

Authoritarian Gridlock? Understanding Delay in the Chinese Legislative System

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Abstract

Legislative gridlock is often viewed as a uniquely democratic phenomenon. The institutional checks and balances that produce gridlock are absent from authoritarian systems, leading many observers to romanticize “authoritarian efficiency” and policy dynamism. A unique data set from the Chinese case demonstrates that authoritarian regimes can have trouble passing laws and changing policies—48% of laws are not passed within the period specified in legislative plans, and about 12% of laws take more than 10 years to pass. This article develops a theory that relates variation in legislative outcomes to the absence of division within the ruling coalition and citizen attention shocks. Qualitative analysis of China’s Food Safety Law, coupled with shadow case studies of two other laws, illustrates the plausibility of the theoretical mechanisms. Division and public opinion play decisive roles in authoritarian legislative processes.

Keywords

authoritarian, institutions, legislature, gridlock, power sharing, China, National People’s Congress, responsive authoritarianism

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Introduction

Why and when do laws get passed? A number of factors have been proposed to explain “legislative gridlock” in the United States, including whether the government is divided (Binder, 1999, 2003; Mayhew, 2005), the ideological location of key actors (Krehbiel, 2010), and the general presence and cohesion of “veto players” that can prevent policy shifts (Tsebelis, 1995, 2002).

Studies of this research question have been limited almost exclusively to democratic cases. Indeed, the popular conception is that gridlock is a uniquely democratic phenomenon, and authoritarian regimes are inherently more ruthless and efficient in passing laws. If gridlock is due to an excess of veto players in a system (Tsebelis, 1995, 2002), authoritarian governments are purportedly advantaged in having fewer voices at the table and wielding the power to quash dissenting opinion (Kaufman, 1985; O’donnell, 1973). Authoritarian regimes, by definition, face weak opposition and make policies without the threat of filibusters or other parliamentary tricks. Legislative institutions are absent in many authoritarian systems (Gandhi, 2008; Svolik, 2012), and those that do exist are frequently dismissed as little more than “rubber stamps” or “window dressings.”

This article seeks to contribute to our comparative understanding of legislative processes and lawmaking. Is there evidence of legislative gridlock in nondemocracies? If so, what are the causes of gridlock? What role, if any, does public opinion play?

There are two key differences between the authoritarian and democratic lawmaking contexts. First, while authoritarian leaders do not face institutional “veto players” that can block policy (Krehbiel, 2010; Tsebelis, 1995, 2002), they do face constraints in the form of key stakeholders within the ruling coalition (Boix & Svolik, 2013; Magaloni, 2008; Malesky, Abrami, & Zheng, 2011; Noble, 2017; Shih, 2008; Shirk, 1993; Svolik, 2009, 2012). The lawmaking process is a forum for elite conflict, and stakeholders can obstruct and delay legislative activity (Lieberthal & Oksenberg, 1988; Lieberthal, 1992). Second, citizens in an authoritarian system exert policy influence not through the ballot box, but through the threat of revolution (Acemoglu & Robinson, 2005; Boix, 2003; Gandhi, 2008; Gandhi & Przeworski, 2007; Svolik, 2012; Truex, 2016). Passing a law allows the regime to signal attentiveness to a particular citizen grievance. If leaders do not respond on issues of salience to the population, they run the risk of engendering costly unrest.

These two factors will be predictive of the nature of authoritarian lawmaking. When there is division within the ruling coalition, and a lack of citizen attention to a policy issue, we may see legislative delay or a lack of meaningful policy change. Conversely, increased citizen anger about an issue will

spur faster lawmaking and can break gridlock. Stakeholders can be overridden when the fate of the regime itself is at risk.

I test these ideas through a multimethod analysis of lawmaking in China's National People's Congress (NPC). In the past 20 years, China has built a legal system from the ground up, passing hundreds of laws and administrative regulations on issues ranging from food security to social insurance, earthquake mitigation to patent protection. While many Western observers romanticize the speed and efficiency of Chinese policymaking,¹ a closer glance at the Chinese case offers a much different impression. China scholars have long described the country's governance structure through the lens of "fragmented authoritarianism" (Lieberthal, 1992; Lieberthal & Oksenberg, 1988; Mertha, 2009). Power to make and implement policy is diffused across a large number of actors within the Party-government bureaucracy. Fighting among these actors—especially at the ministerial level—is viewed as commonplace (Tanner, 1995, 1999). Some have characterized China's decentralized lawmaking system as a "chaotic situation" filled with "disorder" and "inconsistencies" (Chen, 1999). Lawmaking privileges are divided among the NPC (legislative branch), the State Council (executive branch), and local governments, leading to an overlapping and sometimes inconsistent mix of laws and administrative regulations. There is also some evidence that laws can be significantly delayed despite strong support at the highest levels of government (Paler, 2005; Tanner, 1995, 1999).

Empirically, I depart from the existing literature by focusing on legislative delay as an outcome variable (Martin & Vanberg, 2011), which is appropriate for the Chinese context. For most studies of gridlock, the standard procedure is to construct a measure of legislative productivity, typically the number of "significant bills" that were passed, and see if this is related to the presence of relevant covariates using a lengthy time series (Binder, 1999, 2003; Chiou & Rothenberg, 2008; Mayhew, 2005). This article employs a law-level data set, in which the key dependent variable is the number of years it took for a law to pass (Martin & Vanberg, 2011), as well as whether a law was passed in accordance with the timeline put forth in a legislative plan.² Though most measures ultimately pass, there is evidence of substantial delay in the Chinese legislative system. Roughly half of all passed laws fail to pass within the stated 5-year period of the legislative plan, and 12% of laws take more than 10 years to pass. This variation represents the core empirical puzzle of the article.

Identifying ruling coalition division and citizen attention on specific laws is difficult to do at scale, so the article relies on qualitative evidence to assess the plausibility of the theory. The core analysis is a detailed case study of the food safety policy space—specifically the passage of the Food Safety Law

(2009)—which allows us to see how shifts in citizen attention over time affect the lawmaking process. This is the qualitative approximation of an interrupted time series design. The case generally reveals dynamics consistent with the core observable implications of the framework. Drafting for the Food Safety Law was contentious due to turf wars among the relevant ministries, leading to a rather weak initial draft law that failed to consolidate the fragmented bureaucracy. This temporary gridlock was broken by the Sanlu milk powder incident, which heightened citizen attention to the issue and helped spur the passage of a more robust law quite quickly. The case illustrates the nature of crisis-based responsiveness in authoritarian lawmaking.

This case study is complemented by shadow cases of two laws, which showcase the nature of policymaking at different configurations of the independent variables. The Legislation Law (2000), which represents an instance of high division within the ruling coalition and minimal citizen interest, experienced substantial legislative delay and took 7 years to pass (Paler, 2005). The Special Equipment Safety Law (2013), in contrast, was passed in less than a year and appears to have benefited from consensus in the ruling coalition and heightened public attention to the issue.

The broader purpose of the article is to shift our thinking about authoritarian politics in two ways. First, dictators cannot simply pass laws as they see fit, as is commonly assumed. Although they do not face congressional filibusters or binding legal precedents, they must contend with a diverse array of competing interests within the ruling coalition (Boix & Svobik, 2013; Magaloni, 2008; Svobik, 2009, 2012). These stakeholders can be overridden, but they exert substantial influence in the timing and nature of lawmaking (Lieberthal, 1992; Lieberthal & Oksenberg, 1988; Mertha, 2009). Legislative processes in authoritarian systems can be quite contentious, even though the final vote tallies appear harmonious (Tanner, 1995, 1999) and those involved are formally on the same team. These arguments build on the well-known “fragmented authoritarianism” model from the Chinese case (Lieberthal, 1992; Lieberthal & Oksenberg, 1988; Mertha, 2009). This article aims to provide the most extensive documentation of delay in the Chinese legislative system to date.

Second, the article provides further evidence for the idea that citizen attention shocks can propel authoritarian governments into action. There is a tendency for some scholars of authoritarian politics to assume that these regimes are inherently unresponsive to citizen demands. Dictators focus narrowly on their “selectorates” or “ruling coalitions” and can get away with poor governance and public good provision (Bueno de Mesquita, 2005; Deacon, 2009; Lake & Baum, 2001; McGuire & Olson, 1996). This article joins other research on the Chinese system that suggests that authoritarian regimes can

be consultative and responsive, especially when public attention to an issue threatens to destabilize the system (Chen, Pan, & Xu, 2016; He & Warren, 2011; Manion, 2016; Meng, Pan, & Yang, 2014; O'Brien, 1994, 2008; Truex, 2016, 2017). The need to respond can affect the timing and nature of legislative processes.

