with the latter, even though technologically and institutionally far from being reality, the following paragraphs will consider implications for rule of law for this highly controversial scenario.

Legislation for a score-based SCS would entail quantifying a catalogue of behaviour, which means attaching certain amounts of points to certain behaviours. This extra step between behaviour and punishment would effectively decouple the act from the punishment that the criminal code or administrative penalty law provides. This carries a problem with the blacklist mechanism one step further: the blacklist mechanism already enacts the same group of punishments on everyone on the list regardless of their respective trust-breaking action. Under umbrella terms such as "judgment defaulters", someone blacklisted for not visiting his or her parents regularly faces the same penalties as the owner of a factory who did not pay his employees because both of them lost the respective lawsuit. This categorization by lists would become superfluous if a quantified score was introduced. The score could take the place of lists and further generalize them. It would further disconnect the action of a credit subject and the punishment that awaits it.

This would not change even if the calculation methods including how which act translates into which amount of points were clearly laid down in law. The laid down calculation methods are likely to become overly complex and barely comprehensible for non-specialists as the system grows more sophisticated. Transparency might be seriously impeded, posing a major obstacle to an effective rule of law.
As a solution within the universe of social management, a meta-social credit system which allows for a transparent rating of those who rate can be considered (Backer, 2017a, in line with Zhu's thoughts in Schmitz, 2017). Anyone and any mechanism involved in evaluating social credit, constructing measurement criteria or others would be subjected to such a 'social credit system of social credit systems' (Backer 2017a: p.15). In social management terminology, it closes the control loop and thereby guarantees continuous self-monitoring and the other three procedures connected to it. Thereby,

potential threats, such as a large number of demands for an explanation of score calculation, would be forwarded to the meta-system which, in its constant effort to reply to environmental challenges, would perhaps pressure the lower level to solve the problem by for example drafting explanations or even adjusting the score calculation itself. Similarly, threats in the shape of administrative abuse would be found and reported to the next cycle, which would activate a self-configuring process to adapt and keep harm as low as possible. A thin understanding of rule of law would accept such a mechanism as an effective way to exert control over the rulers, even though it is subject to debate whether its means may be called law.

This would respond to the fourth aim put forward in the Planning Outline 2014, which is to strengthen sincerity in government affairs (*zhengwu chengxin*政务诚信) by subjecting state agencies including SCS administrators to the SCS in order to combat corruption. The pilot regulations already establish a mechanism which resembles an SCS for the SCS. They stipulate a 'corporate veil piercing' inside the administration: individual civil servants may be held personally responsible if they disobey rules and the principle of reasonable administration when handling social credit information (HE: Art. 48; SH: Art. 50; HU: Art. 40).

It is questionable whether the detected problems the SCS poses to thin rule of law can entirely be solved from within the thinking of social management itself, fully substituting traditional legal procedures. Several observers doubt this (Backer, 2017a, Chen & Cheung, 2017).

Liberal democracies define the quality of their legal systems through the independence of the organs. The notion of the courts as guardians of the law outside of the system is held so dear that legal systems elsewhere are regularly judged based on this criterium. Only through the independence of the judiciary can the abuse of power be prevented. From this perspective, the faultiness of an SCS is assumed. Therefore, solutions from within the project itself are delusive. The premise for an effective safeguard for credit subjects must be the likeliness of errors in the system, the procedures behind it and by system designers themselves, regardless of system immanent solutions.

7.3 RECONSIDERING THE CONCEPT OF LAW

The SCS proved compatible with thin rule of law when ignoring the law's traditional character. As the previous chapters have shown, the greatest difference the SCS makes to the thin rule of law is its challenging of the influential notion of law Fuller (1964) put forward (particularly it being public, prospective, clear, and stable). Integrating the SCS in such a legal system 'means to unify and integrate systems of monitoring, of transparency and of compliance within the traditional law-administrative regulation construct of state systems, [and] appears to be one of the most innovative and interesting efforts of this decade' (Backer, 2017a: p.2).
It suggests that if the notion of law would be opened up, the SCS in its most radical

scenario could become a part of the *Rechtsstaat* as found in the PRC. Any case filing, court procedure and decision would have to directly inform the rule makers, and so on.

8. CONCLUSION AND OUTLOOK

This work set out to explore a possible integration of the SCS into the rule of law and found that this is only possible after a thorough reconsideration of the very concept of law. Taking the thin rule of law as a starting point, we found it to not only be in imbroglio with the mother of the SCS, namely social management, but also with the government's design of the SCS as well as with the first instances of the SCS on the ground in China. Problems arise especially from the lack of a clear concept of trust. Understanding trust breaking as law breaking, as some government sources suggest, begs the question why the term is necessary in the first place. There are indicators for the creation of a set of rules beyond law, punishments might be meted out based on mere norms. Additionally, a change in the nature of punishments is beginning to show particularly through the application of naming and shaming in the context of the SCS.

In an experiment of thought, we considered a meta social credit system as a possible solution to the problems the SCS was found to be posing to the rule of law. Such a meta system to supervise the supervisors would itself be rooted in social management and presses an observer viewing it from the angle of liberal democracies to comment. A mechanism of punishment (and reward) such as the SCS might be in the future only if it can effectively be controlled by an independent outside organ with a different underlying logic.

This paper has shown that the SCS questions the concept of law, while at the same time stating to enforce it. Further research might consider taking one step back from the SCS and investigating the compatibility of social management itself with the rule of law.

Such work might start with the finding that social management is a holistic approach (Hoffman, 2017b: p. 4). With a reductionist approach, it aims to solve problems by taking into consideration the overall situation only, instead of looking at the details of one problem. A rule of law system on the other hand traditionally solves problems by granting rights to subjects and stipulating legal procedures, on the grounds of which issues can be solved via court judgements, case by case. It appears to be a reductionist approach and does not resonate with the nature of complex systems (Hoffman, 2017a). Complex systems are not manually managed but are instead self-learning and thus able to handle changing dynamics and threats, such as identifying unsatisfied credit subjects internally. However, neither the problems brought before a court nor the results are systematically re-integrated in the SCS. They are mainly designed to unfold effects outside of the SCS, in the realm of the individual or entity which filed the case.

At most, it signals a warning to the public, and sets a possible precedent for future court decisions (referring to precedents is, although widely informally practised, not mandatory for judges in the PRC's legal system). Since neither the problem nor the solution is directly reported back to the system, the self-learning process is impeded.

NOTES

1. To begin with, note that the term 社会信用, which is translated to social credit, carries a different meaning in the Chinese context: The term 社会, does not necessarily mean 'social', in terms of interpersonal connections. It also is used to refer to 'society' or 'public'. Hence a more accurate translation might be 'the credit of society/ the public'.

2. A wider selection of documents analysed by the author may be found in Appendix 1.

3. Examples for such partnership: State Administration for Industry and Commerce (14.9.2015): Joint Memorandum of Cooperation on coordinated oversight and joint disciplinary action against unreliable Enterprises; China Securities Regulatory Commission (24.12.2015): Memorandum of Understanding (MoU) on the Implementation of Joint Disciplinary Actions for Entities Responsible for Unlawful and Untrustworthy Listed Companies; similarly, policies on joint incentives have been passed, such as the Customs General Administration (19.10.2016): Memorandum on cooperation for the implementation of Joint Incentives for Enterprises with High-grade Customs Certification; Food and Drug Administration (13.9.2016): Memorandum of Understanding on Carrying out of Joint Discipline Actions of the Seriously Untrustworthy in Food and Drug Production and Business.

4. http://shixin.court.gov.cn/

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06

XI JINPING'S PASSIVE REVOLUTION

MIQUEL VILA

ABSTRACT

This essay seeks to argue, using the Gramscian concept of 'passive revolution', that Xi Jinping's discourse, formulated around the idea of the 'Chinese Dream', has been able to assimilate already existent demands in Chinese society. A 'passive revolution' is an exercise used by existing regimes in times of crisis or need of broad reforms, which consists on the development of a new collective social discourse and political horizon able to absorb demands of opposition groups. It does not only aim to cancel their subversive potential, but also seeks to integrate discontent from social sectors into the system. This essay argues against the view of Xi Jinping as a populist leader, considering that his primary purpose has been just the contrary: to prevent a populist uprising in China and to maintain the stability of the rule of the Communist Party of China.

1. INTRODUCTION

After the 19th Congress of the Communist Party of China (CPC), Xi Jinping became the strongest leader China has had since Deng Xiaoping. His government has left behind the low-profile attitude that has characterized Chinese leadership over the two decades before him. Xi has presented a more assertive approach in the international sphere, and an ideological reinforcement internally, articulated around the narrative of the 'Chinese Dream' and the 'Great Rejuvenation of China'.

