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The Logic of Statute Ambiguity: Bureaucratic Conflict and Lawmaking in China

A Dissertation submitted in partial satisfaction of the requirements
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Political Science

by

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The Dissertation of Jiying Jiang is approved, and it is acceptable in quality and form for publication on microfilm and electronically.

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To Yueqin

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ABSTRACT OF THE DISSERTATION

The Logic of Statute Ambiguity: Bureaucratic Conflict and Lawmaking in China

by

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Doctor of Philosophy in Political Science

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Professor Margaret E. Roberts, Chair
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My dissertation explores the political logic of ambiguity in Chinese national statutes. Departing from the prevailing view of the delegation literature that treats the amount of statutory ambiguity as essentially a control problem, my dissertation offers an alternative account by

considering bureaucratic struggle over policy. The core argument is that ambiguity in law allows Chinese top leaders to navigate and satisfy competing interests of bureaucratic stakeholders. For the regime leader, ambiguity helps facilitate compromise among conflicting actors and overcome legislative gridlock. For the competing stakeholders, ambiguity avoids locking in hostile rules and creates bargaining and interpretative space in the post-legislative stage. I further argue that statute ambiguity is a double-edged sword. It helps facilitate timely bill passage and maintain elite loyalty but runs the risk of reinforcing bureaucratic fragmentation and undermining regulatory coherence. I evaluate these ideas through a combination of qualitative case study of the Anti-Monopoly Law and statistical analyses of large collections of laws, implementing regulations and rules between 1993 to 2021 in China. Using process-tracing and novel measures of statute ambiguity, I find that bureaucratic division over policy encourages both jurisdictional and substantive ambiguities in final law. I also find that jurisdictional ambiguity in law is associated with delay of administrative regulations (executive decree) and fragmentation of departmental rules (ministerial decree). My dissertation contributes to advancing our knowledge of how elite conflict is managed in an authoritarian legislature and how policy power is shared among regime insiders holding divergent preferences. It also reveals the legal source of China's bureaucratically fragmented system.

Chapter 1 Introduction

1.1 Research Question

What is the most inscrutable government body in China? According to an online survey launched by a Chinese website in 2010, "relevant department" (有关部门) won the highest votes.[1] Among the 70,000 people who responded to this question, 92% chose "relevant department" as the answer.[2] The result may seem sarcastic, but it reveals that this government jargon has become a source of frustration for many Chinese citizens. Sometimes "relevant department" is clear from context, but more often it remains obscure. Likewise, it has caused confusion to the international audience. For example, in a regular press conference held by the Chinese Foreign Ministry in May 2019, a request for information about the arrangements for the China-US trade negotiations was simply turned down, the foreign journalist seeking the information was told to ask the "relevant department" without identifying which department that is.[3]

> Journalist: "You tell us we should refer to the relevant department for the arrangement of China-US trade negotiations. In that situation, who is the relevant department we should speak to?"

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[1] Japanese Overseas Chinese News: Unraveling the enigma of China's "relevant departments" [新华侨报：解读中国"有关部门"缘何神秘]. (2005, March 25). *China News* [中国新闻网]. Retrieved from https://www.chinanews.com.cn/hb/news/2010/03-25/2189664.shtml

[2] Ibid.

[3] See Zhao, I. (2019, May 8). Is it evasive or humorous? Geng Shuang's response on behalf of "relevant departments" sparks heated discussions [打太极还是耍幽默 耿爽"有关部门"回答引热议]. *ABC News*. Retrieved from https://www.abc.net.au/chinese/2019-05-08/geng-shuangs-relevant-authority-remark-triggers-debate/11090876; Spokesperson Geng Shuang hosts regular press conference of the Ministry of Foreign Affairs on May 6th, 2019 [2019 年 5 月 6 日外交部发言人耿爽主持例行记者会]. Retrieved from https://www.fmprc.gov.cn/web/wjdt_674879/fyrbt_674889/201905/t20190506_7814709.shtml.

Spokesperson: “The relevant department, naturally, is the one relevant to this issue. Those irrelevant can not be referred as ‘relevant department’.”