Theory

To understand lawmaking in authoritarian systems, I combine insights from existing frameworks of legislative processes (Martin & Vanberg, 2011; Tsebelis, 1995, 2002) and authoritarian systems (Acemoglu & Robinson, 2005; Boix, 2003; Gandhi, 2008; Gandhi & Przeworski, 2007; Svobik, 2012). The key assumption is that leaders of authoritarian regimes face contestation from within (the ruling coalition) and below (the citizenry; Svobik, 2012), and that lawmaking outcomes reflect a balance between these two competing pressures.

Managing the Ruling Coalition

All leaders of authoritarian regimes rely on the support of a broader set of elites to stay in power, what we might call “stakeholders” in the ruling coalition. Cross-national evidence suggests that regime survival may hinge on the creation of power-sharing institutions—parliaments, elections, parties, politburos, advisory councils—which allow other elites to monitor the dictator and have a voice in the policy process. Such institutions are associated with regime longevity and may reduce the likelihood of coup attempts (Boix & Svobik, 2013; Magaloni, 2008; Svobik, 2009, 2012)

The legislative process provides a key arena for elite bargaining (Lü, Liu, & Li, 2017; Noble, 2017). Depending on the policy space, a new law or amendment may help or harm the interests of powerful elite actors, both within and outside the government. In China, the general pool of possible stakeholders includes key constituencies within the Chinese Communist Party (CCP) Central Committee, Politburo, and Politburo Standing Committee, major bureaucratic units (ministries, agencies, the NPC, the State Council, the Supreme People's Procuratorate), state-owned enterprises and other key firms, the People's Liberation Army, and provincial level authorities. Importantly, for any given issue or law, there can be any number of stakeholders involved and varying degrees of cohesiveness across them (Tsebelis, 1995, 2002)

We can expect these sorts of actors to advocate for their own interests, and they may seek to block, water down, or delay legislation if it moves policy

away from their desired outcome (Tanner, 1995, 1999). When multiple stakeholders are involved, each with their own personal or institutional interests, it can be difficult to find a Pareto improving policy solution. Everything else equal, we expect laws that divide constituencies within the ruling coalition to have a greater likelihood of gridlock or delay as they move through the legislative process. This is similar to Tsebelis's (1995, 2002) propositions, though stakeholders should not be considered formal "veto players."

Hypothesis 1 [division]: Division among stakeholders in the ruling coalition will increase the likelihood of policy stability and delay in the legislative process.

This idea is consistent with existing research on authoritarian policymaking, which shows how elite division and factional configurations can determine policy stability and outcomes (Lü et al., 2017; Malesky et al., 2011; Noble, 2017; Shih, 2008; Shirk, 1993).

A key difference between authoritarian and democratic lawmaking is that authoritarian regimes do not face formal institutional "veto players" that can definitively block policy change (Tsebelis, 1995, 2002). Such barriers may exist from a constitutional perspective (i.e., laws must be approved by a majority of legislators), but they are rarely relevant given how easily regimes dominate and manipulate their political institutions. In China, for example, the CCP regularly controls 70% to 75% of seats in the NPC, and the remaining seats are doled out to unaffiliated deputies or "democratic parties" effectively under the CCP's control (Manion, 2016; O'Brien, 2008; Truex, 2016). It is no surprise that voting processes are not particularly contentious, and that authoritarian parliaments do not see the type of vote wrangling and trading we observe in democracies.

For this reason, it is best to view the relationship between the "dictator" and the ruling coalition as consultative, and the preferences of specific stakeholders as important but not deterministic. The dictator can override weaker coalition members to achieve a legislative aim (Tanner, 1995, 1999) albeit with some cost (Svolik, 2009). This will be especially relevant when considering the interplay between the interests of the ruling coalition and the citizenry.

Managing the Citizenry

In democratic settings, legislators face pressure from their electoral constituencies, which informs their individual-level policy preferences (Mayhew, 1974). In aggregate, this produces a distribution of ideal points in the

parliament itself. The success or failure of a piece of legislation depends on the location of those ideal points, especially of critical institutional “veto players” (Krehbiel, 2010; Tsebelis, 1995, 2002). This naturally produces a connection between public opinion and legislative outcomes in democracies (Lax & Phillips, 2009; Miller & Stokes, 1963), though recent research suggests this link may be distorted by variation in political resources across the population (Achen & Bartels, 2016).

In authoritarian settings, the core mechanism for citizen influence on policymaking is the threat of unrest. Citizens cannot choose regime leadership or stakeholders within the ruling coalition, and “elected” delegates appear primarily accountable to regime leadership, not the electorate (Desposato, 2001; Malesky, Schuler, & Tran, 2012; Manion, 2016; O’Brien, 1994; Truex, 2016). Still, the very prospect of revolution can spur regimes to cater to citizen demands. Many regimes create informational channels to learn about and respond to citizen grievances before they fester into something larger (Lorentzen, 2013, 2014; Manion, 2016; O’Brien, 1994; Truex, 2016), a pattern which has been termed “responsive authoritarianism” (Chen et al., 2016).

The pattern has implications for the nature of authoritarian lawmaking. The passage of a comprehensive piece of legislation allows the regime to signal it is concerned about a particular societal problem. Certainly a law cannot solve an issue at once, but it can show the public it is “doing something” and that progress is being made (Egan, 2014). Conversely, delayed legislation or inaction on an issue can confirm the perception that the regime is aloof and out of touch, raising the likelihood of popular unrest.

Citizen attention can play a decisive role in authoritarian lawmaking. When citizens are upset about a particular issue and have the capacity to threaten the regime itself, we may observe faster legislative processes and greater shifts in the policy space.

Hypothesis 2 [attention]: Heightened attention from the citizenry will decrease the likelihood of policy stability and delay in the legislative process.

Lawmaking in authoritarian systems can appear reactive, even desperate, when crises arise.

Theory Summary

Figure 1 illustrates the intuitions of the theory with a simple two-by-two chart. Legislative delay and policy change in authoritarian systems are a function of the two competing pressures on the regime. Everything else

		Division within the Ruling Coalition	
		<i>Low</i>	<i>High</i>
Citizen Attention	<i>Low</i>	Policy Change Low likelihood of legislative delay	Policy Stability High likelihood of legislative delay
	<i>High</i>	Policy Change Very low likelihood of legislative delay	Policy Change Low likelihood of legislative delay

Figure 1. Theory summary.

equal, when there is division within the ruling coalition, policy stability should be more likely and lawmaking more arduous. This gridlock can be broken by heightened citizen attention and credible threats of collective action. The interests and preferences of specific stakeholders can be overridden to save the regime itself.

When there is low division in the ruling coalition—perhaps when the policy touches on only one or two stakeholders, or when the stakeholders agree—lawmaking should be relatively painless. If this is coupled with heightened citizen attention to the issue, we expect a very low likelihood of delay, as the regime wants to appear responsive, and there is no infighting within the ruling coalition to contend with. Without attention, and no stakeholder division, lawmaking should also proceed as planned. Any delays that might occur would only be due to a lack of urgency or prioritization.

Of course, there are other important determinants of variation in lawmaking outcomes in authoritarian systems. The complexity of the legislation itself, the quality and experience of the drafting legislators (O'Brien & Li, 1993), the political calendar—all of these factors may also contribute to

legislative delay. The point here is not to say these factors do not matter, but simply to focus on the tradeoff of particular theoretical interest, the dictator's balancing act between the ruling coalition and the citizenry (Svolik, 2012).

The remainder of the article evaluates the plausibility of these ideas in the Chinese case. The next section provides background on the NPC and China's legislative processes.

Background: China's Legislative Process

China scholars view the country's governance structure through the lens of "fragmented authoritarianism" (Lieberthal, 1992; Oksenberg, 2001). Policy decisions are not made exclusively at the top, but rather through a diffuse and consultative process that accounts for a diverse set of geographical and bureaucratic constituencies within the CCP itself. Implementation is similarly complex, and policies may be adapted (or even neglected) by lower level officials seeking to account for local conditions and their own career incentives (O'Brien & Li, 1999).

The business of lawmaking in China is a "multistage, multiarena" process with five steps (Tanner, 1995, 1999).³ The three arenas are as follows: (a) the leadership of the CCP and associated Party organs, (b) the country's executive branch (the State Council and its subordinate ministries), and (c) the legislative branch (the NPC and its Standing Committee/Special Committees). Policymaking authority is shared across Party and government institutions, though the Party maintains control over the State Council and NPC through shared personnel.