Due to his characterisation as a 'strong leader', Western media has painted him as a kind of nationalist linked to the recent wave of populist governments (Babones, 2017; Hernandez, 2018; Muns, 2018). However, in this essay, I will argue precisely the contrary: Xi Jinping's ideological rearmament is more a 'passive revolution' aimed at stopping any kind of internal populist uprising.

Xi Jinping needs to be seen as a consequence of the West's neoliberalism crisis at the beginning of the 21st century, which also affected China's specific form of neoliberalism. He is a response to both an internal situation, but also a global situation which has been both an opportunity and a challenge for party elites. This article agrees with authors such as Kerry Brown (2018), who argue that Xi Jinping is a tool of the party for a new China in a new global geopolitical context.

However, I also believe that Xi needs to be framed along other responses which have been developed around the world in response to the crisis of neoliberal systems. The challenge towards neoliberal elites posed by political disaffection around the globe since 2015 has led to three different scenarios: first, the crystallisation of social anger in populist alternatives of different ideologies, as the victories of Syriza in Greece, Duterte in the Philippines, or Donald Trump in the US highlight. Second, the triumph of an 'anti-populist' reaction, as in the case of the victory of Macron against Le Pen in France (Norris, 2017). Third, and somewhat in the middle-ground, are the governments that, through the reconstruction of new nationalist narratives, have been able to absorb some popular demands in their discourse, as in the case of Putin in Russia, but also in the Asian context as seen by Modi in India or Abe in Japan (Detrow, 2016; Stewart, & Wasserstrom, 2016). This essay considers Xi Jinping's strategy to be within the third group.

In this sense, it is argued that Xi Jinping has taken advantage of this challenge, articulating a more consistent narrative for the Chinese government that could integrate the discontented in Chinese society, in order to prevent the emergence of counter-hegemonic movements.

2. HEGEMONY AND POPULISM

For this essay, hegemony will be considered as the ability of a dominant group to establish and anchor its political, cultural and moral leadership in order to ensure

consensus among the allied and subordinate elements (Gramsci, 1971). This concept of hegemony implies understanding that the exercise of power occurs both through techniques of coercion and accommodation.

According to the neo-Gramscian Essex School, hegemony building practices consist in the contingent articulation of a plurality of interests (ethnic identities, partisan affiliations, economic interests, etc.) with the aim of producing new political bodies with a capacity for universal interpellation. This means that successful hegemonic discourses can construct a narrative shared by a majority of the members of a given society and to explain their place in the world and their common future. Indeed, hegemony is a metonymic practice of 'coalition building' (Howarth, 2013: p. 199) in which a certain social group is hegemonic as long as he is able to present its particular interests as the interests of the society as a whole.

A hegemonically dominant bloc must be able to incorporate and accommodate some of the demands of the subaltern sectors within the framework of the existing institutional order, while isolating those that may harbour subversive content (Howarth, 2013: p. 202). In the action of building a hegemonic coalition, the interests of different groups are articulated through a chain of equivalences creating a new common social bloc conscience. On the other side, it is common practice of established institutions – in both democratic and authoritarian regimes – to deal with subordinates' groups demands individually, applying a *logic of difference*, in order to avoid collusions into anti-hegemonic coalitions in case they cannot be integrated by the regime.

In this sense, a fundamental concept in the Essex School theory is the idea of populism. For Enesto Laclau (2005), populism is not understood as a political ideology, but as a concrete form of politics based on the idea of the formation of the people 'as a result of the articulation of a heterogeneity of demands around their common opposition to existing institutions'(Miró, 2017: p. 23). So, populism is a way of doing politics, not an ideology, which emerges when the existing system is unable to co-opt social demands. In some manner, any political movement that seeks the formation of a new regime requires a foundational 'populist moment' that invokes the constitution of the people to question a previously existing order regime (Miró, 2017: p. 25).

Nowadays in the Western public sphere, populism has become a negative label used against any political opinion, which creates some confusion when talking about it. The label is more frequently used against anti-establishment movements, but not all anti-establishment movements can be considered as populist. According to the definition that is used here, the genuine element of populist politics is the mobilization of the people against the elites.

In this fashion, populist leaders try to present themselves through their language and behaviour as 'common people' in front of elitist governments. In the case of Xi Jinping, it is evident to most observers that he is not a 'man of the people', not only because of

his background, but also because of his demeanour. Xi Jinping's rhetoric and speech performance are entirely different from the behaviour of populist leaders like Donald Trump or Hugo Chavez, nor is it similar to examples in closer cultural contexts like former Taiwanese president Chen Shui-bian. As we will see in the following sections, Xi's appellation to the people is not grounded in 'people's lore' regarding it as an autonomous force, but rather always attached to the rule and guidance of the Party.

Xi Jinping's appeal is something different, and the articulation of his politics has more to do with the Gramscian idea of a *passive revolution.* In Gramscian theory, a passive revolution is the response to an existing or foreseeable moment of acute crisis of hegemony, in which the established power needs to develop a top-down reform of the system. This reform seeks not only to satisfy the individual demands of a social group, but to also integrate new subaltern actors into a reformed hegemonic order. Nevertheless, such a reform will be done maintaining as much as possible of the previous correlation of forces and the previously existing social leadership (Balsa, 2006).

That kind of process should not be understood as a necessarily cynical or opportunistic practice on the part of the ruling elites, nor as a renunciation of their interests. That new hegemony goes beyond an operation of political marketing: when the demand of a subaltern group is integrated, albeit in a subordinate way, it becomes part of the fundamental nucleus of the consensus and practice of the renewed political regime. Not satisfying these demands will harm its legitimacy and stability.

As has been said above, Xi Jinping is a leader for a new era, in which China is going to have a more critical role in world affairs and pursue an internal revolutionary economic change. Any country facing this situation is likely to put its society and political system in tension. Furthermore, the aftermath of the 2008 financial crisis put an end to 20 years of a neoliberal style of doing politics, which also has its resonances in China, which will be explored in the following section.

3. A CHANGING GLOBAL CONTEXT AND ITS IMPACT ON CHINA

Since the 1980's and the end of the Cold War, the neoliberal consensus - based on technocratic governments, the pre-eminence of market economies, the promotion of individualistic values and the idea of government as post-political management - became the hegemonic ideology around the world. The neoliberal promise came along with the idea of the marriage between capitalism, democracy and human rights, though in most countries, the implementation of free market and privatisation policies were prioritised over democratisation. It needs to be said that the neoliberal global consensus has more to do with the 'neoliberal way of doing politics', based on a 'managerial' rhetoric, which tries to present its policies as post-ideological and self-supported by their expected economic success – which could be adapted in non-democratic liberal contexts such as in Singapore or China – than with the full ideological corpus of neoliberalism. I will refer to neoliberalism in this paper taking

this fact into account.

From the early 2000's, that consensus has begun to be challenged in the peripheries isolated from the centres of global power when governments openly opposed to neoliberalism began to take office. One of the first signs of a crisis was the emergence of a series of left-wing nationalist governments in Latin America, such as Hugo Chavez's Venezuela or Evo Morales' Bolivia, which challenged the policies of the IMF and the World Bank (Sader, 2008).

On the other hand, in the trans-Atlantic world in 2011, social tensions from the 2008 financial crisis gave way to an explosive wave of protests across Europe and the United States. Movements such as the Spanish '15-M' or Occupy Wall Street had a huge international impact, as their discourses were articulated around a critique against the financial system, the austerity policies and the post-political tendencies of the technocratic governments. Thus, these movements were able to connect the demands of different social movements in counter-hegemonic coalitions aimed at challenging neoliberal hegemony (Errejón, 2011, Glasius & Pleyers, 2013).

China's public opinion, the blogosphere, the press and the Chinese elites were aware of these protests (Ma, 2011). An editorial in the *China Daily* even showed certain sympathies towards protests in the West, criticising the poor coverage of the Occupy movement in American media (Chen, 2011). According to the Telegraph (2011), the Ministry of Foreign Affairs' spokesperson Liu Weimin stated that the protests should lead to a 'time for reflection'. The same article also pointed out that the nationalist newspaper *Global Times* echoed the protests, although pointing out the differences between China and the West and asking China's citizens to stay calm.

The protests were perceived with caution, and as a warning for Chinese elites. However, they were also regarded as a sign of a wind of change in the international system (Hille, 2011). A wary attitude should not be surprising since Chinese leaders of the 90's had been following the style of the grey bureaucrats' managerial neoliberal governments, and their legitimacy was purely based on the success of their economic policies (Womack, 2017: p. 401; Xie & Zhou, 2014).

Chinese achievements, despite producing growth as never seen before, also brought about serious societal problems and environmental costs. The income gap between rural areas and coastal cities has increased since the period of Reform and Opening Up, with inequality being further accentuated by the *hukou* household registration system, which deprives rural migrants access to public services and rights in the cities (Sheehan, 2017). In addition, while the gap between rich and poor has dramatically increased, the official ideology of the PRC continues to be egalitarian, generating a sense of disenchantment between nostalgics and the losers of post-Maoist China.

