

THE CONSTRUCTION OF AN ASSESSMENT INDEX SYSTEM OF LAW-BASED GOVERNANCE OF A CITY IN CHINA

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<https://doi.org/10.21684/2412-2343-2022-9-4-21-40>

Constructing an assessment index system of law-based governance of a city provides a data basis and an empirical basis for China's urban construction of the rule of law and highlights its characteristics in the era of big data. A thorough understanding of the theory of the rule of law is required in order to establish this index system. The establishment of the index system needs to be based on a deep understanding of the theory of the rule of law. In particular, it is important to understand the relationship between the core content of the rule of law and the law-based governance of a city, and then to determine the connotation of law-based governance of a city. This serves as the starting point for constructing the index system. At the same time, it is necessary to have a solid grasp of the index theory, adhere to the method of index setting, break down the concept of law-based governance of a city into different levels of indicators according to the types and attributes of the indicators and continue to visualize and operationalize them until the content can be measured. As a whole, this forms a complete assessment index system. Of course, the content of the index system is not fixed and needs to be constantly tested and adjusted in practice.

Keywords: theory of the rule of law; law-based governance of a city; method of index setting; assessment index system; China's urban construction of rule of law.

Recommended citation: Li Ze & Nina Symaniuk, *The Construction of an Assessment Index System of Law-Based Governance of a City in China*, 9(4) BRICS Law Journal 21–40 (2022).

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Introduction

The concept of the rule of law index first emerged in the West, and it has since accumulated a wealth of rich experience in theory, methodology and implementation. Some examples of this include the rule of law index in the World Justice Project (WJP), World Governance Indicators (WGI), Index of Economic Freedom (IEF), Bertelsmann Transformation Index (BTI) and the United Nations Rule of Law Indicators Project. In these studies on the rule of law index, careful consideration is given to the selection of representative indicators that will be used to measure the quality of the rule of law. These indicators aim to reflect the core connotation of the rule of law as well as to cover its basic content. The most representative of these indices is the "World Justice Project" (WJP) Rule of Law Index, which has consistently measured the rule of law in more than 100 countries around the world since 2008. The WJP Rule of Law Index has developed a set of systematic and mature assessment and measurement methods that have become a benchmark for assessing the rule of law. Its measurement scale and results of those assessments have generated

demonstrable effects and international influence around the world. It is regarded as the most influential research on measuring the degree of the rule of law in a country on a global scale, and it has indeed played a strategic feedback role in improving the global rule of law.¹ However, these international rule of law indexes themselves still have some drawbacks, such as in the conceptualization of indicators, the objectivity (validity, reliability and error) of the indicator measurement, time measurement, scale, process, means, measurement results and their orientation. For example, in the conceptualization of indicators, on the one hand some indicators do not fully cover all aspects of the formal rule of law, but on the one hand those same indicators go beyond the scope of the substantive rule of law resulting in either narrowing or expanding the measured concept of the rule of law. The measurement scale of each rule of law index is different; some barely cover the majority of countries and regions in the world, while others are glaringly insufficient in scale, only focusing on large economic countries and ignoring small countries and other factors. In terms of measurement methods, most index systems use subjective methods in which the evaluation experts provide the main points, such as the rule of law index in WGI, BTI among others. Only a small number of index systems, such as the WJP Rule of Law Index, use objective methods. In addition, the focus of these rule of law indices is to measure and compare the rule of law situation in different countries in the world through the common index content, while ignoring the particularities of each country to a certain extent.

In recent years, many places in China have carried out practical activities for the assessment of the rule of law and accumulated a wealth of experience, showing different characteristics. Some of these characteristics are as follows:

- These indexes cover a wide range of regions at different levels, involving provinces, municipalities, cities, districts of cities and special administrative regions. For example, the rule of law index at the provincial and municipal levels includes the Jiangsu Province, Zhejiang Province, Yunnan Province, Hunan Province, Fujian Province, Beijing, Shanghai, Tianjin etc. The rule of law index at the city-level includes Kunming and Chengdu among others. There is also a separate rule of law index for the Yuhang District of Hangzhou and some other districts. The rule of law index of Hong Kong is in the special administrative region.

- The content of the assessment includes both a comprehensive assessment involving all aspects of the rule of law construction, such as the rule of law index in Hong Kong and in Yuhang District, and a partial assessment involving only a few aspects of rule of law construction, such as the rule of law government index in Shenzhen and the rule of law society construction index in Jiangsu among others.

- The majority of the evaluation methods are internal government evaluations, and the results are not disclosed to the public. Hence, the credibility and utilization

¹ Qian Hongdao et al., *Experiments in the Evaluation of the Rule of Law – The Case of Yuhang* 41 (2012).

rate would be questioned. Only a few places use a combination of internal and external assessments.

- In terms of evaluation effectiveness, certain rule of law evaluations have achieved good results and have become an effective means of fostering local economic growth and rule of law development, serving as a model for local governance and reform. Even so, some evaluations are not functioning to their full potential.