In the *agenda-setting* phase, lawmaking committees within the State Council and NPC consider bills drafted by NPC deputies, the State Council, State Council ministries, central Party leaders, and other policy entrepreneurs. High-level CCP leaders may intervene on behalf of their favored policies, ensuring certain bills move forward and others do not. The culmination of this process is the inclusion of a bill on a 5-year legislative plan, which explicitly names and prioritizes laws for passage. Laws are placed into different tiers at this stage. Class I laws are "to be submitted for deliberation during this term" of the NPC (任期内提请审议的法律草案), and Class II laws are those that are "to be researched, drafted, and scheduled to be submitted for deliberation when conditions are mature" (研究起草、条件成熟时安排审议的法律草案).⁴ Class I laws will be referred to as "top priority laws" for the remainder of the article.

In the second phase, what Tanner (1995) calls *interagency consensus building*, the relevant ministries and agencies offer opinions on the bill and may attempt to manipulate specific amendments or provisions. Often multiple drafts of the same law will circulate simultaneously. This is generally the

most cumbersome part of the process, and even bills with support from central leadership can get delayed by bureaucratic infighting. This is the main stage for gridlock or legislative delay in the Chinese system. The paper will focus on these actors as the relevant “stakeholders” in the ruling coalition, although lawmaking can certainly be affected by actors outside of these formal government institutions.

In the third phase, *leadership review*, high-level Party members decide whether to move forward with promulgating the law. This is the most opaque phase of Chinese lawmaking, as there is generally no public record available of internal Party discussions. Tanner’s (1999) assessment is that there is probably a tendency to overestimate the involvement of central CCP leaders in the day-to-day business of lawmaking, though these patterns may shift depending on the leader in power at the time.

A green-lit law then moves on to *NPC/NPCSC review*. The 2000 Legislation Law dictates that all draft laws must go through a relatively lengthy process of NPC debate before going to a vote—at least three separate draft discussions—which typically occur in the NPC Standing Committee (NPCSC) or the associated NPC Special Committees (Paler, 2005). Deputies suggest points of improvement and review the merits of the legislation, sometimes altering language and content substantially (Truex, 2016). In recent years, the NPC has routinely posted draft laws on its website for public comment, consistent with the CCP’s recent emphasis on transparency and public participation (Truex, 2017). The bill then goes to vote in either the NPC or NPCSC. This tends to be more of a formality, as no law to date has been voted down by the plenary session of the NPC.

Finally, the passed bill enters *explication*, which often requires a set of separate implementing regulations promulgated by the State Council or relevant ministry. Key stakeholders within the ruling coalition may seek to shift the policy outcome by watering down or delaying these regulations, what Tanner (1995) refers to as the “second campaign” of the lawmaking process. In general, the Chinese system seems characterized by relatively weak policy implementation (O’Brien & Li, 1999), and it may be that laws that were particularly contentious in the interagency consensus building process suffer from vague implementing regulations. The implementation phase and this hypothesis is outside the scope of this article, though it remains an area of the Chinese system needing additional scholarly inquiry.

Each year, upward of 20 laws, revisions, amendments may be passed in this fashion, along with other decisions, explanations, and treaties. Such totals, combined with the fact that no draft laws are ever publicly voted down, give rise to the perception that there is no discord in the Chinese system. This perception is mistaken. The key point is that any “gridlock”

that occurs in Chinese lawmaking is not because of insufficient votes in the legislative branch, as it is in the United States or other democratic settings. Because the CCP enjoys legislative dominance, effectively anything senior leaders want to be passed will ultimately be passed. Instead, delay occurs in the buildup to the vote, when draft laws are passed around to Party leadership, the NPC, and the State Council and its subordinate bureaucratic units.

Variation and Case Selection

The core theoretical concepts of interest—citizen attention shocks and division among regime stakeholders—are not amenable to a large-N data collection effort. It is possible, however, to systematically measure legislative delay in the Chinese system, the core dependent variable of interest. I collected data on the 113 laws, 43 revisions, and 199 amendments passed by NPC or NPCSC from the 8th NPC (1993-1998) to March 2017. Using legislative plans for the 7th-12th NPCSC (available in NPC publications of legislative statistics), we can measure the total number of *years* it took for the bill to pass. This is calculated as the total number of years between when the law was announced as a “top priority law” (entered.top.date) (Class I laws) in a legislative plan and when it was finally passed (passed.date). We can also construct an indicator variable *delayed*, which measures whether the law was not passed in the 5-year period after it was announced as a “top priority law” in a legislative plan. All sources and variables collected are described in Table A1 in the Online Appendix.

There is substantial variation in these outcome measures. Figure 1 shows the *entered.top.date* and *passed.date* the laws that were announced as top priority in the eighth, ninth, 10th, and 11th NPCSC Legislative Plans. The figure shows a random sample of 75 laws, in the interest of space.

The following descriptive facts emerge from the data. Of the 170 laws, revisions, and amendments identified as top priority in the eighth, ninth, 10th, and 11th NPCSC Legislative Plans, 124 were eventually passed, about 73%. The passage rate is slightly lower for new laws (66%) than revisions/amendments (80%). Of those top priority laws/amendments/revisions that are passed, the mean number of years it took was about 3.58. Roughly 12% of top priority laws that are passed take longer than 10 years to do so. Laws take longer on average (4.69 years) than revisions (2.90 years) and amendments (2.49 years). About 48% of all top tier laws/amendments/revisions did not pass within the 5-year period of the legislative plan. These are highlighted with red lines in Figure 2. Segments extending to the right end of the chart represent laws that have not been passed.

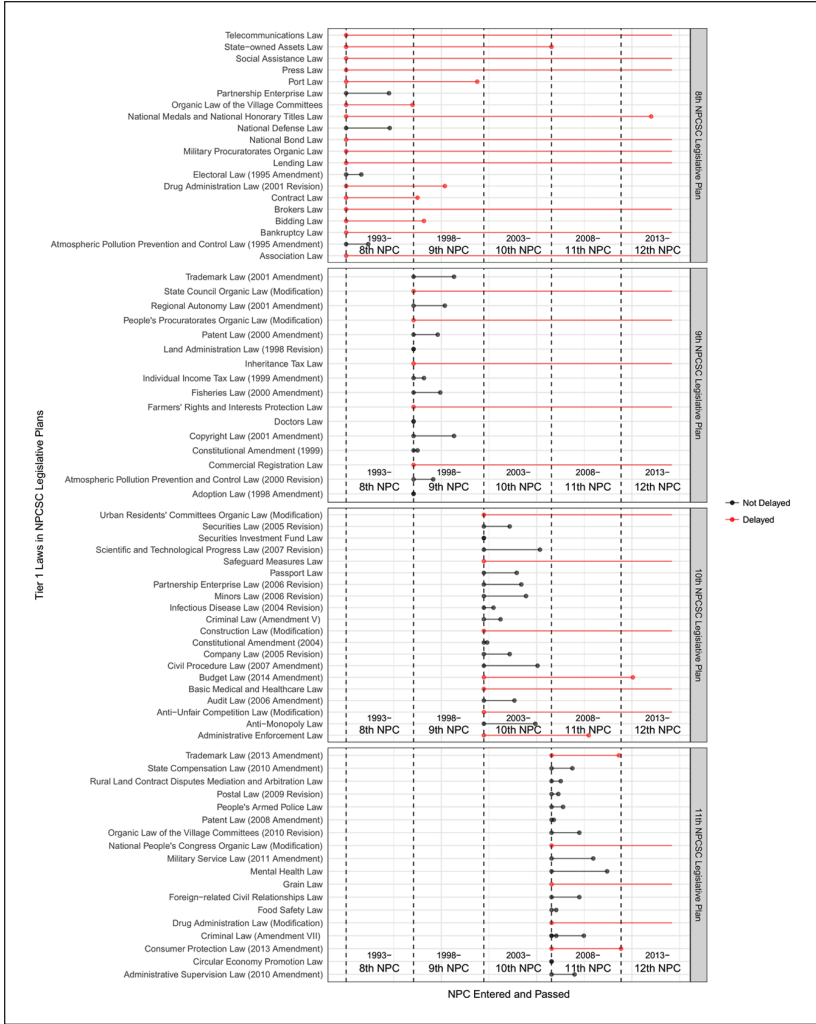


Figure 2. Summary of China's legislative output.