On the other hand, corruption and nepotism, along with ecological problems related to pollution, have begun to be a significant factor in perceived grievances among the

urban middle class, the social base of CPC support (Gilbert, 2012). The criticism of corruption is important, because it is a demand that was also shared in the discourses of the 2011 wave of protests in western countries (Wike & Parker, 2015). Furthermore, in the context of the perceived decline of the West, nationalist sectors in China pushed for a more vigorous foreign policy, as is the case of the international relations scholar Yan Xuetong, one of the most influential intellectuals of the party (Yan 2013: p. 15).

In this fashion, in the early 2010's, China's internal disaffection had its own momentum articulated around the Red Culture and the popularity of the former mayor of Chongqing, Bo Xilai (Zhao, 2012). Bo came from a similar background as Xi Jinping, though he had a totally different way of doing politics. Bo was a charismatic leader who presented himself as an outsider – although he wasn't – and openly criticised the existing model of economic development in China. His government centred its attention towards social problems, launching initiatives to increase welfare, fighting against corruption and organised crime, and mitigating the unfavourable effects of the *hukou* system (Martin & Cohen, 2011; Sheehan, 2017).

Bo's program came along with a discourse that could be qualified as populist and aimed to appeal to the underdogs of Chinese society recovering the imagery of the Cultural Revolution. In this way, he tried to take advantage of the PRC's official symbols and China's own communist tradition by presenting an 'alternative' program, although without questioning the leadership of the party (Zhao, 2012). Precisely because of this, Bo could have presented serious danger to party elites. Despite of his fall into disgrace, thanks to a controversial corruption case (Li, 2013), Bo's popularity and the popularity of his program did not go unnoticed. Bo's success warned the party that some changes need to be made. In fact, before officially taking office, Xi toured the Chongqing province to meet with Bo (Lam, 2010), and as will be seen in the next section, later incorporated components of Bo's discourse into his own.

Another internal front opened in the PRC's special administrative region of Hong Kong. Due to Beijing's increasing influence in the former British colony, a protest movement called Occupy Central claiming civic and democratic rights emerged in 2011, and would later evolve into the Umbrella Movement in 2014 (Yuen, 2015). These protests were directly inspired by Occupy Wall Street, with direct interchange of practices, imagery and social composition (Beinart, 2014). Although the protests were limited to Hong Kong, they symbolize one of the main challenges that Hong Kong's retrocessions possess to the PRC: the possibility of Hong Kong becoming a focus of democratic ideas which could irradiate into the Mainland (Ollé, 2005). In this way, what the umbrella's revolution could have left settled in the collective imagination of Hong Kong and China may in the future be a disruptive factor for Chinese political elites.

To all this, we must add that in recent years, China has seen its economic growth slow down, causing an increase in labour conflicts (Locket, 2017), the emergence of the internet as a space in which citizens express their opinions - and a place where the

party has recently begun to battle (Yang, 2017) - as well as the need to make essential changes in the economic structure to move from an industrial economy to one based on services and new technologies. This scenario has presented a significant challenge for China's political stability, which has required a renewed narrative under the leadership of Xi Jinping.

4. ANALYSING XI JINPING'S CHINESE DREAM DISCOURSE

Methodologically, this analysis is built on the analysis of official documents, Xi Jinping's speeches, and audio-visual material from China's official media, news, and relevant academic literature.[1]

When Xi took office, China faced the challenge that, after more than twenty years after the inauguration of the reform and opening up policy, central problems like poverty and inequality remained while the neoliberal dream had begun crumble around the world. Secondly, because of the global financial crisis, China's position in the global economy and international realm had changed, demanding both an internal push for economic transformation and a more active role in global affairs. Hence, Chinese elites needed stable state-society relations and strong leadership.

To deal with this scenario, the first step that Xi Jinping's administration took has been to create a new common horizon, a fresh epic narrative to link the party and the people to a future China; the chosen formula has been the metaphor of the 'Chinese Dream'.

In order to label Xi Jinping's Chinese Dream discourse as an articulation of a passive revolution, we need to find three strategical movements in our analysis. First, a change with the past needs to be identified, an abandonment or modification of the narrative that maintained the legitimacy of the CPC leadership since 1979. Second, we need to see strategies of co-option of already existing social demands that can be considered as being challenging to the existing political order. Co-option comes along with a transformation of their meaning and nature dissolving their subversive component. Third, this will give birth to a new common narrative, linking different social forces together into a framework able to explain where the country is and where it wants to go. But in this aspect, what differentiates a passive revolution from an actual revolution is that the existing social relations must not be altered, and in the present case, the leadership of the CPC not only would need to be maintained, but reinforced.

5. THE STRATEGIES EMPLOYED IN XI JINPING'S PASSIVE REVOLUTION

First, the Chinese Dream's nationalist turn contrasts with Chinese official discourse during the 90's, which had been ideologically weak. In this fashion, the Chinese Dream aims to integrate all individual aspirations of Chinese citizens into a narrative that links them into the common cause of China's new economic reforms success. In Xi's words, 'one can do well only when one's country and nation do well' (Xi 2012a: p. 38).

In the Chinese Dream, the neoliberal imagery of a managerial bureaucracy in 'which to be rich is glorious' is abandoned, and a collective rhetoric substitutes it, recovering classical elements of Chinese nationalism as the idea of 'national rejuvenation' already present in the speeches of Sut Yat-Sen (Kallio, 2015). The main difference here with the former neoliberal narrative does not necessarily come along with an overall rejection of policies of privatization and free trade, but rather with overcoming the idea of the 'end of history' (Fukuyama, 1989), in which politics is considered to be a mere act of management, where all conflicts can be solved through the market, and where there are no other interests or identities than those circumscribed to the individual (Gusterson, 2017). Indeed, the lack of confidence in market mechanism gains room in Xi's (2013a: p. 83) discourse: 'the market lacks order (...) market competition is not good enough to select the superior and eliminate the inferior.'

Second, the most important strategy of Xi's discourse is its capacity to absorb elements from other discourses of the growing protest movements in Chinese society, while isolating those subversive elements that could question his leadership and that of the party. This is what makes the Chinese Dream narrative a passive revolution.

Probably the clearest and most articulated example has been the co-option of Bo Xilai's narrative by Xi, as evidenced firstly in the Red Culture imagery and the recovering of Maoist-era elements in the propaganda (Zhao, 2016), and secondly in the need for welfare policies and combating poverty. Xi has also revived the traditional rhetoric of Chinese communism giving centrality to the workers within his discourse (Xi, 2017). In his closing speech of the 19th Party Congress of the CPC, Xi indicated that China is entering a new era in which the 'march toward common prosperity nobody will be left behind' and in which the goal of eradicating poverty is proposed (China Global Television Network, 2018). But Xi articulates social welfare along with economic development, instead of prioritising the second, as the Red Culture rhetoric did. Thirdly, the fight against corruption is probably the most important of Xi Jinping's early aims. Xi (2014a: 436) used to describe corruption as an enemy within the party which has to be beaten, a disease that needs to be eradicated and has used the idea of fighting corruption to promote ideological reinforcement and the necessity of greater social control (Xi, 2017: p. 61).

Furthermore, developing a new hegemonic consensus does not only come with dealing with subaltern demands, but to truly integrate them, their meaning also needs to be changed. This is why in Xi's discourse, social policies are linked to economic development, the fight against corruption is attached to ideological rectitude, and demands for greater civil 'rights' are transformed into 'government according to the law', isolating from his discourse any demand that has to do with the idea of civil liberties (Xi, 2013b). The subversive potential of these demands is nullified and integrated into a general appeal to a clearer and better governance within the party margins (Xi, 2017). On the other hand, we can see how those elements of society that are considered to be unable to co-opt are dealt with in a different manner. This is the

case with the reinforcement of the Great Firewall: to crackdown on the crescent network of netizens whose demands of autonomy and free speech can hardly be incorporated into the Chinese system (Creemers, 2017).

And third, these demands present within Chinese society are linked to a common horizon of fulfilling the Chinese Dream, which through patriotism, ties the aspirations of the Chinese people with the leadership of the party; 'to realize the Chinese Dream, we must carry forward the Chinese spirit. We need to use the national spirit of patriotism and spirit of the times centred on reform and innovation to bring forth the vigour and vitality of the whole nation' (Xi 2013c: p. 61).

The new discourse exhorts to a mobilization of the Chinese people – 'the Chinese Dream is a dream of the country, the nation as well as all Chinese individuals' (Xi, 2014b: p. 70) - and an ideological reinforcement, in which individual objectives don't need to be left aside, but are asked to be integrated within China's collective goal of 'national rejuvenation' through economic development – 'all Chinese (…) share the opportunity to pursue excellence, realize our dreams and develop ourselves along with the country' (Xi, 2013d: p. 42).