However, there are more or less problems in the theoretical and methodological aspects of these local rule-of-law assessments, which affect the objectivity and effectiveness of the assessments.

At the theoretical level, the interpretation and conceptualization of the connotation of the rule of law are not sufficiently in-depth. This may lead to the fact that the measured content is not directly related to the rule of law, which violates the goal of “What you measure is what you get.” For example, some index systems involve significant material investment in the construction of the rule of law and the level of economic development, which deviate from the basic connotation of the rule of law, but do not provide a convincing explanation for the relationship between these indicators and the core connotation of the rule of law. Some index systems are regarded as performance appraisal tools, despite the fact that they do not fully meet the requirements of the rule of law assessment indicators.

At the methodological level, the lack of a thorough understanding of indicator attributes and measurement requirements may lead to problems in measurement methods, data collection and use, and weighting settings. For example, one problem is the one-sided application of measurement methods. The vast majority of the local rule of law index systems are designed and implemented using subjective methods (such as expert and internal staff scoring methods) and less objective methods (such as questionnaire surveys). Even if the questionnaire method is used in some places, it is mainly used for the evaluation of public satisfaction rather than the evaluation of the entire indicator system. Another example is the issue of indicator weight settings. In some index systems, the weights of indicators are set unequally, but there is no reasonable and sufficient demonstration and explanation, which violates the basic requirements of social science research methods. Yet another example would be the improper use of data. In the process of implementing certain indicator systems, some objective data collected are directly equivalent to the rule of law data, but they do not explain the correlation between the objective data and the rule of law data.

Although the establishment and implementation of the rule of law assessment index system will always have shortcomings in terms of scientific, comprehensiveness, objectivity and so on, it is an indispensable and effective way to measure the level of local rule of law construction and promote local rule of law practice in this digital age.²

² Zhou Shangjun & Wang Yugen, *Theoretical Reflection and Prospect of the Evaluation of the Rule of Law Index*, 3 *Journal of Guangzhou University* (2015).

On the basis of a comprehensive understanding and conceptualizing of the connotation of the rule of law, this article accurately grasps the basic requirements and attributes of indicator quantification, scientifically sets core indicators and then refines them layer by layer to ensure that the entire index system is representative, operable and objective.

1. The Significance of Constructing the Assessment Index System of Law-Based Governance of a City

After experiencing an unprecedented rapid urbanization process, China has now entered a stage in which an urban society serves as the main body and cities have become the focus of economic, social and political forces.³ The construction of the rule of law in a city is related to the level of the construction of the rule of law throughout China as a whole. The establishment of a scientific assessment index system of law-based governance of a city, as well as the objective and effective measurement of the city's rule of law, are conducive to summarizing experience, discovering problems and providing solutions. By assessing the development of the rule of law in cities, it is possible to highlight the characteristics of the construction of the rule of law, provide an institutionalized database for the rule of law, as well as enhance the soft power of urban development and its influence in the overall assessment of the international rule of law.

To begin with, a quantitative evaluation provides a data basis. By constructing an assessment index system for the law-based governance of a city and using scientific methods, an effective, continuous and high-quality objective quantitative evaluation of the development of the urban rule of law can be conducted. On the basis of an evaluation that intuitively reflects the degree to which the city is governed in accordance with the law, constructing such an assessment index system is helpful for the timely discovery of problems, weak spots and their root causes, so that appropriate countermeasures and recommendations can be put forward in a timely manner. Moreover, it also provides useful information for urban governance, reform and decision-making.

Secondly, the assessment index system of law-based governance of a city highlights the characteristics and enhances the soft power of urban development. Taking into account the commonalities of the relevant index systems for the evaluation of the rule of law construction in other places, this assessment index system emphasizes its own particularity, reshapes the direction of the urban rule of law construction and then enhances the soft power of urban development.

³ Wu Xiaolin & Hou Yujia, *The "Double Evolution" and Integration Trend of Urban Governance Theory*, 1 Tianjin Social Sciences (2017); Shen Ti Yan, *Frontiers of Urban Governance Research: Theory, Method and Practice* (12th ed. 2021) (Aug. 12, 2022), available at <https://www.bjcd.com.cn/index.shtml>.

Thirdly, the assessment index system for the law-based governance of a city should be in line with international standards and innovative when it comes to the way of construction of the rule of law. By drawing on and referring to the international rule of law index, the assessment index system will not only serve as a starting point for the construction of the rule of law in Chinese cities, but it can also be in line with the international rule of law index, enhance the space for international exchanges and cooperation and properly grasp the right to be heard in the international evaluation of the rule of law. It will, to a certain extent, resolve the embarrassing situation of China's lack of representation in the international rule of law evaluation,⁴ make up for the misunderstanding caused by the lag and one-sided data and information in the international rule of law assessment, improve the ranking of Chinese cities and the nation as a whole in the international rule of law index and provide a new pathway for the construction and development of the rule of law.