Figure shows total years between the announcement of laws as top priority in an NPCSC Legislative Plan and their subsequent passage. Laws colored in red were not passed within the timeframe outlined in the original legislative plan. Laws with no line were assigned to "top priority" status after they had already been passed. Laws extending to the right end of the chart with no point on the end have not been passed. NPC = National People's Congress; NPCSC = NPC Standing Committee.

To be clear, not every law in the Chinese system that took more than five years to pass was the victim of gridlock or delay. Certain laws are more complicated and rightfully require more deliberation. The point is simply that there is variation in the length of time laws spend in the drafting process, and that the time is lengthy enough to suggest that gridlock and discord might be partially responsible.

The theory holds that legislative processes are dictated principally by two factors: the presence of division within the ruling coalition and citizen issue attention. The best available empirical strategy is to conduct case study research, probing for the presence of these mechanisms in the drafting process. There is a growing menu of case selection strategies: random, conforming, typical, idiographic, outcome, deviant, influential, exploratory, pathway, most likely, least likely, most different, most similar, and crucial (Gerring & Cojocaru, 2016; Seawright & Gerring, 2008). As Lorentzen, Fravel, and Paine (2017) advise, researchers aiming to evaluate theoretical frameworks with qualitative evidence should also choose cases that maximize the quality of evidence they bring to bear. In particular, the availability of transcript materials is crucial, as these can shed light on the motivations and strategic calculations of key actors. Thus, case selection is subject to the constraint of assessing laws that have transcript information available for the drafting process. For most laws, there is very little information on drafting discussions and processes available in the public domain. For unpassed laws, there is effectively no information available—I will limit the qualitative discussion to passed laws for this reason.

Table 1 provides an overview of the chosen cases. I employ a version of the “diverse case selection strategy,” whereby the researcher aims to maximize variation in X , Y , or some combination of X and Y . The two key explanatory variables (X) are the level of division within the ruling coalition (H_1) and the level of citizen attention (H_2). Cases were chosen and further analyzed to represent three possible combinations of these variables—high attention and division (Food Safety Law), high division and low attention (Legislation Law), and low division and high attention (Special Equipment Safety Law). The low division and low attention combination is not of particular theoretical interest and is excluded due to space constraints.

Within these combinations, the first is the most theoretically important, so the article will present a more detailed analysis of the Food Safety Law and use the other two for shadow case analysis. The Food Safety Law was passed relatively quickly (122 days as a top priority piece of legislation), but this obscures the fact that early drafts of the law saw substantial division among key stakeholders within the Chinese bureaucracy. There are also more legislative records available and commentary on the drafting process given the

Table 1. Case Selection.

Bill	Entered-passed (Y)	Description	Division (S)	Attention (C)
Food Safety Law	10/29/08-2/28/09	Sets up system to recall damaged food products; imposes higher fines on companies that make substandard products	High	High
Legislation Law ^a	1/26/94-3/15/00	Identifies issue areas under legislative purview of NPC; standardizes drafting process; allows for possibility of public comment on draft laws	High	Low
Special Equipment Safety Law ^a	NA-6/29/13	Contains provisions to improve safety of elevators, escalators, and related machinery	Low	High

The Special Equipment Law formally entered into Legislative Plans after it was already passed.
 a. Shadow case study.

substantive importance of the law. Most importantly, the drafting process was punctuated by a major shock to public opinion which allows us to examine the nature of policymaking with different levels of attention over time (Gerring & Cojocaru, 2016). The logic here is similar to a quantitative interrupted time series design, where the same unit is observed before and after the treatment takes effect.

There are, of course, numerous differences between the laws beyond the variation in division and citizen attention. Slight differences in legislative committees, time periods, issue importance, and so on, might also drive differences in legislative outcomes. This is the variables > observations problem that hinders most small-N comparative studies, to some degree. In line with that research paradigm, I will seek to establish the inference not by controlling for all possible confounders, but by demonstrating the plausibility of the causal mechanism through the qualitative evidence. The case studies will demonstrate that (a) citizen attention can shift the nature of the legislative process and break stakeholder division and (b) stakeholder division can otherwise create delays in the passing of a bill.

In accordance with new emerging best practices in qualitative research, the case studies below will contain hyperlinked references to a Transparency Appendix (TRAX) included on my personal website (Moravcsik, 2014). These annotations will allow the reader to better see the connection between the source Law material and the inferences made herein.

Case Study

Food Safety Law (2009)—High Division, High Attention

China's Food Safety Law (食品安全法) was passed by the NPCSC in February 2009 after a relatively short drafting process. The bill appeared as a "top priority law" (Class I) on the legislative plan only a few months before (days = 122), though a first draft had emerged as early as 2007, and the idea for a new law came out of a State Council report in July 2004. Overall, the case displays mechanisms consistent with the theoretical framework. Early on, the drafting process suffered from infighting and territorial behavior among the various ministries involved in food regulation (Ramzy, 2009). This impasse was broken by a series of escalating food safety incidents, most notably the Sanlu milk powder scandal, which raised public concern on the issue to a breaking point. In the terms of the theory, this scandal represented a shift from a "low attention" to a "high attention" environment. This created some bargaining space for the establishment of a new coordinating body, the Commission on Food Safety under the State Council (国务院食品安全委员会). Some lawmakers expressed concerns that the draft process proceeded too quickly in the wake of the milk powder incident, as the government felt compelled to pass a law to signal a strong response to citizen concerns (NPC, 2010).⁵ Ultimately, the Food Safety Law largely replicated the existing fragmented oversight structure (Balzano, 2011; Snyder, 2015), which may be taken as evidence that the process of consensus-building had not been allowed to fully run its course. More fundamental changes to the bureaucratic structure would have to wait until additional scandals prompted a revision of the Food Safety Law in 2015.

Prior to the passage of the 2009 Food Safety Law, China's regulatory apparatus on the issue was exceedingly complex. A 2007 State Council White Paper identified a patchwork of 11 different laws related to food safety, food quality, and the regulation of food imports and exports: the Product Quality Law, Standardization Law, Meteorology Law, Law on the Protection of Consumer Rights and Interests, Law on the Quality and Safety of Agricultural Products, Criminal Law, Food Hygiene Law, Law on Import and Export Commodity Inspection, Law on Animal and Plant Entry and Exit Quarantine, Frontier Health and Quarantine Law, and Law on Animal Disease Prevention (State Council Information Office, 2007). In turn, various functions were shared across as many as 17 different bureaucratic units, headed up by the "five dragons" of food oversight: the Ministry of Health (MoH); Ministry of Agriculture (MoA); General Administration for Quality Supervision, Inspection, and Quarantine (AQSIQ); State Administration of Industry and Commerce (SAIC); and the

State Food and Drug Administration (SFDA; P. Liu, 2010). These units had a tendency to “jealously guard their power” to collect license fees and fines to support their budgets (Hatton, 2015; Kahn, 2007). Moreover, the ministries tended to utilize different laws to guide their policies. For example, the MoH relied on the existing Food Hygiene Law, while the AQSIQ relied on the Product Quality Law (Snyder, 2015).

China’s food production system is unique in its sheer scale and complexity, as it has over 240 million farmers, one million processors, and several million distributors (Yasuda, 2015). Predictably, the regulatory bureaucracy in place failed to adequately monitor food production and distribution. The early years of the Hu-Wen administration saw a series of food safety incidents: poisonous ham (July 2003), counterfeit baby formula (April 2004), adulterated pickled vegetables (June 2004), Sudan I red dye in KFC chicken (March 2005), contaminated fish food (November 2006), and carcinogens in frying oil (March 2007), among several others. These scandals signaled a cause for concern for the broader public and a regulatory issue to lawmakers. Initial discussions focused on revising the existing 1995 Food Hygiene Law, but eventually lawmakers decided that the law focused on a broader conception of “food safety” (食品安全) rather than “food hygiene” (食品卫生).

A first draft of a new Food Safety Law emerged in October 2007, and the first reading occurred that December (Cao, 2010, p. 186). Some notable provisions in the initial draft included the creation of a food safety risk assessment index, increased attention to safety during food production, and more effective ways for food safety victims to seek compensation (Su, 2008).

Committees within the NPC proceeded to conduct research and surveys with local governments, discuss the law with relevant bureaucratic departments, and release a draft of the Food Safety Law for public comment in May 2008. The draft received 11,327 comments from common citizens. Lawmakers then worked to incorporate recommendations from these various sources into the second draft of the law, which was discussed at the 4th NPCSC meeting of the 11th NPC in August 2008 (X. Liu, 2010, p. 190).