In contrast to what we would expect in populist rhetoric, the narrative of the Chinese Dream does not aim to overthrow the existing political system, but rather seeks to tie the possibility of collective success to the continuity of the party's leadership (Xi, 2017: pp. 17-18). Furthermore, Xi does not propose a rupture with previous party leaders, but rather presents the Chinese Dream as a new stage of Deng Xiaoping's Reform and Opening Up Policy (Xi, 2012c: p. 73; 2017: p. 17). Xi wants to make clear that although China is moving towards the future, it is not breaking with the party's past.

In this fashion, the Chinese Dream's two proposed horizons are linked to the CPC's history: the double centenary of the CPC in 2021, and the founding of the People's Republic of China in 2049, respectively (Xi, 2012b: p. 7), which will also coincide in time with the revision of the special status of Macao and Hong Kong in 2047 (Womack, 2017: p. 398). Chinese people's social forces are oriented to be mobilized to achieve the collective horizons of reaching a moderately prosperous society in 2021, and a modern socialist country by 2049 (Zhou et al. 2017), which can be only achieved through the joint efforts of the party and the people. In this regard, the message of the Chinese Dream is clear: Chinese people need to be aware that the way to reach wealth and welfare is to understand that the people and the party are bound by the same destiny. Therefore, this implicitly also means that to challenge the party means to move away from the road to prosperity.

6. CONCLUSION

This article has argued against those opinions which consider Xi Jinping a populist leader. On the contrary, this paper characterised Xi Jinping's narrative as articulated around the metaphor of the 'Chinese Dream' as a passive revolution. The main

argument of this paper is that Xi Jinping can hardly be considered a populist leader, because at no time is a split posed between the Chinese people and an elite that must be overthrown. On the contrary, Xi Jinping's rhetoric has come to contain any populist tension that could emerge within Chinese society and to channel those impulses towards the greater plan of the CPC.

Although the new role of China in the world and its road towards a change of its economic structure are the main drivers of Xi Jinping's policies, his administration needs to be understood in a context of the general crisis of the neoliberal way of doing politics on a global level. The fear among Chinese party elites of an emergence of a populist revolt, as visible in other parts of the world since 2008, needs to be taken into account to adequately frame the narratives of the Xi administration in a global context of early 21st century.

It has been argued that Xi Jinping, in front of a convulsive context, opted for the elaboration of a new stronger narrative to secure the legitimising of the party's leadership in Chinese society. The Chinese Dream is hence an attempt to use the social challenges emerging within Chinese society as an opportunity to rebuild a common horizon for the Chinese people under the leadership of the party. In this fashion, it has been presented how Xi Jinping has used the general framework of the Chinese Dream as a nodal point to rearticulate a disparity of demands. Within that discourse, Xi articulated a new sense for them preventing their disruptive potential and linking their achievement with the goal of maintaining the leadership of the CPC. However, by absorbing some of these demands, it must be taken into account that Xi has also legitimized them. Hence, the success of this operation of passive revolution on preventing the emergence of a populist revolt in China would be ultimately linked to the capacity of the party to fulfil its promises within the stated timeline. Hence, further research on this topic should combine the analysis of Xi's discourse with an examination of the existence and success of policies aimed to cope with the demands absorbed into the Chinese Dream narrative.

NOTES

1. Due to my limited knowledge of the Chinese language, I have used official translations to English of Xi Jinping's discourses provided by the Foreign Language Press of Beijing or Xinhuanet. Thus, it is necessary to recognize that some details may have been lost through not using original documents, but given that the theoretical and methodological framework used here is not intended to analyse rhetorical or syntactic resources, this shortcoming can be mitigated.

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07

'CENSORING PORNOGRAPHY': THE ROLE OF SEXUAL MEDIA IN THE FIGHT FOR FREEDOM OF EXPRESSION IN THE PEOPLE'S REPUBLIC OF CHINA

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ABSTRACT

This paper focuses on the use of nudity and sexually explicit language and images as a form of resistance against state censorship on the Chinese internet. Although the constitution of the People's Republic of China (PRC) grants its citizens freedom of expression, those forms of expression that are not deemed acceptable or 'healthy' by the Communist Party are liable to be censored. This paper looks at the issue of freedom of expression in the PRC from a perspective commonly neglected by scholars. Considering the role of censorship in the legitimising of the Chinese state, and after an introductory exploration of the PRC censorship system, this paper shows that the targeting of pornography by political discourse is less a sign of a puritan attitudes towards sexuality and more a placeholder strategy to justify the silencing of alternative political voices. It uses a qualitative analysis of multiple case studies to show how Chinese internet users, bloggers, and artists use nudity or sexually explicit themes as a form of activism against an over-paternalistic state. It analyses how the two spaces of political and sexual discourse merge and how sexually explicit words and images are used as a form of political resistance and dissidence. It also explores the recent development of Chinese 'Netspeak' and the role humour and satire in these dynamics.

1. INTRODUCTION

Whilst many in the West have heard about the 'great firewall' and the lack of freedom of expression on the Chinese internet, these narratives often over-simplify the issue of censorship and its critical importance for our understanding of Chinese society. Since the People's Republic of China (PRC) first opened up to the internet, Chinese internet users, bloggers, and artists have developed many ways of circumventing online censorship and expressing their voices (Hockx, 2015; Jacobs, 2012; Link & Qiang, 2013). This paper looks at the issue of freedom of expression in the PRC from a perspective commonly neglected by scholars, and asks how Chinese internet users make use of sexual media as a form of resistance to state control. Considering the role of censorship in the legitimacy of the Chinese state, this paper shows that the targeting of pornography in political discourse is less a sign of a puritan attitude towards sexuality, and more a placeholder strategy to justify the silencing of alternative voices (Link & Qiang, 2013). It then explores the use of nudity and expressions of sexuality as a form of political activism and resistance.

The first part of this paper outlines the socio-political background to the evolution of the internet in the PRC, as well as its role in state legitimacy. It then gives some insights into the process of censorship and the nature of censored media, proposing that the term 'pornography'[1] has been used as a justification for censoring non-sexual topics and as a placeholder for the censorship of political issues, thus triggering the responses of internet users presented in part two. The second part of this paper presents empirical evidence of the response of Chinese internet users to censorship, in which expressions and representations of sexuality are not only used as a discourse against censorship but are also often equated with identity and individuality. This paper uses a qualitative analysis to show how nudity and sexually explicit themes are used by internet users, bloggers (such as Mu Zimei and Hooligan Swallow), and artists (Ai Weiwei, Yu Na, and Deng Shangdong) as a form of activism against state control. It analyses how the two spaces of political and sexual discourse merge and how sexually explicit words and images are used as a form of political resistance and dissidence.

2. THE INTERNET AND CENSORSHIP IN THE PRC

Whilst China opened itself up to the internet later than most Western countries did, the Chinese government considered the internet, from the start, to be a powerful tool which needed to be harnessed and controlled primarily by the state (State Council of the People's Republic of China, 1994). In the parallel evolution of industrialisation and informatisation that followed the more liberal reforms of the eighties, the potential of the internet for creating and sharing information gained importance as a factor of economic growth. It represented a possible shortcut to China achieving front-runner status in 'the information and communication market. It was not only seen as tool for economic growth but also for boosting nationalism and increasing national pride by becoming a leader in the information technology and high-tech sectors, thus bringing more legitimacy to the rule of the Communist Party of China (CPC). At the same time,

the CPC was confronted with the dilemma of promoting a technology which had been invented primarily to prevent the possibility of a central control mechanism, whilst justifying and maintaining a singular hold on power. For this reason, control of the internet was always crucial for the regime's survival, since enabling accessibility of information for Chinese citizens, might lead to challenges to the Chinese government's grip on power (Tai, 2006).

2.1. AUTHORITARIANISM AND FREEDOM OF EXPRESSION

To understand why the CPC deems internet control to be essential, it is necessary to consider the political structure of the PRC, and most importantly the relationship between state, media, and society. Following the reforms of the eighties, China shifted from a monolithic totalitarian regime to 'fragmented authoritarianism' (Lieberthal & Oksenberg, 1988). To facilitate governance after China's transition to a market-oriented economic system, decision-making processes such as policy-making were delegated to local governments and various ministries, which must follow the broad guidelines given by the central authorities. This fragmentation of power is particularly important in the case of the media industry and also applies to the censorship system.

The economic changes of the reform era, beginning in 1978, had a profound impact on the role of the media in the PRC, which began as a propaganda tool and became increasingly commercialised, having to respond to market forces rather than party directives (Zhao, 1998). The fragmentation of state authority, as well as the commercialisation and privatisation of media by policies requiring media companies to compete in the marketplace, have allowed for the development of a new and more independent media. This, in turn, has given rise to practices such as investigative journalism which often exposes local issues, including official corruption, as well as non-political issues that directly affect people's everyday lives (Lieberthal & Oksenberg, 1988: pp. 110–112).