2. Theoretical Basis of the Assessment Index System of Law-Based Governance of a City

The construction of the assessment index system of law-based governance of a city is a systematic project, which carries out an overall evaluation and indexation of the urban rule of law in a scientific and quantitative way. Because it is relatively complex, this assessment index system needs to be constructed on the basis of a correct understanding of the relevant theories, namely the rule of law theory and the index theory, which provide a solid theoretical basis for it.

2.1. Theory of the Rule of Law

The assessment index system of law-based governance of a city should be based on a full understanding of the connotation and theory of the rule of law, which affects the direction and operation of the construction of the index system. On the basis of clarifying the core connotation of the rule of law and the quantification of the rule of law, the assessment index system should expound the theory of socialist rule of law with Chinese characteristics. Additionally, the assessment index system should clarify the relationship between the rule of law and the law-based governance of China, as well as between the law-based governance of China and the law-based governance of a city.

⁴ China has always lacked its own right to speak for the rule of law, and has been in a contradictory state when it comes to international assessments involving China. On the one hand, we often rate our low-scoring assessments by international institutions as "attacks" and "accusations." On the other hand, we actually care a lot about China's rankings and scores. While China is gradually forming a unique development path for the rule of law, it should have its own say in the evaluation of the rule of law.

2.1.1. *The Richness and Measurability of the Connotation of the Rule of Law*

At present, the understanding of the connotation of the rule of law can be divided into two categories, namely, the formal theories of the rule of law and the substantive theories of the rule of law. Nevertheless, it is important to note that this division is not absolute. As far as the formal versions of the rule of law are concerned, the specific connotations associated with them include: (a) the formal legality requirements of the law include that the law must be prospective, general, clear, public and relatively stable; (b) the conditions for the effective implementation of the law are an independent judiciary, open and fair hearings without bias, review of legislative and administrative officials and limitations on the discretion of police to ensure conformity to the requirements of the rule of law; and (c) laws should be made through democratic procedures, since rational democratic mechanisms give everyone affected by the law an equal opportunity to participate and obtain the consent and compliance of everyone; otherwise the law will lose its legitimacy. However, formal theories of the rule of law are morally neutral and have the potential to lead to authoritarianism of formal legitimacy and may promote or enforce unjust laws; hence the implications of the substantive rule of law are also required. The substantive versions of the rule of law incorporate elements of the formal rule of law and go even further.⁵ As far as the substantive rule of law is concerned, the specific connotation of the rule of law refers to: (a) the law respects and protects individual rights, including social welfare rights; (b) the government's power is restricted; and (c) the guiding principle is to respect and protect human rights.

Despite its richness and diversity, the rule of law can still be assessed and measured. The rule of law assessment is the product of the combination of assessment research and the theory of the rule of law,⁶ which evaluates the level of the rule of law in a quantitative way and expresses it by either an absolute value or a ratio (relative value).⁷

2.1.2. *The Theory of Socialist Rule of Law with Chinese Characteristics*

In the process of building socialism with Chinese characteristics, the important role of the rule of law is especially emphasized.

The rule of law is an important symbol of the progress of human civilization, the basic way of governing the country and the unremitting pursuit of the Communist Party of China and the Chinese people. The prosperity of the

⁵ Brain Z. Tamanaha, *On the Rule of Law: History, Politics and Theory* 120–130 (Li Guilin trans., 2010).

⁶ Meng Tao, *Rule of Law Assessment and Rule of Law Big Data* 24–30 (2020).

⁷ Qiad Hongdao, *The Practice of Evaluation of the Rule of Law – The Case of Yuhang* 291 (2012) (Aug. 12, 2022), available at http://www.lawlib.zju.edu.cn/redir.php?catalog_id=441&page=2&author=%C7%AE%BA%EB%B5%CO.

rule of law is the prosperity of the country. When the rule of law is strong, the country is strong.⁸

The “Overall Goal” that is proposed in the “Plan for the Construction of the Rule of Law in China (2020–2025)” not only reflects the requirements of the formal rule of law but also conforms to the concept of the substantive rule of law:

To build a rule-of-law China, it is necessary to realize scientific, complete and unified legal norms; fair, efficient and authoritative law enforcement and judicial administration; effective restraint and supervision on the exercise of power; full respect and protection of the people’s legitimate rights and interests; universal establishment of belief in the rule of law and comprehensive establishment of a law-based country, government and society.

Governing the country under the rule of law (law-based governance of China) is the basic way to achieve this general goal and provide a strong legal guarantee for its achievement. The embodiment of governing the country under the rule of law is governing the city under the rule of law (law-based governance of a city), which is a local concrete practice and an important addition to the basic strategy of law-based governance of China.

The law-based governance of a city falls under the macro framework of the law-based governance of China as a whole. It proceeds from the reality of the city, giving full play to the creative spirit of the city, and on the premise of ensuring the unity of the national legal system, forming a city with characteristics to ensure the public participation in the management of various affairs, bringing the political, economic, cultural and social life of the city into the track of the rule of law, gradually realizing the rule of law in the city, so as to ensure the healthy and orderly development of the city.⁹ Therefore, the specific connotation of law-based governance of a city should mainly include the following aspects: local legislation must be scientific, democratic and carried out in accordance with the law; the government and its officials abide by the law and their powers are restricted; basic rights, including personal safety and property safety, are guaranteed; law enforcement and enforcement procedures are accessible, fair and efficient; and judicial procedures are accessible, just and effective.