The key point of division throughout the drafting process concerned the consolidation of monitoring roles and responsibilities among State Council ministries. The coordination problems across ministries were widely acknowledged. A 2007 *China Daily* article stated that “most deputies and members attribute the failure [in food safety] to the overlapping functions of the departments in charge,” which “hampers the government’s response to emergencies” (W. Liu, 2007). At the time, the MoA was charged with regulating raw agricultural products; the AQSIQ oversaw the food processing industry; food distribution was the purview of the SAIC; the MoH regulated

catering and restaurants; and the SFDA was tasked with coordinating efforts across agencies (P. Liu, 2010). The creation of the new 2009 food safety regime proved contentious because it “threatened to reshuffle powerful bureaucratic interests concerning regulatory jurisdiction over production, circulation, and retail of food products” (Balzano, 2011; Kahn, 2007). It is telling that the first draft of the Food Safety Law never actually outlined the specific responsibilities of the MoA, MoH, SFDA, AQSIQ, and SAIC (X. Liu, 2010; Su, 2008). In the language of the theory, these different bureaucratic units represented a large number of divided stakeholders in the ruling coalition.

Public concern over food safety reached new heights in the midst of this negotiating and drafting process (Yan, 2012). Shortly after the conclusion of the 2008 Beijing Olympics, news outlets reported that food industry giant Sanlu had adulterated its milk and infant formula with melamine, a chemical known to cause kidney damage. An estimated 300,000 people fell ill, and the contaminated milk products were tied to more than 50,000 infant hospitalizations and six infant deaths. The incident rattled public trust in the food safety system and the government itself. Surveys conducted by the Ministry of Commerce show that 45.3% of urban consumers and 36.6% of rural consumers responded that they were “dissatisfied” with the government’s food safety work, an increase of 15.1 and 7.6 percentage points from the previous year (Ministry of Commerce, 2008). An online *People’s Daily* survey run in early 2009 confirmed these trends. Respondents ranked food safety as the second most pressing issue facing the country, behind only corruption (Zhe, 2009). In a short period of time, citizen anger about the food safety issue increased dramatically, necessitating a government response and policy change.

Public outrage over food safety appears to have had two direct effects on the drafting process of the Food Safety Law. First, it gave lawmakers a greater sense of urgency to pass the law and signal government attentiveness to the issue. This urgency is apparent in several statements by deputies and officials involved in the drafting process. In a report to the NPCSC on October 23, Liu Xirong remarked that the scandal had “generated increased attention to food safety” among Chinese society (X. Liu, 2010, p. 192). Other NPCSC members warned that “if [food safety incidents] are not handled in a timely way, then this will result in widespread harmful consequences” (X. Liu, 2010, p. 193). In the October 2008 draft law discussion, several deputies called for the passage of the law as soon as possible.

Ma Miqian: The introduction of the food safety law is imperative, the sooner the better.

Lin Qiang: In recent years, food safety incidents occur frequently, the recent milk additive melamine incident is the most representative and most prominent . . . In view of this, to strengthen food safety supervision and management is a priority of the current work, the introduction of the food safety law is really urgent and very necessary.

Yang Zhengwu: We must expedite the adoption of the Food Safety Law. After the “Sanlu incident” occurred, the whole country is very concerned about food safety, but also very concerned about and eagerly looking forward to having a comprehensive food safety law; it should be introduced as quickly as possible (NPC, 2010).

Speaking to the NPCSC on October 28, NPC Chairman Wu Bangguo also stressed how further revisions to the Food Safety Law were needed after the Sanlu milk powder scandal, and he urged the NPC Law Committee to “quickly fix and perfect” the draft law (Wu, 2008b). In October 2008, the law appeared as a top priority law in the 11th NPC’s 5-year legislative plan.

Second, the Sanlu scandal itself revealed further weaknesses in the draft law itself, suggesting that further consolidation or coordination of the bureaucracy was necessary. A *People’s Daily* article, perhaps signaling the viewpoint of senior Party leaders, explained the “three warnings” legislators should take from the incident, highlighting the risks of a fragmented food safety supervision system (“Sanlu Three Warnings for Food Safety Legislation,” 2008). NPCSC delegates took up this call, demanding changes to the system’s complicated bureaucratic structure. The scandal empowered proponents of further consolidation, as revealed by comments in the October 2008 draft discussion:

Song Fatang: The “Sanlu Milk Powder Incident” revealed that the issue of food safety management system needs further study. The management system proposed in the current draft cannot prevent the emergence of another “Sanlu milk powder incident,” because the problem lies in the milking station. Is the milking station considered a part of agriculture? Or does it belong under the quality supervision departments? So, my opinion is that it should establish a unified and coordinated management system.

Yang Zhengwu: The most worthwhile lessons learned is that the food safety regulatory system is not perfect, supervisory responsibilities are not clear . . . I recommend that we establish Food Safety Commissions and Committees from the State Council down through the local governments at all levels, to manage and supervise all of food safety, identifying responsibilities (NPC, 2010).

Deputies also requested changes to provisions concerning food additives, the country's inspection exemption system, the government's food recall system, regulations on small vendors, and the reporting of food safety incidents.

These twin effects produced a unique tension. The law needed to be pushed through the system, but the law itself required substantial revision and rethinking. The net result of Sanlu was actually a slight delay in the law-making process. The vote was originally scheduled for October 2008, but it was postponed after the milk scandal "exposed the loopholes of the food safety monitoring network" ("China to Set Up Central Food Safety Commission," 2009). An additional draft discussion was scheduled for February 2009, just prior to the annual plenary session of the NPC. In a speech in December 2008, Chairman Wu Bangguo again stressed that the Food Safety Law draft must be ready for its next round of deliberations and urged relevant committees to submit revisions in a timely manner (Wu, 2008a).

The law passed through a final four-day session and reading in February 2009 before being adopted on February 28 by the NPCSC. The final law created a State Council–led Food Safety Commission meant to supervise and coordinate the food safety responsibilities of the MoH, MoA, AQSIQ, SAIC, and FDA (Food Safety Law of the People's Republic of China 2009, Article 4). Responsibilities of other bureaucratic units were eliminated. The law also featured clearer standards on meat products and contamination (Article 28), the elimination of testing exemptions for large producers (Article 60), and more punitive punishments for food safety violators (Articles 84-98). Celebrities involved in the advertisement of food products could also be held liable if safety standards were compromised (Article 55).

The 2009 Food Safety Law represented a substantial but not complete consolidation of the monitoring and oversight bureaucracy. Oversight and administrative duties for units beyond the MoH, MoA, AQSIQ, SAIC, and FDA were removed, though the core functions of these five units were largely preserved. The MoH gained status and received "as much authority as possible" (Balzano, 2011), including responsibilities for the overall coordination of the food safety effort, the development of standards and assessment practices, and the handling of food safety incidents (Food Safety Law of the People's Republic of China 2009, Article 4). The most significant shift was the creation of the State Council's Commission on Food Safety (国务院食品安全委员会), an ad hoc coordination body comprised of mostly vice-ministerial officials and headed by a senior Party leader (Li

Keqiang 2010-2013, Zhang Gaoli 2013-present). This provision was somewhat controversial and was notably absent from the initial drafts of the law, despite being mentioned in early State Council reports (X. Liu, 2010).

The legislative record suggests that such changes would not have been possible in the absence of the Sanlu milk powder scandal (Xinhua, 2008). The incident, and the threat of popular unrest, helped break the gridlock among China's bureaucratic stakeholders and allowed a new legislative solution. As Snyder summarizes,

The melamine crisis produced law. It created a great loss of public confidence in food safety, and a profound sense of urgency on the part of the Chinese central government, and ultimately it led to a new system of food safety regulation. (Snyder, 2015, p. 175)

Still, critics contended that the law did not go far enough, and that the core problems of fragmented oversight remained. Wu Yongqing, deputy director of China's National Institute of Nutrition and Food Safety, believed that lawmakers missed an opportunity to create a single oversight body, like the U.S. FDA. The compromise solution was vulnerable to the same problems. "There has been no fundamental reform of the system that many people in the industry hoped for," he commented in an interview. "There will be better coordination, but problems like Sanlu will still happen" (MacLeod, 2009).