Under the system of 'fragmented authoritarianism', the media not only have to serve the interests of central government but can also respond to market demands. However, the degree of freedom a particular media outlet enjoys depends on its position in relation to centres of power: whether at the local or central level, the closer a media outlet is to a centre of power, the less freedom it has to supervise and criticise it (Lieberthal & Oksenberg, 1988). The internet is differentiated from traditional mass media in that it is an interactive social space in which everyone can be a consumer as well as a creator, and information often comes from sources independent of the state (Rheingold, 2000). For this reason, it has led to developments in Chinese civil society by serving as a forum on which Chinese citizens can voice their issues and concerns, as well as form groups without the need for physical meetings. These cyber-meetings have made control by the authorities much more difficult, since few of the strategies commonly used by the Chinese police against physical assemblies can be practically transferred to cyberspace (Link & Qiang, 2013). Although the power of the internet as a democratising force in China remains under debate,[2] it is undeniable that the

multiplicity of sources of information on the internet has the potential to create new discourses independent of state ideology and to stir public opinion (Tai, 2006).

Since access to information leads to the formulation of independent views and opinions, the Chinese state made clear from the outset that it would be keeping a leash on the internet. As early as 1994, one year before the internet was commercially available in China, the state issued a policy paper on the supervision of computer information systems, followed by another set of regulations in 1996 concerning the nature of the content deemed acceptable on the internet (Tai, 2006). Whilst the internet is home to an increasing amount of self-produced content not directly regulated by official guidelines, the guidelines show 'a strong residue of a mentality that holds that cultural producers should be guided by political ideology and serve the nation' (Hockx, 2015: p. 3), especially when internet content reaches the limit (*dixian* 底线) of what is deemed ideologically acceptable by the CPC. This tendency has even increased since president Xi Jinping took office in 2012, when he made it clear that internet control and surveillance was to be a priority (Yang, 2014), introducing projects such as the social credit system to increase the range of online behaviours surveilled by the state (State Council of the People's Republic of China, 2014).

Despite new developments and article 35 of the Chinese constitution providing 'freedom of speech, of the press, of assembly, of association, of procession and of demonstration' for all citizens of the PRC (National People's Congress, 2016a), these rights come with a conditional clause. To maintain a tight grip on the information available on the internet, the Chinese state enforces a very strong and comprehensive system of censorship. Although levels of censorship vary over time, in 2013, approximately 13% of all social media posts were censored (King et al., 2013). As mentioned above, this control structure is fragmented, with most of the censorship running through individual internet content providers, rather than being centralised. Since insufficient results could lead to being fined or shut down, some providers employ up to 1,000 censors per individual site to ensure compliance with official guidelines. They all follow official guidelines, such as the 'Interim Provisions on the Administration of Internet Publishing', which establishes categories of content which cannot be published or shared, going from 'opposing the basic principles confirmed in the Constitution' to more open-ended clauses, such as 'spreading rumours, disturbing social order, disrupting social stability' and 'having any other content prohibited by law, administrative rules and national regulations' (Ministry of Information Industry, 2006). The intentionally vague nature of these guidelines, combined with the scope of the censorship system described below, allows the state to maintain a tight grip.

Methods of censorship
This paper considers the five major aspects of internet censorship, as proposed by Link and Qiang (2013): (1) regulations, surveillance, and social pressure; (2) self-censorship; (3) word filters; (4) a firewall; and (5) guiding. Rather than the complete suppression of information, the main objective of the censorship system is to create an environment where topics considered 'unhealthy' are invisible and to 'create a psychological wall

along with the physical wall' (Link & Qiang, 2013: p. 90). Although the more tech-savvy and creative users can relatively easily circumvent the word filters and the firewall, most Chinese internet users chose not to go to the trouble of jumping the wall.

The next most obvious barrier to the propagation of 'unhealthy' information on the Chinese internet is word filters, which can be very efficient in that they prevent a variety of topics from being mentioned at all. The current word list contains 'freedom' (*ziyou* 自由), 'democratic movement' (*minyun* 民运), and 'revolution' (*geming* 革命). Again, netizens have found ways to work around censorship by creating a completely new field of internet language, for instance using the term '35 May' instead of '4 June' to refer to the events of Tiananmen Square in June 1989 (Qiang, 2004).[3]

Whilst regulations such as the prohibition of pseudonyms are almost impossible to enforce, word filters can be cleverly dodged using wordplay, and the firewall can be jumped using a proxy or VPN, less obvious and more efficient methods of controlling the content available include online social pressure, self-censorship, and guiding. The visibility and omnipresence of the internet police (*wangluo jingcha*网络警察), a major part of the Ministry of Public Security, is meant to intimidate users rather than help them to navigate the rules of the internet. Additionally, in a dynamic reminiscent of the communist period, the government openly holds groups responsible for individuals' actions and motivates citizens to denounce one another if they become aware of any transgression of the rules (Link & Qiang, 2013). The fear of repression produced by this leads to self-censorship, which further decreases the visibility of alternative content and holds the censorship system together.

In such systems, self-censorship becomes a symptom of the environment of uncertainty and fear surrounding certain forms of expression, although the imagined consequences may not always be likely. Because it consists, by nature, of the absence of content or action, self-censorship is very elusive and generally negatively connoted, leaving individuals and media organisations unlikely to admit to self-censorship or, even less, the reasons behind it (Cheung, 2003).

Self-censorship in the PRC is predicated on a wider social environment in which the individual is constantly under scrutiny. Historically, the state has meddled in the private affairs of the people, or 'guided the masses', which makes self-censorship a collective cultural feature of the contemporary PRC, rather than a collection of individual experiences. The advantages brought by neoliberal policies depend on a low-conflict political atmosphere, leading most Chinese citizens to steer away from political topics and find their individuality in other areas of social life.

In most authoritarian models, the press rests under the total control of the state and serves only state interests and objectives, leading to violent repression with no legal means of evading sanctions when state guidelines are not followed (Zhao, 1998). Although freedom of expression is recognised in the constitution of the PRC and the press is increasingly left to obey market forces rather than state interest alone, self-

censorship remains very present. Stemming from fear rather than palpable active repression, it is elusive insofar as individuals 'chose' not to express possibly reprehensible views; thus, the responsibility for non-action can always be given to the individual, rather than social or legal pressures. Wacker compares internet surveillance in China with the idea of the Panopticon, a prison in which prisoners may be under surveillance at all time, and must act as if they are, thus generating self-censorship (Wacker, 2003). Self-censorship can always be denied, however, because self-censorship is predicated on an environment of explicit censorship in which 'public control successfully merges with private control'. As in the proposed social credit system, these should not be considered separately (Cheung, 2003: p. 34).

The atmosphere of social pressure leading to self-censorship is consolidated by a phenomenon termed 'guiding' (*yindao* 引导) by Link and Qiang (2013). Guiding is closer to propaganda than to censorship, and consists mostly of creating a pro-CPC, pro-policy discourse inside online communities. First practised exclusively by members of the internet police under the guise of being ordinary citizens, the task of publishing pro-government posts has been carried out by ordinary citizens as volunteer or paid work since 2004. The goal of these 'internet commentators' is not to promote critical debate, but to influence online public opinion, steering it in the direction given by the guidelines of the propaganda department (Yang, 2009). Those writing these posts were quickly given the nickname 'fifty-cent party' (*wumao dang* 五毛党) because of the general belief that they are paid fifty cents per post. However, the repetitive and sometimes mechanical nature of these pro-government postings have made them easy to spot, and often have a counter-effect, undermining genuine pro-state voices. Commenting on how prevalent the phenomenon has become in recent years, it has been said, 'Satire of *wumao* has spread so much that it [...] has come to mean any regime apologist of any kind' (Link & Qiang, 2013: pp. 91–92). However, word filters and the omnipresence of the internet police and other forms of censorship have been the targets of parody and other humorous responses, showing the limits of the censorship apparatus in the PRC.

The goal of censorship

Whilst most scholarship suggests that the goal of censorship in China is to stifle criticism of the state, a 2013 study by King, Pan, and Roberts (2013) shows that whilst criticism of the state is sometimes tolerated, it is posts with collective action potential that are most often the target of censorship. According to King et al., when China opened itself up to social media and online discussion, it also opened itself up to criticism of its leadership. However, criticism alone is no threat to the power of the Chinese leadership as long as no other nexus of power emerges, thus censorship primarily targets posts that might control or influence the behaviour of larger groups. As the study concludes, 'The Chinese people are individually free but collectively in chains' (King et al., 2013: p. 331).