The construction of an assessment index system for the law-based governance of a city needs to be based on a deep understanding of the connotation of law-based governance of a city. It not only reflects the diversity of formal rule of law requirements but also contains the value objectives of the substantive rule of law. At the same

⁸ Plan for the Construction of the Rule of Law in China (2020–2025) (Aug. 12, 2022), available at <https://www.chinalawtranslate.com/en>.

⁹ Bai Yubo, *On the Concept of Governing the City Under the Rule of Law*, 6 China Judicial (2004) (Aug. 12, 2022), available at <http://www.pucheng.gov.cn/wcm.files/upload/CMSpc/202003/202003231126042.pdf>.

time, it is necessary to combine the particularities of urban development in order to highlight the characteristics of urban rule of law construction and its effects.

2.2. Theory of the Index

The construction of the assessment index system of law-based governance of a city is closely related to the concept, type and attributes of the index theory. An effective assessment index system needs to clarify the concept of indicators, determine the types and attributes of indicators, select indicators of homogeneity and the same type and enhance the scientific correlation between indicators.

Indicators and index system. Indicators are conceptual carriers that characterize and convey certain aspects of information about a research object. They are essentially the carriers of people's understanding of things or phenomena, and they are used to reflect the scale, degree, proportion and structure of the research object at a certain time and condition. The term "index system" refers to a set of indicators that, when taken together, relatively comprehensively reflect the characteristics of the research object. These indicators are constructed by observing and measuring the same research object from different angles of the same aspect or from different aspects. It is an organic combination of a single index rather than a simple stack.¹⁰

The assessment index system of law-based governance of a city observes and evaluates the state of the city's rule of law from different perspectives, and then develops an indicator group that is relatively comprehensive and reflects the system's effect.

Classification of indicators. There are many categories of indicators, three of which are the most important.¹¹ One category of indicators is objective and subjective indicators. Objective indicators directly reflect an objective fact, such as the crime rate, the number of lawyers, the amount of legislation and so forth. Subjective indicators, also known as sensory indicators, reflect people's feelings about objective social phenomena, such as happiness, satisfaction and gain. The second category of indicators includes the input, process, output and effect indicators, which reflect the different stages of the operation of the social system. It should be noted that output does not equal effect. For example, the output of parliament is a law, but it does not necessarily indicate whether the law has a social effect. The third category of indicators is comprised of aggregate and non-aggregate indicators. The former is a composite product of many indicators, which can only be obtained after processing. For example, the crime rate is the aggregate of all crime statistics, whereas the number of intentional injury crimes is a non-aggregate indicator.

The assessment index system for law-based governance of a city is a combination of objective and subjective indicators. It not only directly reflects the objective situation of governing the city under the rule of law but also reflects people's feelings

¹⁰ Wu Yefeng, *The Concept, Role and Abstraction of Statistical Indicators*, 5 Jinan Journal (2012).

¹¹ Tao 2020, at 24.

regarding its effects. At the same time, the index system focuses on output indicators and effect indicators, which mainly measure the output and effect of each link in governing the city under the rule of law rather than the input and process. Finally, the index system is a typical aggregation index, which is the result of the synthesis and calculation of many indicators.

Attributes of the indicators. Indicators should be mutually exclusive, exhaustive and uni-dimensional. Mutual exclusivity implies that there can be no mutually inclusive or overlapping relationships between the various indicators; otherwise the weight of the overlapping part in the index system would be indirectly increased. The term 'exhaustion' implies that the indicator has the capability to measure the target in all possible scenarios. Uni-dimensionality requires that the indicators be properly matched to ensure that the same thing is being measured.¹²

The construction of an assessment index system for the law-based governance of a city should try to ensure that the indicators do not overlap, cover all the connotations of law-based governance of a city and are properly matched to ensure that each indicator measures the same thing. Of course, the design of the index system cannot fully meet all of the above requirements for the attributes; hence, there will inevitably be defects and deficiencies, which will need to be continuously adjusted and improved in the implementation.

3. The Content of the Assessment Index System of Law-Based Governance of a City

The assessment index system of law-based governance of a city, on the basis of an accurate understanding of the connotation of law-based governance of a city, breaks down the concept into 9 indicators, which are further broken down into forty-six sub-indicators. This index system is formed through the use of analogy, and as it progresses, the objects that are being referenced become increasingly specific until they can be directly measured. The construction of this index system draws on the design concept and related content of the 'World Justice Project' Rule of Law Index. Additionally, it compares, analyzes and summarizes the experience of some representative local rule of law assessment index systems in China,¹³ as

¹² W. Lawrence Neuman & Larry W. Kreuger, *Social Work Research Methods: Qualitative and Quantitative Applications* 230–31 (Liu Meng trans., 2008); Tom K. Sberg, *Misunderstandings in the Measurement of the Rule of Law* (Yan Xingjian comp.), 2 Learning and Exploration (2016).