This remark proved to have remarkable prescience. Following the 2009 adoption of the Food Safety Law, the country saw a new wave of food safety incidents: plastic pearls in bubble tea (2009), cooking oil recycled from gutters outside restaurants (2010), pork glowing in the dark (2011), and fake lamb and beef meat (2013), among others. Public concern over safety actually continued to increase. A 2012 Pew Center survey revealed that in 2012, 41% of respondents identified food safety as a "serious problem," compared to only 12% doing so in 2008 (Yasuda, 2015). Observers complained that there were still "too many cooks in the kitchen"—or rather too many bureaucracies handling food safety. The State Council Food Safety Commission, and its subordinate food safety committees (FSCs) at lower levels, proved largely ineffective. Yasuda reports findings from interviews with local regulators:

Since coordinating bodies do not actually replace pre-existing ministries, inter-agency tensions and overlapping regulatory activities persist. Even after the establishment of FSCs, officials complain that the number of agencies involved in food safety remains high: "It is difficult to work with other regulators . . . There are far too many players in the game and once something leaves our purview we really can't manage it." The establishment of yet another

organizational unit just adds to the already burdensome reporting requirements for officials. (Yasuda, 2017, p. 11).

These issues necessitated further reforms to the food safety system. In 2013, the government had established the China FDA, a new ministerial level agency, to oversee the food safety issue, moving closer to the “one ministry” solution. The MoH was dissolved that same year. In 2015, the NPC passed a substantial revision to the Food Safety Law, featuring increased administrative, civil, and criminal penalties for violations. Fifty new articles were added to the law, which was touted as “China’s toughest food safety law to date” (Balzano, 2015; CCTV America 2015; “Legislators Pass Toughest Food Safety Law Amendment,” 2015). It remains to be seen whether this law will prove more effective than its predecessor.

Additional Cases

Two brief shadow cases, which will rely more on existing research and secondary sources, help put the processes of the Food Safety Law in comparative perspective. They illustrate the nature of lawmaking in the absence of citizen attention (Legislation Law) and the absence of division (Special Equipment Safety Law).

Legislation Law (2000)—High Division, Low Attention

China’s Legislation Law (立法法) represents a case with significant division among key stakeholders within the ruling coalition, not unlike the bureaucratic turf wars present in the drafting of the Food Safety Law. The key difference is that with respect to the Chinese population, the Legislation Law did not touch on issues of particular salience. Lawmakers had little urgency to pass the law, and the net result was protracted delay and infighting among stakeholders in the NPC, State Council, and provincial governments. The final law was passed in 2000, after a 7-year process that saw eight separate drafts circulated among the upper tiers of the NPC and State Council (Li, 2000; Paler, 2005).

Drafting of the law began in earnest in 1993, when two separate drafts were conceived and circulated simultaneously, one originating from the NPC’s Legislative Affairs Committee (LAC), and a second originating within the Chinese Academy of Social Sciences (CASS; Paler, 2005). The general purpose of the law was to clarify legislative responsibilities among the key actors with lawmaking authority within the Chinese government, which

would foster more cohesiveness within the legal-regulatory nexus (Lubman, 2006).

The law touched on two key divisions. The first was between the NPC and the provincial governments and associated People's Congresses. Prior to the drafting of the law, legislative power was shared between the central government and localities across most issue areas. Lawmakers within the NPC sought to rationalize the lawmaking process, enhancing the authority of the national legislature at the expense of local governments. Early versions of the draft law identified 10 areas where lawmaking would be the exclusive purview of the NPC, including issues of state sovereignty, crime, and ethnic autonomy, among others (Legislation Law of the People's Republic of China 2000, Article 8). The list included taxation and "fees of tax nature" (税收性收费). This provision proved particularly controversial, as fees were a major source of revenue (and also corrupt rents) for local governments (Li, 2000; Paler, 2005). Li (2000) describes the conflict in detail:

As to the taxation system, the debates were even more heated. . . . Local governments invented various fees to compensate their disadvantages in competing with the center for tax revenues. An earlier draft of the law included the so-called fees of tax nature in the list of the centre's exclusive economic powers. This was viewed as a move by the centre to control the imposition of fees and was opposed by both local governments and some State Council departments. (Li, 2000, p. 127)

The draft law "angered many sub-national people's congress representatives" and the "provincial people's congress representatives fought strenuously to preserve their legislative jurisdiction and limit the scope of the NPC's exclusive legislative powers" (Paler, 2005, p. 307).

The second division occurred between the NPC and State Council. Laws approved by the NPC are second only to the Constitution itself, but the State Council has the authority to author administrative regulations (行政法规), and departments under the State Council may issue their own administrative rules (行政规章) (Chen, 1999). This practice has led to severe problems with legal interpretation, as issues were governed by a complex web of laws, regulations, and rules, interwoven at the national and local level (Lubman, 2006). As Clarke (2005) describes,

As a practical matter, there is no single source of ultimate authority in the system. Indeed, to make this claim might be the equivalent of saying that there is no single Chinese legal "system," that there are instead many Chinese legal systems, each with its own jurisdiction, hierarchy of authority, and way of operating.

Implementation of NPC laws also rests within the State Council, which has the sole authority to pass implementation regulations. In theory, these regulations should simply reflect the content of the laws themselves. In practice, the State Council can delay implementation or fail to honor the spirit of laws as it sees fit, leading to considerable consternation within the NPC (Lubman, 2006; Tanner, 1995, 1999)

Ultimately the conflicts produced “heated debates” on several issues and substantial delay in the drafting and passing of the Law (Chen, 2000; Li, 2000). The two initial drafts were consolidated into one by 1997, but the law failed to meet its initial deadline for passage in March 1998. For 2 years, between June 1997 and August 1999, no draft laws of any sort were publicly released, which suggested infighting and discord among the drafting parties. The law reemerged in October 1999, and was passed a few months later, with 2,560 of 2,778 NPC deputies casting affirmative votes (Paler, 2005).

The final law consolidated the authority of the NPC relative to local governments, which was heralded as a “significant achievement” (Li, 2000). The law ultimately identified 10 areas under the jurisdiction of the national legislative body, but the phrase “fees of a tax nature” was also removed from the law, representing a compromise solution to fiscal authority. Local governments maintained the right to legislate in areas without existing national legislation, but the NPC reserved the right to annul local laws deemed incongruent with federal laws (Legislation Law of the People’s Republic of China 2000, Article 63).

Much less progress was made reconciling differences with the State Council (Li, 2000). Though the NPC gained the right to annul inconsistent regulations and carved out exclusivity in 10 issue areas, lawmaking within the State Council was preserved. The Law confirmed the power of State Council ministries/departments to issue their own rules, despite protests from NPC lawmakers that this would effectively expand the power of the executive branch (Li, 2000). As Paler (2005) describes, “the final version of the Legislation Law largely codifie[d] the status quo.” Chen (2000, p. 309) provides a more critical assignment:

Many “hard” questions are not answered and important issues are not addressed. On the whole, it is a disappointing piece of legislative work, at best representing a mixed success in addressing some of the problems in the current law-making system and practices in China. (p. 237)

The drafting of the Legislation Law reveals dynamics consistent with the observable implications of the framework. The issue area encompassed by the law affected a large number of powerful stakeholders—the NPC, the

State Council, and local governments. These actors were clearly divided on their ideal policies, as the law itself sought to alter the distribution of power and enhance the NPC at the expense of the State Council and local governments. Without heightened citizen attention to stimulate a government response, the law was subject to a protracted bargaining process, substantial delay, and only partial resolution of the policy issues at hand.

Special Equipment Safety Law (2000)—Low Division, High Attention

Not all laws that pass through the Chinese system are subject to high levels of discord. The Special Equipment Safety Law (特种设备安全法) regulated a policy space with minimal division within the ruling coalition, and its passage benefited from high levels of citizen attention. The formal lawmaking process was completed within the span of a year. The Law was actually passed in June 2013 before it was named a “top priority law” months later retroactively (已经通过) in the 12th NPC’s legislative plan, which speaks to the urgency of the issue.

As legally defined in China, special equipment is any “equipment that operates under high pressure temperature or speed with a potential threat to public safety” and includes elevators, boilers, pressure vessels, hoisting machines, large amusement park facilities, and cranes, among others (Special Equipment Safety Law of the People’s Republic of China 2013, Article 2; “Draft Special Equipment Safety Law Under Consideration,” 2012; Haidian Bureau of Quality and Technical Supervision, 2013). China’s rapid industrialization and urbanization brought substantial increases in such machinery—elevators in use nationwide rose from 350,000 in 2002 to 2.45 million by the end of 2012 (Xinhua, 2013b). From 2005 to 2010, the country experienced 1,600 fatal special equipment accidents (Xinhua, 2013b), over four times the accident rate of developed countries (“Draft Special Equipment Safety Law Under Consideration,” 2012; Haidian Bureau of Quality and Technical Supervision 2013).