However, the study mentions two more categories of content that do not directly correlate with collective action and yet are systematically censored, namely critique of the censors themselves and pornography (King et al., 2013). The consistent and

systematic censorship of these two categories shows that they must be posing some form of threat to state legitimacy. Whilst censoring critiques of the censors themselves is essential to maintain the system, considering the critical importance and the scale of the censorship system, it is not apparent why the Chinese state would invest so much of its resources in censoring pornography over other 'unhealthy' or political material. The study does not offer any explanation as to why pornography, which 'includes advertisements and news about movies, Web sites, and other media containing pornographic or sexually explicit content' would be systematically censored. It only briefly mentions the official line of the party on the issue of pornography as 'violating public morality and damaging the health of young people, as well as promoting disorder and chaos' (King et al., 2013: p. 335). Further investigation shows that sex and pornography are often the official reason given for censoring or closing a website, masking the actual reasons – such as comments on politically sensitive subjects, including the Dalai Lama or the Falun Gong (Link & Qiang, 2013). Pornography is thus made a placeholder for almost anything the Chinese leadership wishes to censor, covering the real issue and making the censorship more palatable to the wider public.

2.2. THE CENSORSHIP OF PORNOGRAPHY

Some aspects of the censorship of pornography are not unique to the PRC, with the argument that it is harmful to society and especially to young people is common all over the world.[4] In the PRC, however, laws concerning the censorship of pornographic content seem to be abused by the authorities with the goal of justifying censorship of non-sexual topics, such as sensitive political issues. Although the previously mentioned internet regulation guidelines only very vaguely mention pornography, under the heading of 'propagating obscenity' (Ministry of Information Industry, 2006), the criminal law of the PRC defines what constitutes pornography in more concrete terms as 'obscene books, periodicals, movies, video-and audio-tapes, pictures, etc., that explicitly portray sexual behaviour or undisguisedly publicise pornographic materials' (National People's Congress, 2016b). Whilst the clause also stipulates that 'literary and art works of artistic value which contain erotic contents shall not be regarded as pornographic materials', these definitions are vague enough to be left to the interpretation of the censors.[5] For literature published through the official system of editing and publishing, erotic content and depictions of sexuality seem to have been less and less of an issue since the 1980s, but works self-published online are more commonly subject to censorship (Hockx, 2015).

Aside from other previously mentioned motivations, public morality remains an obvious concern in official discourse, and the fact that pornography is systematically censored in the PRC also shows that control of sexuality is a priority for the Chinese government. This not only includes family planning policies, such as the one-child (now two-children) policy, but also the 'parental control' on the Chinese internet, which reflects the need for the post-socialist state to dictate 'healthy' media content. The justification for this form of control is most often public opinion. In fact, in a 2005 survey conducted as part of the UCLA World Internet Project (Tai, 2006), Chinese

citizens were asked about the level of control they would like to see on the internet. From different categories of content, 85 percent of respondents agreed that regulating online pornography was 'very necessary to somewhat necessary', giving it first place in terms of importance, before violence (73 percent), junk e-mail (62 percent), advertising (33 percent), and internet games (16 percent). This public distaste of online pornography allows the government to justify the censorship of many non-sexual issues by labelling them with the term 'pornography'.

In turn, as the government labels activism 'pornography', activists thus use nudity and sexual themes as powerful media for social and political commentary. Like in Europe, where sexuality has historically been considered a transgressive subject and pornography has been used for political, cultural, and social commentary long before it developed as an inherently sexual medium, it is now used in China as a means of challenging the authority of the state.

Later termed 'political pornography', early obscene and erotic writings in the sixteenth-century were designed for limited distribution to an educated elite, often meant to parody and criticise the established political and religious order.

> Pornography was [...] defined over time by the conflicts between writers, artists and engravers on the one side and spies, policemen, clergymen and state officials on the other. Its political and cultural meanings cannot be separated from its emergence as a category of thinking, representation and regulation. (Hunt, 1996: p. 11)

In the eighteenth-century, pornography was associated with the Enlightenment, criticism of clerical rigidity, police censorship, and issues related to the notion of public morality. It focused on 'the value of nature and the senses as a source of authority' (Hunt, 1996: p. 42) and was thus closely tied to materialist thinking. It was only towards the end of the 1970s that 'pornography began to lose its political connotations and became instead commercial, "hard-core" business' (Hunt, 1996: p. 42).

Unlike the West, where democratisation and an overflow of pornographic media has produced a field of porn studies focused on the content of porn, rather than its potential as a medium of expression, in a context like that of the PRC, where freedom of expression is limited, pornography has found a role back into political discourse similar to that of eighteenth-century political pornography. As the Chinese government has politicised pornography by linking it to the censorship of sensitive topics, Chinese internet users have begun to use nudity and sexual images as a form of political protest.[6]

3. USING SEX AS RESISTANCE

3.1. METHODOLOGICAL APPROACH

Given the breadth of the phenomenon described above and the scope of this paper, a quantitative analysis is not a realistic option here. Rather, I will conduct a qualitative analysis by choosing single examples along the spectrum and analysing them individually. As such, the empirical evidence proposed in this paper is twofold: first, examples of a larger dynamic within society in terms of attitude and use of language, and second, examples of artists using nudes and sexual themes to express a specific message. With the exception of Deng Shangdong, whose work was recommended to me directly by another scholar, the bloggers and artists mentioned are all discussed in English language scholarship and/or well known internationally. I chose examples of their work that are most representative of the contemporary use of nudity for the purpose of social commentary, whilst ensuring a certain diversity. The individual images are analysed within the broader context of the artist's work, taking into account their intent, when known, and the reactions to the artwork from the intended audience, which in some cases include the censors and the Chinese government. From grassroot dynamics to individual voices, the examples provided in this chapter illustrate the breadth of use of obscenity and sexuality by Chinese internet users, as well as their interplay with censorship. Although the words and images chosen do not always have the intent to provoke, every one of the examples is made transgressive in one form or another by the context of an authoritarian state and its attitude towards sexuality.

3.2. INTERNET LANGUAGE AND BLOGGING

At the grassroots level, the change in Chinese internet users' attitudes to authority is most evident in online interactions. Some aspects of resistance to state control are very pervasive and illustrate a broad shift in the attitudes of internet users as well as the Chinese culture as a whole. Humour is a very important part of Chinese internet users' reactions to censorship, and genres associated with parody are some of the most often used for political contention. In an atmosphere of strict state control, every pretension to authority is liable to become a target of humour and satire, with nothing held sacred in Chinese cyberspace. As Yang Guobin, one of the foremost researchers on digital media in China, puts it, 'Play has a spirit of irreverence. It always sits uncomfortably with power' (Yang, 2009: p. 224).

The omnipresence of censorship and word filters has forced Chinese internet users to make very creative and intelligent use of language to circumvent them. This phenomenon has given rise to a unique culture of internet language in China, with netizens using codes to discuss sensitive topics. The nature of Chinese being a not only phonetic but also visual language has allowed for this new and innovative 'netspeak slang' to emerge, forming a complex ecosystem unique to the PRC today (China Digital Times, 2018). Since these forms of wordplay have evolved out of an effort to evade

censorship and promote freedom of expression, and in response to state attitudes to obscenities, they are often quite vulgar. More importantly, rather than active dissidence, the use of internet slang has become a daily code used by most internet users in some form or another, and thus represents a deeper cultural shift happening within Chinese society.

Lewd netspeak

There are four major constructions of wordplay meant to circumvent word filters: double meaning, sound, shortening and lengthening characters, and borrowing words from foreign languages (Link & Qiang, 2013). Since the word *zhengfu* 政府 [government] is automatically censored by most word filters, some Chinese internet users refer to the government using the words *tianchao* 天朝 [heavenly dynasty] or *xi chaoxian* 西朝鲜 [West Korea], both of which bear a more implicit meaning of the PRC being akin to an old feudal monarchy or comparable to the contemporary North Korea. As the censors catch up with these codes, new codes emerge that are increasingly obscure and sometimes need much interpretation to be understood. The 'grass mud horse' (*caonima* 草泥马) and the 'river crab' (*hexie* 河蟹) are two of the best-known plays on sound, transforming into 肏你妈 *cao ni ma* [fuck your mother] and 和谐 *hexie* [harmony], thus poking fun at Hu Jintao's doctrine of the 'harmonious society' (*hexie shehu,* 和谐社会). Alternatively, some slang deconstructs or reconstructs completely new characters. For instance, the character for 'good' (*hao* 好) can be deconstructed as 女子 (*nü zi* [woman and child]), and *wumao* 五毛 [50 cent] has become *wao*, a new character used to refer to the 'fifty-cent army' (Figure 6). Finally, some words are borrowed from other languages, such as English or Japanese, either by sound, as in *fensi* 粉丝, meaning 'fans' or 'supporters', or by direct translation of the meaning, as in *chugui* 出柜 [coming out of the closet].

Figure 1: Characters created from the contractions of 五毛 wumao ['fifty-cent', referring to the fifty-cent party] and 草泥马 caonima [grass mud horse].