¹³ It mainly includes "China's Rule of Law Assessment Index System," "Shanghai Rule of Law Construction Index System," "Law-Based Hunan Construction Assessment Index System," "Suzhou City's Law-Based Business Environment Construction Assessment Index System," "Assessment Index System for the Construction of Law-Based Government in Zhejiang Province," "Index System (Trial) Self-Assessment Form of Law-Based Government Construction in Jiangsu," "Measures for the Evaluation of the Construction of the Rule of Law in Guangdong," "Shenzhen Law-Based Government Index System," "Sichuan Law-Based Governance of Province Index System," "Yuhang Rule of Law Index," "Hong Kong Rule of Law Index," etc.

well as conducts a comprehensive assessment of the overall effect of governing the city under the rule of law, involving multiple links such as law formulation and implementation and so on.

3.1. Indicator 1: Lawful, Scientific and Democratic Municipal Legislation

This indicator assesses the normative basis of law-based governance in a city as well as whether or not municipal legislation is consistent with higher-level laws and the scientific and democratic nature of local legislation.

Municipal legislation is carried out in accordance with the law, requiring the legislation of the Municipal People's Congress and government to be consistent with higher-level laws. In order to be considered scientific, municipal legislation must meet basic formal requirements, follow due process, meet the needs of urban development, reflect urban characteristics and have the involvement of experts. The requirements of the legislative process should reflect the participation of the public in legislative activities. The corresponding sub-indicators are roughly as follows:

Municipal legislation is consistent with higher-level laws. This means the municipal legislation must be consistent with the central legislation, including: the legislation of the Municipal People's Congress cannot violate the central legislation, but with special authorization, it has the right to modify the central legislation to suit the special needs of local development; the legislation of the municipal government cannot contradict the central legislation and the Municipal People's Congress legislation, therefore it must be reviewed for consistency.

Municipal legislation complies with the basic formal requirements. This sub-indicator reflects whether the municipal legislation meets the formal requirements of the norm for clarity, openness and stability. This is the most basic prerequisite for the public to understand and apply the law.

Municipal legislation follows due process. This sub-indicator measures whether municipal legislation follows due process during the three stages of legislative preparation: bill to law, legislative improvement and legislative implementation.

Municipal legislation is enacted in response to the needs of urban development. This sub-indicator measures the degree to which municipal legislation is realistic. It can be measured using metrics such as proposal rate, legislation rate in key areas post-legislation evaluation and others.

The participation of experts in municipal legislation. This measures the level of participation of experts in the legislative process, including whether experts have participated in all legislation, whether their opinions have been adopted and so forth.

Public participation in municipal legislation. This measures the state of public participation in the legislative process, such as whether the public have participated in all legislation, whether public opinions have been adopted and so on.

3.2. Indicator 2: Constraints on Municipal Government Powers

This indicator assesses the status of municipal government power exercised in accordance with the law, which is the basic requirement of law-based governance of a city. Municipal government power should be bound by laws, commissions for disciplinary inspection, supervisory organs, the People's Congress, courts and procuratorates, as well as be restricted by government organs (audit organs and higher-level organs). Furthermore, power held by municipal governments should be monitored by non-governmental organizations. If the municipal government violates the law, the government and its officials and agencies should be held accountable under the law. The corresponding sub-indicators are roughly as follows:

Municipal government powers are defined by law. This means that government power comes from the provisions of the law. The government cannot acquire power without legal provisions. For example, the source and specific content of government power can be determined by looking through the "Powers List."

Municipal government powers are effectively limited by the commission for discipline inspection and supervisory organs. This means that municipal government behavior is subject to the scrutiny of the commission for discipline inspection and supervisory organs. For example, statistics on party discipline and the rate of government sanctions can be used to assess the extent to which municipal government powers are supervised by the Communist Party and the supervisory organs.

Municipal government powers are effectively limited by the Municipal People's Congress. This reflects the effective supervision of the Municipal People's Congress and its Standing Committee over the administrative organs, which can be measured by the publicity and response of the administrative organs to the proposals of the Municipal People's Congress deputies as well as the deliberation reports of the administrative organs by the Municipal People's Congress.

Municipal government powers are effectively limited by judicial organs. This means that courts and procuratorates supervise the municipal government and its officials and agencies, that can be measured by checking the crime rate of civil servants.

Municipal government powers are effectively limited by the audit organs. The audit organs conduct audit supervision over the implementation of the financial budget and other financial revenues and expenditures of the administrative agency, the implementation of major policies and measures, as well as the implementation of people's livelihood projects. Then audit organs should disclose the results of the supervision with audit work reports or audit correction reports and such.

Municipal government powers are effectively limited by higher administrative organs. This means that the exercise of administrative power is subject to review by higher administrative organs by way of administrative reconsideration, law enforcement inspections etc.