Prior to and during the drafting of the law, several particularly gruesome accidents heightened citizen concern over the issue. On June 29, 2010, just 8 days after maintenance from park officials, a popular “Space Town” ride at an amusement park in Shenzhen malfunctioned, killing six people. In July 2011, an escalator in a Beijing subway suddenly reversed direction, killing a 13-year-old boy and injuring 28 people. In August 2012, a boiler exploded in a leather factory in Wenzhou, burying 23 people. Such events made national news and revealed the inadequacies of existing regulations (NPC, 2013a). As NPC deputy Xu Youxiang describes,

a new Special Equipment Safety Law was necessary to “to ease the safety anxiety of the public” (M. Wang, 2013).

The law itself sought to establish a new system to clarify rules for the safe operation of special equipment, building upon an existing 2003 State Council regulation (Cai, 2016). A draft law, which first entered the NPC in August 2012, divided responsibility among three actors: the enterprises installing/using special equipment, the government, and society. Most of the responsibility was placed on the businesses themselves, with the government and society playing largely watchdog functions. NPCSC Legislative Affairs Committee Vice Chairman Kan Ke describes the government’s role as “police-like” rather than “nanny-like,” emphasizing a dual-identity of supervisor and punisher (Peng, 2013; Xinhua, 2013b).

The Special Equipment Safety Law proceeded through a relatively quick drafting process that consisted of three readings and one public comment period. Importantly, the special equipment safety system was not complicated with competing high-level ministries. Authority to manage special equipment rests firmly in the Bureau of Special Equipment Safety Supervision, which lies under the AQSIQ, which lies under the State Council. This stands in contrast to the “five dragons” competing for control of the food safety supervision system, and the battles fought between the NPC, State Council, and local governments over the Legislation Law.

To the extent that there were debates and disagreements in the drafting process, they occurred over minor wording issues in the law. One article describes a “heated debate” over the use of the words “check” and “inspections.” One deputy commented,

Check is actually an enterprise action and cannot be separated from manufacturing and operation. It is a procedure and a behavior of the manufacturing. However, inspection requires a fair and independent third party. Supervision and inspection is an administrative action. (M. Wang, 2013, p. 4)

Other debates centered on the severity of penalties levied to violating enterprises (NPC, 2013b). While important, these issues do not represent major points of division. This is an instance of one key stakeholder—the AQSIQ under the State Council—perfecting the language of a new law.

Legislative records and commentary illustrate the role that citizen attention played in moving the law forward. An article published by Xinhua noted that the law was passed “amid public concerns following a number of accidents, some of which were fatal” (“China Passes Law to Curb Special Equipment Accidents,” 2013). Other sources describe the “grim situation”

surrounding special equipment safety in China and were very explicit about the need for legislation to address those problems (“Clarify the “First Responsibility System” to Ensure Public Safety,” 2013; Haidian Bureau of Quality and Technical Supervision, 2013; Peng, 2013; M. Wang, 2013; Xinhua, 2013b). NPC Finance and Economics Committee Vice Chairman Wen Shizhen reveals his concern about public anger:

Special equipment safety legislation has become a top priority. In China, the quantity of special equipment is growing rapidly, the pressure to guarantee safety is ever increasing, the people’s demands with respect to safety are also ever rising, and special equipment security safety is still grim. (Xinhua, 2013a, p. 1)

One source notes that the NPC consciously decided to speed up the legislative drafting process in light of citizen concerns (Liang, 2013), and another commentary of the law ties gruesome elevator accidents directly to the law itself: “One can say, it is the lessons of bloodshed, the repeated painful accidents that gave birth to the Special Equipment Safety Law” (T. Wang, 2013, p. 2).

The final law was passed by the 12th NPC Standing Committee on June 29, 2013, with 160 votes in favor, one against, and four abstentions (M. Wang, 2013). By the end of the drafting process, the number of articles had increased from 65 to 101 (P. Wang, 2014), nearly twice as many articles as contained in the Food Safety Law. Key contributions include a precise, expansive definition of special equipment (Special Equipment Safety Law of the People’s Republic of China 2013, Article 2); clear assignment of administrative responsibility (Article 5); restrictions on sales (Article 27); guidelines on maintenance (Article 39); and harsh penalties for violations (Articles 74-93). Without the kind of division that dominated the Food Safety Law and Legislation Law drafting processes, legislators were able to pass a clear and comprehensive piece of legislation. With the heightened level of citizen attention, the political will was there to accelerate the process itself.

Generalizability and Limitations

Passage of the Legislation Law appears to have been slowed by gridlock among stakeholders in the NPC, State Council, and local governments, and the final law displayed relative policy stability in many key points of division. The Food Safety Law confronted similar complexity and division—this time among the five ministries tasked with food oversight—but passage of

the law was spurred forth by the milk powder scandal. The net result was a rapid and relatively large shift in policy. The Special Equipment Safety Law benefited from both low division and high citizen attention, bringing the timely passage of a relatively effective law.

The purpose of the case studies is to demonstrate the utility and plausibility of the main idea, that authoritarian policymaking is driven by an interaction between the division within the ruling coalition and citizen issue attention. The remaining question is whether these dynamics have any explanatory power beyond the included case studies.

As stated previously, it is difficult to measure these concepts at scale, but the data do allow for a crude assessment. Following the passage of the Legislation Law (2000), the NPC Legislative Affairs Committee began to post reports on the drafting process for all passed laws, including information on which organizations within the Party–government nexus commented on a law in draft meetings. I use this information to tag different organizations for each law (92 in total) and create a variable *orgs.tot*, which is a count of the total number that attended. This does not capture division, per se, but it is a loose proxy for the number of stakeholders affected by a given piece of legislation. The Food Safety Law has an *orgs.tot* measure of 4 (MOH, AQSIQ, SAIC, SFDA), while the Special Equipment Safety Law has a value of 1 (AQSIQ).

The top panel of Figure 3 shows the relationship between *orgs.tot* and *years.top*. The data suggest that the more organizational stakeholders involved, the more time spent in the legislative system. For laws that only had one identifiable organization, 0% were delayed. Laws with four or more stakeholders were delayed 40% of the time. The rate for laws with two or three stakeholders lies in between. A simple linear bivariate regression suggests that each additional organization involved delays the process by about .65 years ($p = .039$). This finding dovetails with a long tradition of qualitative research on “fragmented authoritarianism” in the Chinese system (Lieberthal, 1992; Lieberthal & Oksenberg, 1988). Case studies of the Enterprise Bankruptcy Law, State-owned Industrial Enterprises Law (Tanner, 1999), and Land Management Act (Van Rooij, 2006) reveal similar instances of bureaucratic infighting and provide further support for Hypothesis 1.

The bottom panel of Figure 3 shows the issue area of different laws. It is noteworthy that laws about health and safety have a 0% delay rate, and only one law on environmental protection took longer than 5 years. Such issues tend to directly affect the population, and many of these laws were passed in direct response to crises and popular anger. For example, on August 28, 2004, the NPCSC issued a lengthy revision of the Infectious Disease Law, only 254 days after it had been placed on a legislative plan. This law was in direct

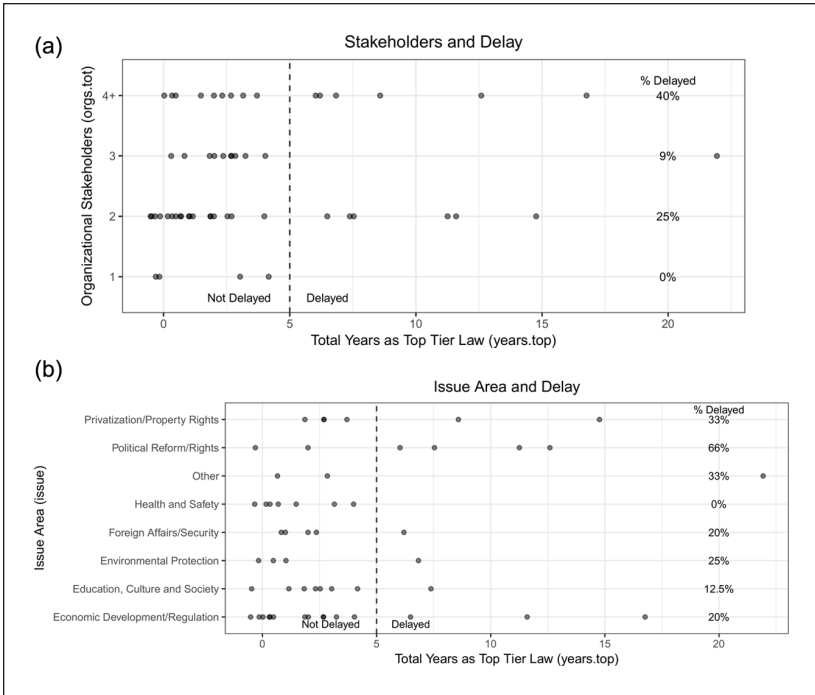


Figure 3. Determinants of delay in China’s legislative system.