— Press conference of the Foreign Ministry on May 6, 2019

In fact, such term appears frequently not only in the official media, the government spokespersons’ remarks, but also in the national statutes in China. Chinese lawmakers often fail to clarify jurisdictional lines as well as policy substance. Implementation authorities are delegated to “relevant department,” and entities and individuals are regulated by “relevant provisions” (有关规定). For example, the Yangtze River Protection Law (长江保护法) delegates the authority to investigate and punish illegal ecological acts to “the relevant departments of the State Council” and prescribes that usage of shore power shall follow “relevant provisions issued by the state.” The 2009 Food Safety Law (食品安全法) stipulates that the inspection procedures for slaughtered livestock and poultry shall be formulated by “the relevant department of the State Council jointly with the health administrative department.” The 2007 Anti-Monopoly Law (反垄断法) delegates the law enforcement authority to an “anti-monopoly law enforcement agency designated by the State Council” and stipulates that the national security examination of the “concentration of business operators” shall be conducted according to “the relevant provisions of the State.” These undefined authorities and provisions are surprisingly common in Chinese national statutes. Ambiguous statutory wording goes against our conception of authoritarian resoluteness and determinacy in making decisions. The level of clarity in a given law can have dramatic consequences for how that law is interpreted and applied (VanSickle-Ward, 2014, p.2). Why do Chinese top leaders, who hold “supreme commanding power” in a political system (Ang, 2016, p.108), choose to promulgate vague laws? What explains ambiguity of Chinese laws?

The prevailing explanation of statutory ambiguity is derived from the delegation literature, mostly developed by political scientists studying bureaucracy and legislative-executive relations in the United States. The growth of the regulatory state and increased policy complexity have incentivized legislators, who lack time and professional competence, to delegate policymaking power to the bureaucracy via vague statutory language. However, vagueness is not without cost. Granting discretion increases the likelihood of "ministerial drift" (Martin & Vanberg, 2011, p.25), where executive agents "use their expanded authority to promote their own interests" rather than to reflect congressional preferences (Staton &Vanberg, 2008, p.506). Statutory discretion thus presents legislators with a tradeoff between dealing with limited policymaking abilities on one hand and maintaining their control over bureaucratic behavior on the other. Further, how legislators evaluate this delegation tradeoff could vary across cases and political contexts, leading to varied amount of ambiguity. Prior work on legislative politics has proposed a number of factors to explain statute ambiguity, including whether the government is unified or divided, partisanship, term limits and the availability of ex post means of bureaucratic control (Epstein & O'Halloran, 1999; Farhang & Yaver, 2016; Huber & Shipan, 2002; Lewis, 2003; Marisam, 2011; Martin & Vanberg, 2011; Vakilifathi, 2019).

But it is difficult difficult to extend such findings to authoritarian cases. First, authoritarian parliaments do not see the type of legislative-executive tension we observe in democracies. By any comparative standard, legislatures are weak institutions in authoritarian regimes. Members of authoritarian parliaments either remain subservient to the powerful executive actors or serve as proxy fighters for their executive principals (Lü, Liu, & Li, 2020; Noble, 2020). They rarely exert independent influence over policy content, let alone using legislation to discipline the bureaucracy. In China, former central government officials retire to

the National People's Congress (NPC) and continue representing the interests of their former ministries and allied constituencies (Lü et al., 2020; Tanner & Ke, 1998). Leaders of the Chinese Communist Party (CCP) are able to exert effective control over the bureaucracy. However, top party leaders usually rely on non-statutory means of control and rarely signal clear policy preferences in the legislative process (Tanner, 1995, 1999). Second, as the delegation literature frames discussions around inter-branch tension, cleavages within the bureaucracy are assumed away. The executive can be powerful over the legislature and at the same time, internally divided over a range of policy issues (Charap, 2007; Lieberthal & Lampton, 1992; Lieberthal & Oksenberg, 1988). For authoritarian states with massive bureaucratic systems, intra-executive conflicts are particularly intense (Lieberthal & Oksenberg, 1988; Lü et al., 2020). In China, a large number of ministries and bureaus were created to oversee different and overlapping aspects of the society, generating ubiquitous bureaucratic struggles (Lieberthal & Oksenberg, 1988; Shirk, 1992, 1993). These bureaucratic disputes spillover to the legislature, drive lawmaking processes and shape bill contents. (Lü et al., 2020; Tanner, 1995, 1999). The need for compromise between conflicting bureaucratic actors and how this need shapes the language of law is under-explored in the delegation literature. Contradictory to the findings of the bureaucracy scholarship that government division results in detailed laws that constrain the bureaucracy in the United States (Moe 1990; Huber & Shipan 2002; Epstein & O'Halloran 1999), I argue that intra-regime conflict encourages ambiguity in law that ultimately empowers administrative agencies in authoritarian states. Third, unlike the United States, where lawmakers vary the amount of discretion delegated to particular agencies or actors, Chinese statutes are ridden with jurisdictional ambiguity, where regulatory tasks are assigned to "relevant department." In this scenario, who should exercise jurisdiction is not clearly defined. Why don't