Municipal government powers are effectively limited by non-governmental organizations. This means that NGOs participate in major government administrative

decisions, such as education, environmental protection, poverty alleviation and development, major engineering construction and other major decisions.

Municipal government and its officials are sanctioned for their illegal acts. This indicator measures whether administrative organs and their officials face sanctions for illegal or improper conduct. It can be measured by using factors such as the rate of government sanctions on civil servants and the rate of official crime, among others.

3.3. Indicator 3: Open Municipal Government

This indicator assesses the degree of municipal government openness and reflects the level of communication and cooperation between the municipal government and citizens. Open municipal government is first defined as a government that shares information, which means the government information is open to the public and that the public can obtain and use that government information upon application. At the same time, it is also defined as a government that encourages citizen participation in government decision-making and allows citizens to bring complaints to the government, all of which are ways for the public to supervise government behavior and promote the development of government accountability. The corresponding sub-indicators are roughly as follows:

Publicized municipal government information. This measures the degree and quality of government information disclosure, which mainly refers to the fact that government information is published in a concise and easy-to-understand official language and is disclosed through various channels.

Right to information. This measures whether requests for information held by a government agency are properly granted. This means that some citizens can obtain government information by application to meet their special needs. This is an important way for citizens to express their concerns and hold the government responsible.

Civic participation. This assesses the effectiveness of civic participation mechanisms, namely whether citizens participate in major administrative decisions and the extent to which their opinions are adopted.

Complaint mechanisms. This evaluates the effectiveness of the mechanisms available to the public for expressing their dissatisfaction with the government and bringing specific complaints to the government. These mechanisms include the possibility and convenience of filing complaints and petitions, as well as the response rate of the government to such complaints and petitions.

3.4. Indicator 4: Effective Municipal Government Enforcement

This indicator assesses the extent to which regulations are fairly and effectively implemented and enforced by the municipal government, whether the government follows due process and whether there is deliberate delay in implementing and enforcing the regulations etc. In addition to the general enforcement of the regulations, the ability and effect of government emergency law enforcement can

highlight the characteristics of urban rule of law construction. The corresponding sub-indicators are roughly as follows:

Regulations are effectively enforced. This mainly refers to the effective implementation of laws; regulations; government provisions in key areas closely related to public interests, such as transportation, environmental protection, market management, food safety and social security and so forth. Additionally, it measures whether illegal acts in those key areas are effectively sanctioned.

Due process is respected in proceedings that are conducted without unreasonable delay. This assesses whether enforcement follows due process and is completed in a timely manner, through records of the entire process of administrative enforcement and legal review of major administrative enforcement decisions. Additionally, it measures whether administrative licenses and administrative penalties follow due process and are conducted without unreasonable delay.

Emergency laws are effectively enforced. This assesses the effectiveness of the government's management measures for public emergencies, such as public health emergencies, major industrial accidents and major traffic accidents among others.

3.5. Indicator 5: Fundamental Rights of Citizens

This indicator assesses the protection of fundamental human rights, which is the core content of the substantive rule of law and is also an important goal and content of the law-based governance of a city. Since the scope of fundamental rights is extensive and still controversial, and because it would be impossible for the index system to assess adherence to the full range of rights, this indicator focuses on a relatively modest menu of rights in accordance with the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Declaration of the International Labour Organization on Fundamental Principles and Rights at Work among others. Accordingly, this indicator encompasses adherence to the following fundamental rights: equality rights; life and personal safety; property rights; privacy rights; labor rights; the right to vote and stand for election; freedom of speech and freedom of the press, all of which have been widely recognized under international law and are considered to be the scope of rights most closely related to the rule of law. The corresponding sub-indicators are roughly as follows:

*Equal treatment and the absence of discrimination are effectively guaranteed.*¹⁴ This mainly evaluates whether or not the government treats the public equally, that is, whether it treats all people the same under similar circumstances or whether it treats vulnerable groups reasonably differently.

The right to life and personal security is effectively guaranteed. This can be measured by the poverty rate, the percentage of people receiving the minimum living security

¹⁴ The public's immunity from unequal treatment by the judiciary is not measured here, as it would be measured in the civil and criminal justice sections.

allowance, the rate of crimes against personal safety and the rate of personal safety guaranteed to media personnel.

Property rights are effectively guaranteed. It is possible to evaluate two primary factors: protection of property rights from infringement by others; and protection of property rights from government infringement, which means there is no expropriation of private property without adequate compensation.

Freedom from arbitrary interference with respect to privacy is effectively guaranteed. This indicator mainly assesses two aspects: whether the peace of citizens' private lives is disturbed and whether or not their right to privacy is violated.¹⁵

Fundamental labor rights are effectively guaranteed. This includes the right to collective bargaining, the prohibition of forced and child labor, and the elimination of discrimination.

Political rights are effectively guaranteed. This mainly measures whether the right to vote and stand for election, freedom of opinion and expression, and freedom of assembly and association are effectively guaranteed.