In reaction to a crackdown on profanities on the Chinese internet, followed by a strengthening of word filters, users on the website Baidu Baike created a list of ten mythical beasts, based on homophones of Chinese curse words and phrases. The set of ten, each with its own defined nature, forms an obvious parody of traditional Chinese mythology and the Chinese zodiac. The list no longer exists on Baidu, and the censors

have since added the names of the ten mythical animals to lists of banned words. However, the list can still be found on English language websites (Martinsen, 2009).

As with the use of wordplay to circumvent word filters, some have criticised and ridiculed the censorship system by using images which can be interpreted as 'obscene', but which only hint at sexual themes and make innuendos. Such images are almost impossible to ban or justifiably censor and are a very powerful way of mocking internet censorship in general. For instance, an image of ketchup being poured onto a sausage, with clear connotations of oral sex, was created in response to the censoring of 40 erotic novels in 2007 and was meant to mock the censors (Wusan, 2007). By copying the official ban announcement from the General Administration of Press and Publishing and adding this picture as an image file, along with the forty titles, the author of the post openly ridiculed official policy and the futility of the censorship efforts (Hockx, 2015). Whilst this may be offensive to some, there is no legal way of preventing the sharing of such an image.

These examples illustrate the range of obscenities used playfully by Chinese internet users to protest censorship. In the same way that early European political pornography defied the authority of the church and puritan morality, modern Chinese internet slang defies the CPC's moral discourse and control over private lives. It is very significant that the grass mud horse is not a single instance of this form of resistance, but rather a part of a whole ecosystem of internet slang, poking fun at censorship. It shows how deeply rooted is the resistance to the control and surveillance state, as well as the tendencies towards transgressive behaviour in the attitudes of Chinese internet users.

Blogging

The broader cultural shift in Chinese society is also exemplified by the pervasiveness of personal blogs, and for the purpose of this paper, sex blogging. Whilst sex blogging is not as broad a phenomenon as the use of slang, the bar to entry is very low, and it is thus accessible to almost everyone. In the past two decades, China has seen the rise of a pronounced 'me culture' (*ziwowenhua* 自我文化) focused on individualism. The phenomenon is particularly evident among the generation that grew up after the eighties and nineties and for whom computers and the internet are a given. Generation Y's sense of self is deeply anchored in consumerism and mass entertainment, as well as in a strong desire to show one's individuality. With the low barrier to entry of blogging, the number of young Chinese participating in this new culture of online exhibitionism has been increasing since the early 2000s. Whilst many use blogs to connect with other users and create networks, some use online platforms as ways to express personal and sometimes political views. However, although this online space is, for many, one of self-exploration and expression, most Chinese internet users are urban, educated millennials, rich in 'cultural capital', and representing only a small segment of Chinese society (Sima & Pugsley, 2010).

The phenomenon of sex blogging has arisen in China, as well as in the West, and can

be considered both parallel and a counter-movement to the rise of pornography, with the line between them sometimes blurred. On the one hand, sex blogging stems from a culture of exhibitionism on the web which has emerged with the spread of personal blogs and websites (Sima & Pugsley, 2010). On the other hand, sex blogging can be a form of resistance against public discourses of 'normality' or public morality, especially for repressed and underrepresented groups. In the West, this is especially true of queer and LGBT sex blogging, which is often an effort to include lesser known narratives in more mainstream discourse. Similarly, sex blogging in the PRC is very female-dominated, reflecting women's ambivalent status in Chinese society.

On the spectrum of sex blogging in the PRC, one sees a variety of genres and intentions. Some Chinese women seek to expose themselves simply to reclaim their sexuality and autonomy, whilst others use their blogs as a platform for outspoken activism. For instance, the blogger Mu Zimei uses her blog as a diary to recount her sexual life and publish semi-nude photographs of herself. Whilst she openly draws traditional notions of gender and love into question, she does not actively publicise this as a form of activism. Another well-known blogger, writing under the pseudonym 'Hooligan Swallow', explores topics related to sexuality, gender, motherhood, and sex work. She is especially vocal about the latter, and vehemently defends the rights of sex workers and condemns violence against them (Jacobs, 2012). Most of these bloggers publish nude pictures of themselves, using their naked bodies to make sociocultural statements and criticise public morality. Although activism is not necessarily the intent, the transgressive status of sexuality makes it a powerful medium in the quest for individual liberties.

3.3. ART AND SOCIAL COMMENTARY

As well as these more fundamental dynamics of modern Chinese society, some choose to use prohibited themes to criticise society or government. Akin to the political pornography of eighteenth-century Europe, deliberately offensive images are created by artists as a way of provoking and questioning social norms. Here, I present three examples of artwork using nudity to illustrate different aspects of this second dynamic. First, Yu Na and Siu Ding both use nude photography to reaffirm their control of their bodies and to comment on the role and place of women in Chinese society, in a similar manner to that of many sex bloggers. However, their status as artists gives their work further visibility and the transgressive nature of their work is more deliberate and elaborate. Secondly, I choose Deng Shangdong because of the very strong imagery in his work, as well as the fact that he uses a mixture of text and images on his blog to comment on different aspects of Chinese society. Furthermore, his experience illustrates the dynamic of censorship in the PRC, as a number of his posts have been censored due to his continually testing the limits of the acceptable. Finally, Ai Weiwei is used to represent the other end of the spectrum. As an internationally famous artist living outside of China, his voice is the strongest, and he has become famous for his controversial images and vehement critiques of the Chinese government.

Nude photography: the works of Siu Ding and Yu Na

In the sea of content on the Chinese internet, some choose the naked human body as their means of expression. Despite works of 'artistic value' being officially exempted from the definition of pornography (National People's Congress, 2016b), artists creating imagery using the naked human body remain vulnerable to censorship as assessments are often made at the censors' discretion.

For Siu Ding, Hong Kong artist and internet celebrity, using the naked body is 'an issue of personal freedom and choice' (Ding, 2017a). As she writes on her blog, being a nude model is as much an issue of personal identity as it is of artistic aesthetic. In one article, she explains her perspective of nude modelling:

> 'Before becoming a life model, one must have a clear concept regarding the autonomy of the body [...] Can you deal with other people's judgments and criticisms as a nude life model? Would you be able to balance your other identities and roles in society? Are you "rebelling" or simply "following" society's common values?
> Body autonomy is a kind of self-affirmation. Only through a continual process of self-examination and re-establishment of who "I" am, can I embark on the road of nude life modelling.' (Ding, 2017b)

By exposing her naked body online, Siu Ding is making a statement about herself and her place in society. She is defying the established order and re-establishing control over her own life. She is reclaiming not only ownership of her body, but also her autonomy as an individual, against a public and political discourse that seeks to dictate the boundaries of the role of women in society. For a woman to reclaim her naked body in a society where female bodies are increasingly objectified, sexualised, and commercialised is a political statement.

Some artists go even further and use particularly telling imagery. In *Jiejue Fangan*解决方案 [Solution Scheme], artist Xu Yong collaborated with mainland artist and former sex worker, Yu Na, to create a series of photographs in which she appears naked and seemingly bored, surrounded by men in suits, all apparently uninterested by her presence (Xu & Yu, 2009). In the photographs, the cable controlling the camera in her hand makes her an active subject, rather than an object, in the process of creating the artwork.

Some of the scenes have strong political undertones; for instance, Yu Na appears in one image holding a pink flag and leading the men in suits, in a pose strongly reminiscent of posters of the communist era, or of the famous painting *La Liberté guidant le peuple*, in which Marianne is holding the flag and guiding the French revolutionaries. In this picture, the nakedness of Yu Na is not in any sense sexualised, but rather she appears strong and undisturbed by the men touching her. The colour of the flag can be interpreted as a symbol of femininity and the liberation of women, or as a throwback to communist red, and the men could be following her on her quest or attempting to

hold her back.

A critique of the commercialised body: Deng Shangdong

Use of the naked human body is not always a direct form of defiance against the state, but may be a confrontation of the ambivalent relationship with sexuality and the human body prevalent in Chinese society. Despite the tendency to prudishness in official public discourse, the body is also increasingly sexualised and commercialised. In a 2017 interview, the artist Deng Shangdong affirmed that his nude photographs seek to distance themselves from the sexualised nude photography that has become increasingly commonplace (Huo, 2017[7]). Although he did not clearly formulate his intent in the interview, the choice of words and images on his blog trigger a profound sense of angst and discomfort. Aside from its very graphic images and somewhat disturbing themes (Deng, 2017d, 2017g), the most remarkable aspect of the blog is that approximately a third of the pictures on it have been censored. Rather than complaining directly about this, the artist responds with a touch of cynicism. In one post, the use of the phrase 'receiving a little red flower (*xiaohonghua* 小红花) every day' in combination with a screenshot of the automated messages sent by Weibo, the blog platform, when it takes pictures offline, can be interpreted as an indication of his subversive view of internet surveillance and censorship (Deng, 2017c). Whilst schoolchildren strive for acknowledgment of their efforts and good behaviour through a little red flower, Deng receives acknowledgment of his subversiveness and 'bad' behaviour through automated notifications of censorship. Deng's online publication of his work can be seen as a direct attempt to provoke censorship, with his persisting in posting pictures, whilst at the same time acknowledging that they are deemed unacceptable, becoming a statement of resistance against the state.