Figure shows total years between the announcement of laws as top priority in an NPCSC Legislative Plan and their subsequent passage into law. Only laws, revisions, and amendments passed after 2000 are shown; NPC Legislative Affairs Committee reports are missing or sparse in earlier years. The dotted lines indicate the threshold of 5 years—laws that took longer are considered *delayed*. The top panel shows the relationship between the number of organizations that commented on the law (*orgs.top*) and legislative delay. The bottom panel shows issue area. NPC = National People’s Congress; NPCSC = NPC Standing Committee.

response to the SARS outbreak of 2002-2004. On December 27, 2008, the NPCSC passed an amendment to the Law on Protecting Against and Mitigating Disasters from Earthquakes, just 7 months after the Wenchuan earthquake killed 70,000 people, in part because of shoddy government construction. In August 2015, the NPCSC passed amendments to its Air Pollution Prevention and Control Law, within 2 years of the smog “airpocalypse” that affected 30 cities, and within 1 month of a deadly chemical explosion in Tianjin. Consistent with Hypothesis 2, shocks to public opinion do seem to beget faster legislative processes, and this idea appears to travel beyond what we observed in the Food Safety Law and Special Equipment Safety Law. I

would expect this dynamic to grow increasingly relevant over time, as education levels, Internet penetration, and transparency in the legislative system continue to rise.

There is likely a subset of the issue space in China where the above dynamics do not apply. In other research, I have found that the CCP regime fosters a brand of limited representation in the NPC, a behavior I term “representation within bounds” (Truex, 2016). To help the regime respond to popular grievances, NPC deputies voice the interests of their constituents on a broad range of issues, but they remain completely reticent on issues of political reform, human rights, freedom of speech, and so forth. These are “strong preference” issues that are core to regime survival, those where the interests of the CCP and the citizenry directly conflict. I suspect a similar boundary applies to legislative process itself. On politically sensitive issues, citizen attention may not reliably shorten the legislative process, as the regime is unable and unwilling to cave to popular pressure. Future research on additional cases can further tease out this scope condition.

Beyond the generalizability issue inherent in small-N designs, the qualitative analysis in this article suffers from two key limitations. First, it operationalizes “stakeholders” and ruling coalition division primarily in the bureaucratic sense, as identifiable organizations in the Chinese government (AQSIQ, MoA, MoH, the NPC, etc.). This leaves out division within the upper echelons of the Party itself, particularly within the Politburo and Politburo Standing Committee. We know from existing research on elite politics in China that ideological dispositions of Party leaders and the factional balance of power can play decisive roles in policymaking (Shih, 2008; Shirk, 1993). Such findings are consistent with Hypothesis 1 of this article. I focus my analysis on bureaucratic stakeholder divisions because (a) they remain understudied and (b) the Chinese system is too opaque to reliably discern where specific leaders stand on a given law.

A second limitation is that I have generally treated division within the ruling coalition and the citizen issue attention as independent. This is done for reasons of analytical simplicity, and in part because the most notable public opinion shocks in the last decade have come in response to actual disasters or gross misgovernance—earthquakes, train crashes, chemical explosions, tainted milk, and so forth. Members of the bureaucracy would be hard pressed to heighten or dampen citizen attention in these areas. Still, it is possible that in some cases, distinct stakeholders within the ruling coalition try to manipulate public opinion to gain bargaining leverage. A recent example of this is the short film, “Under the Dome,” which documented China’s air pollution problems. The film was viewed by 150 million Chinese citizens within 3 days of its release in

2015, and it incited so much attention to the pollution issue that the government had to take it offline. Although it was produced by a private citizen, there is some speculation that the document was created in concert with the Ministry of Environmental Protection, which praised the film and was painted in a sympathetic light. My own sense is that this sort of dynamic is the exception, not the rule, but it is worthy of additional investigation.

Conclusion

Research on legislative politics has identified the determinants of gridlock, but such findings are limited to democratic cases (Binder, 1999, 2003; Krehbiel, 2010; Mayhew, 2005; Tsebelis, 1995, 2002). Core theories of authoritarian politics focus largely on democratization and often assume away the policymaking process itself (Acemoglu & Robinson, 2005; Boix, 2003; Gandhi, 2008; Gandhi & Przeworski, 2007; Svobik, 2012). This article has developed a theory of authoritarian lawmaking by considering the interplay between the two core problems of authoritarian rule, contestation from within and below (Svobik, 2012). The core argument is that regime leaders must balance the interests of stakeholders within the ruling coalition, and account for common citizens when they are particularly angry and attentive to a given issue. Case studies of lawmaking in China show that these two forces can help contextualize the country's legislative processes, with drafting taking anywhere from a few months to several years.

For scholars with less interest in the Chinese system, my hope is that the alphabet soup of Chinese bureaucratic acronyms in the case studies above did not obscure three broader takeaways. The first is that division can delay and distort policymaking in an authoritarian parliament. Roughly one half of all top-tier draft laws fail to pass within the stated 5-year period of the legislative plan, and about 12% of laws take more than 10 years to pass. If anything, these figures underestimate the level of gridlock, as they do not account for laws that never even made it to "top priority" status in a legislative plan. The Chinese system is capable of producing landmark legislation at a rapid pace, but it is also vulnerable to the substantial delays that come with infighting among bureaucratic actors and other Party constituencies (Paler, 2005; Tam & Yang, 2005; Tanner, 1995, 1999; Yang, 2004).

The second theme of the article is that gridlock in an authoritarian system is substantively different in character than in democratic legislatures. The term "gridlock" refers to a situation in which cars block an entire network of intersecting streets, bringing traffic to an absolute standstill. In democratic systems, the word seems appropriate to capture legislative dynamics, as the

rigidity of specific veto players yields definitive outcomes (Krehbiel, 2010). Either the bargaining space exists to pass a law, or it does not. In authoritarian systems, this rigidity is largely absent. Key constituencies within the ruling coalition have some say in the policy process, but their concerns can be overridden in times of crisis. Such dynamics appear to produce a more malleable legislative system, with more variation in legislative processes and outcomes. New laws may languish on the docket for years, only to be finalized in months when the regime itself is at stake.

The third takeaway is that public opinion and citizen attention can have dramatic effects on authoritarian legislative processes and policy-making. Not all regimes rule solely through rent distribution to their “selectorates” or “ruling coalitions” (Buono de Mesquita, 2005; Deacon, 2009; Lake & Baum, 2001; McGuire & Olson, 1996). Regimes can be quite responsive when public attention to an issue threatens to destabilize the system (Chen et al., 2016; He & Warren, 2011; Manion, 2016; Meng et al., 2014; O’Brien, 2008; Truex, 2016). This responsiveness is driven by the threat of revolution, not electoral accountability, but it is responsiveness nonetheless.

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Notes

1. In a recent *Financial Times* editorial, Fukuyama (2011) concedes that “U.S. democracy has little to teach China,” noting, “China adapts quickly, making difficult decisions and implementing them effectively.” Others fantasize about “being China for a day” and “having a government that can actually make decisions” (Friedman, 2008).
2. A similar duration measure is used by Martin and Vanberg (2011) in their study of lawmaking in parliamentary systems.
3. See Tanner (1995) for a more detailed description of these processes.
4. See the resources at the National People’s Congress (NPC) Observer for more descriptions of the Legislative Plans: <https://npcobserver.com/>.
5. For example, in the October 2008 draft discussion of the Food Safety Law, NPC deputy Cheng Yiju commented, “Food safety is becoming increasingly important, after the Sanlu Milk Powder Incident I feel we must fully consider and inspect the Food Safety Law, and not rush to pass and introduce it” (National People’s Congress, 2010).

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