3.6. Indicator 6: Order and Security

This indicator assesses how effectively the city assures the security of persons and property. Order and security are fundamental functions of the city as well as important defining aspects of law-based governance of a city. In addition, they are preconditions for the realization of the rights and freedoms that the rule of law seeks to advance. This indicator includes three dimensions that cover various threats to order and security: crime, political violence, and violence as a socially acceptable means of redressing personal grievances. Violence not only undermines order and security but also hinders the realization of other goals (such as freedom, rights and justice), as well as the enforcement of existing laws. As a result, violence must be effectively controlled. The corresponding sub-indicators are roughly as follows:

Crime is effectively controlled. This mainly measures the frequency of major criminal offenses (such as homicide, kidnapping and robbery) and the rate of frequently-occurring criminal cases (such as theft, extortion and illegal business operations) being detected.

Civil conflict is effectively controlled. This mainly evaluates whether the municipal government effectively protects people from terrorist activities and social unrest.

¹⁵ In China, the scope of privacy is still controversial in theoretical and practical circles. Combining the provisions of the Civil Code and the views of some authoritative scholars, the scope of privacy can be determined into two categories: the tranquility of private life and the privacy of private life. Tranquility of private life refers to the right of a natural person to not be disturbed or hindered by others in his normal life. That is, it cannot be intruded upon by means of phone calls, text messages, instant messaging tools, e-mails, leaflets, etc. Private life secrets means that private information is kept secret and cannot be illegally collected, spied on, disclosed and processed by others, including private spaces that are unwilling to be known by others (like residential spaces or hotels), private activities (behavior, venue and activities), and private information (letters, emails, marital history, family status, property status, physical characteristics, sexual life).

Personal conflicts are not resolved through violence. This assesses whether and by what legal means people resolve civil disputes with each other.

3.7. Indicator 7: Civil Justice

This indicator assesses the civil justice system, focusing on whether ordinary people can use it to resolve their civil disputes peacefully, effectively and justly through the civil justice system while also safeguarding their own civil rights. It first requires that the court be accessible and affordable and that judges should treat the parties equally; secondly, the court's trial of civil cases should conform to the basic principles of judicial activities, namely independence, impartiality, timeliness and effectiveness; and thirdly, judgments should be effectively enforced, which is an important aspect to consider in determining whether or not justice has been achieved. In addition, considering that diversified dispute resolution mechanisms are an important alternative to civil justice, it is also necessary to assess the accessibility and efficiency of mediation and arbitration. The corresponding sub-indicators are roughly as follows:

Civil justice is accessible and affordable for all. This assesses whether people can resolve civil disputes through the courts and afford the costs of litigation.

Civil justice is free of discrimination. This assesses whether people are treated equally in the settlement of civil disputes through the courts, that is, whether the courts apply the law to the parties equally, impartially and neutrally.

Civil justice is free of improper government influence. In other words, the Municipal People's Congress, government and other administrative organs shall not illegally interfere with civil judicial activities and the internal leaders of the courts shall not illegally interfere with civil judicial activities.

Civil justice is open, timely and effective. This assesses whether the court proceedings and final trials are open to the public, whether the court proceedings are conducted in a timely manner and not subject to unreasonable delays, and whether they can effectively resolve civil disputes.

Civil justice is impartial. This mainly refers to the fact that civil trials should meet the requirements of substantive justice, which means that the court's judgments are fair.

Civil justice is effectively enforced. This reflects the authority and effectiveness of civil effective adjudications. It is a particularly important indicator to measure the extent to which the rights of the injured parties have been restored, which can be assessed by looking at the enforcement rate of civil cases.

ADR (alternative dispute resolution) mechanisms are accessible, impartial and effective. Two aspects are assessed: whether people can resolve civil disputes through mediation and arbitration systems and afford the associated costs; and also whether mediation agreements and arbitration agreements can be implemented effectively.

3.8. Indicator 8: Criminal Justice

This indicator assesses the criminal justice system. An effective criminal justice system is a key aspect of the rule of law and law-based governance of a city, as it constitutes the conventional mechanism to redress grievances and take action against individuals for offenses against society.¹⁶ It entails promptly and successfully investigating criminal offenses as well as trying criminal offenses independently, impartially, promptly and effectively, while safeguarding the rights of victims, offenders, suspects and defendants. In addition, the effective reduction of criminal behavior through the correctional system is also an important part of it. Accordingly, an assessment of the delivery of justice of the criminal justice system should take into consideration the entire system, including the police, prosecutors, judges and prison officers. The corresponding sub-indicators of this indicator are roughly as follows:

The criminal investigation, review and prosecution are effective. This sub-indicator includes three dimensions: the investigation of crimes is carried out effectively, which means the criminal investigation and arrest activities of the police and the procuratorate are conducted successfully and in a timely manner; the review and prosecution of criminal offenses is carried out effectively; and there are enough personnel to conduct investigation and arrest activities.