Deng plays with the taboo in his art, and in other short posts, does not shy away from making more obvious social commentary. 'Deng Shandong's little pornographic illustrations (*Deng Shangdong seqinxiao chahua*邓上东色情小插画)' is a series of somewhat naive and colourful depictions of people in cryptic, sexual scenes (2017f). Considering the aversion of the artist to sexualised imagery, and the amount of censored content on his blog, the use of the term 'pornographic' [*seqing* 色情] not only denotes a form of self-loathing, but is also a criticism of the censors and Chinese society at large, hinting at their prudishness and own self-loathing. Deng addresses other issues by sharing strong imagery in parallel with short, innocuous, candid statements, leaving the interpretation of the message to the reader. Recurring themes of these short posts are the degeneration of social values and norms in modern society, such as those of the education system (Deng, 2017e), self-harm, and unrealistic notions of happiness (Deng, 2017b).

Deng also comments on social issues in a more direct way; for instance, in the case of the legalisation of gay marriage in Taiwan (Deng, 2017a). In this example, it is particularly interesting to note that only one of the two pictures used in his post has been taken down. Censored pictures are still present on the blog, albeit replaced by a grey symbol of an exclamation point on a stack of printed blank images, and do not just

disappear. This is an important feature of the censorship system. Whilst some things cannot be shown, the process of censorship must be visible for it to be efficient: censored images cannot just vanish, they should be made an example of 'wrong' behaviour. Whilst these constant reminders of surveillance create an online environment conducive to self-censorship, they also lead to an increasing tendency towards cynicism on the part of Chinese internet users.

Nudity as protest: Ai Weiwei

Ai Weiwei's work is internationally recognised. It reflects the issues and contradictions inherent to modern China, and is deeply rooted in the artist's experiences growing up during the Cultural Revolution. In a 2014 article entitled 'China's Last Communist: Ai Weiwei', Christian Sorace suggests that Ai's artistic and aesthetic expression stems directly from the communist traditions of the PRC's past and that its political statement lies in the discrepancy between the communist discourse of the Chinese state and its actual practices. He argues that Ai's art goes beyond satirising the communist party and is rooted in the ideal that the party stood for in the first place.[8] Ai is confronting the Chinese state with its failure to live up to its own ideals. By making himself vulnerable to censorship, he is intentionally exposing the insecurities and fears of the CCP. Without active repression on the part of the state, Ai's work loses its meaning. His use of nudity in his work can be read as a 'come and get me' statement, by which provoking censorship becomes a commentary on censorship itself (Sorace, 2014).

Nudity has become a staple of Ai's work over the years, starting with a picture of his then-future wife holding up her skirt in front of Tiananmen Square in June 1994, the fifth anniversary of the Tiananmen protest. More recently, the now infamous picture titled *caonima dang zhongyang* 草泥马挡中央 [grass mud horse blocking the middle], depicting him holding a stuffed 'grass mud horse' in front of his genitals, which, by changing the characters of the title, becomes *cao ni ma dang zhongyang* []你妈党中央 [fuck your mother Party Central Committee], is an obvious critique of the state and the censorship system.

In 2011, Ai was fined again on charges of 'spreading pornography', in response to his work *One Tiger, Eight Breasts*, which depicts the artist in the nude, flanked by four, shyly giggling women (Coonan, 2011; Watts, 2011). Ai Weiwei is not the only Chinese contemporary artist to use nudes in his work. Furthermore, not only are the subjects in this piece not sexualised, but, as mentioned previously, artworks are promised protection against censorship as 'pornography' by the criminal law of the PRC. Rather than a sign of extreme prudishness on the part of the Chinese state, this suggests that Ai's work is not censored because of the nudity or the subject matter, but because of the artist as an individual and his explicit opposition to the Chinese government.

The use of nudity in Ai's work has strong political implications, and the ensuing censorship has also led to a strengthening of the symbolic value of naked bodies as a form of resistance. Following the charges of 'spreading pornography' due to *One Tiger,*

Eight Breasts, some of Ai's fans and followers published non-sexual nude pictures of themselves as a form of protest (Branigan, 2011). This form of activism leaves very little space for the state to act, since suppressing it reinforces the position of the artist against censorship, whilst not doing so could be interpreted as accepting the critique.

Strong political and social statements can be made through visual media, relying on artwork being theoretically protected against censorship. The use of nudity might be an act of defiance against state control, but the de-sexualisation of the naked body in most artworks makes it difficult to justify censoring these images as 'pornographic'. By working right up to the line in terms of what is considered acceptable, artists are undoubtedly being provocative of state and censors. The mere existence of such images, and the possibility of sharing them online, gives them more symbolic power than might even have been the original intent. However, for artists such as Ai Weiwei, the provocation and intention to strengthen the political symbolism of nudity is evident.

4. CONCLUSION

As shown throughout this paper, censorship and control of online spaces is critical for the stability of the political system in the PRC. Although the constitution of the PRC grants its citizens freedom of expression, this comes always with a conditional clause. Many forms of expression that are deemed unacceptable or 'unhealthy' by the CPC are liable to be censored. This not only includes forms of political dissent or movements with the potential of rallying larger groups, but also pornography and 'obscene' media. Whilst the paternalistic role of a socialist state explains why pornography would be considered 'unhealthy', it is not clear why the Chinese government would invest so much of its resources in censoring material which, at first glance, seems apolitical. Looking back to the early days of European pornography, pornographic writing was often used in educated circles as transgressive media with which to criticise power and authority. Whilst this practice has mostly disappeared from Western democracies, the PRC is seeing the rise of a similar form of 'political pornography' – albeit less graphic than the European variant – which aims to provoke and challenge authority, rather than only to be sexual in nature. It is not clear how sexual media took up this role historically in the PRC, and tackling this issue would warrant more research. However, given the stance of the state against pornography, it is not surprising that material falling into this vaguely defined category would constitute a breach of the rules of public morality prescribed by the state.

Whilst the scope of this paper's empirical research allows only for a focus on a few examples of nudity or obscene language used as political or social commentary, rather than a thorough analysis of the background of mainstream pornography, it would be worth considering these dynamics in a broader context. The omnipresence of censorship has led to a general climate of fear, leading in turn to self-censorship in China, but it has also given rise to a wide range of creative expression indicative of a wider culture of resistance against the tightening grip of the Chinese state. The rise of

internet slang of a sexual nature on the Chinese internet is a very telling phenomenon, representative of a broader shift in Chinese culture as a whole. Just like nudes or images hinting at sexual themes, the language which evolved from the climate of repression in the PRC is reflective of the transgressive potential of sexual themes against an established moral authority. Beyond these more fundamental dynamics of resistance pervasive in modern Chinese society, some artists also intentionally use nudity in non-sexual contexts to provoke the censors, shedding light on the ambivalence of official discourse around sexuality. In some cases, such as that of Ai Weiwei, the interplay between art and censorship highlights that the term 'pornography' is often used to justify the silencing of critical voices, further reinforcing its political symbolism.

NOTES

1. The term 'pornography', is this paper, is to be differentiated from nudity and sexual themes. It is rather referring to the Chinese government's use of the term 'pornography' to facilitate censorship of non-sexual sensitive issues.

2. Although the internet has undoubtedly shifted power dynamics, given the level of media literacy among internet users, the amount of censorship, and the still very important role played by official state media, it is not realistic to expect the internet alone to change the nature of the Chinese political system. The expectation that opening to the internet would necessarily lead to democracy has been termed 'digital Orientalism' by Herold and Seta (2015). See also Tai (2006) and Hockx (2015).

3. Some more examples of this emerging Chinese internet language will be explored in the second part of this paper.

4. This paper does no argue for or against censorship of actual pornographic content, rather it argues that the PRC is using the term 'pornography' as a justification for censorship of non-sexual content, in particular sensitive political topics, making it significantly different from pornography censorship in other countries.

5. The meaning of the term *yinhui* 淫秽 used for 'pornography' is subject to discussion, and the necessity of a more detailed definition and for the law to catch up with social realities have been pointed out by scholars in recent years, see Hockx (2015).

6. This paper focuses on a few examples of the use of nudity or obscene language as political or social commentary, and ignores the pervasive background of mainstream pornography. For a socio-political interpretation of the consumption of pornography in the PRC, see Jacobs (2012).

7. The interview of Huo Gou with Deng Shangdong on Weixin from 13 October 2017 is not available online since 20 October 2017. For a transcript of the original interview kindly contact info@mappingchina.org.

8. Whether or not Ai Weiwei's actions can be considered 'communist' is irrelevant to the argumentation of this paper; rather, it is stated that his activism cannot be separated from the political and historical context of the PRC today.

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08

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