The criminal adjudication system is open, timely and effective. This assesses whether the court proceedings and final trials are open to the public, whether the court proceedings are conducted in a timely manner and not subject to unreasonable delays, and whether criminal convictions are effective.

The criminal justice system is impartial. This mainly comprises assessing whether the outcome of an investigation, review and prosecution of crimes is impartial, and whether the trial of crimes is fair.

The criminal justice system is free of improper influence. In other words, neither the Municipal People's Congress, government and other administrative organs nor the internal leaders of the courts shall illegally interfere with criminal judicial activities (investigation, prosecution and adjudication). Additionally, public opinion shall not have an improper influence on criminal judicial activities.

Rights of the suspects and the accused are effectively protected. This is an important indicator of human rights protection in the criminal justice process, including in *dubio pro reo*, non-discrimination, protection of the right to know, personal rights, the right to defense and so on.

Correctional systems are effective in reducing criminal behavior. The delivery of effective criminal justice also necessitates correctional systems that effectively reduce criminal behavior.¹⁷ The function of correctional systems can be measured by the recidivism rate of offenders released after serving their sentences.

¹⁶ The 2022 WJP Rule of Law Index, World Justice Project (Aug. 12, 2022), available at <https://worldjusticeproject.org/rule-of-law-index>.

¹⁷ *Id.*

3.9. Indicator 9: Restraint of Corruption

This indicator assesses the restraint of corruption in a number of executive organs and judicial organs, which is an integral part of assessing the rule of law. Corruption, which is typically defined as the use of public authority for private gain, can directly reflect the extent to which officials abuse their power or perform their statutory duties. China's determination, measures and achievements in the field of anti-corruption in recent years are clear to all. The "restraint of corruption" index, which primarily takes into account three forms of corruption: embezzlement and bribery, misappropriation of public funds or other resources and improper influence by private interests, is set up as part of the assessment index system of law-based governance of a city. These three distinct forms of corruption are examined with respect to officers in the executive organs and judicial organs, both of which are susceptible to instances of corruption. The corresponding sub-indicators are roughly as follows:

Officials in the executive organs do not use public office for private gain. This means that government officials do not embezzle, take bribes or misappropriate public funds or other resources. It can be measured by calculating the ratio of the number of government officials punished or held criminally responsible for corruption, bribery and embezzlement to the total number of government officials.

Officials in the judicial organs do not use public office for private gain. This means that judicial officials (judges, prosecutors and police officers) do not embezzle or accept bribes and are not improperly influenced by criminal organizations. It can be measured by calculating the ratio between the number of judicial officials that are punished or criminally responsible for embezzlement and bribery and the total number of judicial officials. This indicator can also assess whether judicial officials use their positions to facilitate or benefit from criminal organizations.

Conclusion

In general, the construction of the assessment index system of law-based governance of a city is intended to assess the effect of governing the city under the rule of law as a whole. These effects can be roughly divided into two levels: the effects and limits of the exercise of power by various municipal organs and the effect of guaranteeing the fundamental rights of citizens. Indicator 1 assesses the extent to which municipal legislatures abide by the law and exercise power. Indicator 2 assesses the extent to which municipal governments abide by the law and exercise power. Indicator 3 assesses the degree of interaction and cooperation between citizens and the government. Indicators 4, 5 and 6 are positive indicators to measure the extent to which rights are guaranteed and the effect of law enforcement. Indicators 7 and 8 focus on measuring, from a negative perspective, the extent to which rights and laws are guaranteed when they are violated. Indicator 9 measures the abuse of power by municipal executive and judicial organs. These indicators encompass the most

important legal subjects in the process of governing the city under the rule of law: municipal legislative, executive; judicial and supervisory organs; commissions for discipline inspection and their public officials; citizens and other social organizations and so on. These indicators cover the main links of law-based governance of a city, as well as meet the scientific requirements for indicators.

The assessment index system of law-based governance of a city is a system based on the concept and connotation of the rule of law. It conducts an overall quantitative evaluation of the construction of the urban rule of law in China through a series of indicators and data, but its scientific nature is relative. In theory, the index system should include all of the connotations associated with the concept of law-based governance of a city. However, due to the richness and multi-dimensionality of the concept of law-based governance of a city, blindly pursuing exhaustiveness may lead to disputes, inaccurate measurements or deviations. Therefore, in the design of the index system, only appropriate and representative indicators can be selected for assessment, which means that the system will not be able to cover all aspects of law-based governance of a city. It goes without saying that, the indicators in the assessment index system of law-based governance of a city are not fixed and need to be constantly adjusted and corrected in the measurement process as well as repeatedly tested in practice.

Acknowledgements

This article is funded by the Decision Consulting Research Project of the Shanghai Municipal People's Government (the project number is 2020-Z-B01) and by the 2019 China National Institute for SCO International Exchange and Judicial Cooperation Training Base Research Fund Project (the project number is 19SHJD013) (Z. Li) as well as by a grant from the President of the Russian Federation for young scientists No. MK-6113.2021.2 on the topic "The State Structure of Russia and China: Comparative Legal Research" (N. Symaniuk).

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