Chinese lawmakers clarify the recipients of delegations? Also, there is little evidence that Chinese leaders intend to trigger agency competition via ambiguous delegations for the purpose of control. Such ambiguity is puzzling and calls for a new explanation different from the political control story.

1.2 Argument

Departing from the prevailing view of the delegation literature that treats statute language as essentially a control problem, my dissertation offers an alternative perspective for understanding statute ambiguity by considering elite policy conflict in authoritarian legislatures. The key assumption is that the authoritarian ruling coalition features competing elites with divergent preferences. I conceptualize authoritarian elites in the bureaucratic sense and focus on policy as the object of struggle. The core argument is that ambiguity in law allows regime leaders to manage bureaucratic policy conflict in the legislature to overcome gridlock and implicitly share policy power between competing bureaucratic factions to maintain elite loyalty. Resorting to ambiguity in legal drafting allows the autocrat to achieve reconciliation (at least its appearance) in the legislature without creating losers in the elite coalition, which embodies the logic of "balance of power" in authoritarian politics and policymaking (Boix & Svolik, 2013; Shih, 2008; Shirk, 1993; Svolik, 2009). I identify two forms of ambiguity in laws: 1) jurisdictional ambiguity that concerns who are empowered to implement a law, and 2) substantive ambiguity that concerns what to do to implement a law. I argue that bureaucratic conflict can lead to both jurisdictional and substantive ambiguities. Statutory ambiguity serves important roles for both the autocrat and the elites. For the autocrat, ambiguity helps overcome legislative delay and gridlock by facilitating compromise between conflicting bureaucratic

stakeholders. For competing bureaucratic actors, it avoids locking in hostile rules and creates room for bargaining and interpretation in the post-legislative stage of policymaking. I further argue that statute ambiguity is a double-edged sword. It helps the autocrat to ensure timely bill passage and maintain elite loyalty, but runs the risk of delaying and fragmenting implementing regulations and rules, generating inconsistencies when laws are interpreted and implemented.

1.3 Research Design

This study evaluates the bureaucratic-conflict-centered account of statute ambiguity through a detailed, multi-method analysis of lawmaking processes and outputs in China. The empirical analysis contains three stages. The first stage consists of a detailed qualitative case study of China's antitrust law. The goal is to exemplify the proposed causal pathways from bureaucratic policy disputes to jurisdictional ambiguity and substantive ambiguity in the enacted Anti-Monopoly Law (AML) and demonstrate how the vague AML shapes the post-legislative policy process. The second empirical stage consists of a statistical analysis of a large collection of legislative texts to systemically investigate causes of statute ambiguity. Using administrative sanction articles of 167 national statutes promulgated between 1993 and 2021 and their legislative records, I develop quantitative measures of jurisdictional ambiguity and substantive ambiguity and create proxy variables of bureaucratic conflict. The third empirical stage consists of statistical analyses to investigate the consequences of statute ambiguity on post-legislative rulemaking. Using datasets of law implementation regulations and rules between 1993 and 2017, I create novel empirical measures of administrative regulation velocity and departmental rule fragmentation. The research design combines fine-grained analysis of qualitative data for bill case study and quantitative analysis of large collections of laws, implementing regulations and rules. This mixed-methods approach combines, therefore, the strengths of process-tracing's focus

on causal mechanisms and internal validity, and the wider view afforded by lawmaking data over nearly three decades.

1.4 Contributions

My dissertation moves knowledge forward in three ways. First, this study extends the power-sharing framework to authoritarian policymaking. Despite the advances in the field of authoritarian institutions in the past two decades, there remains less empirical understanding of how policy is made under authoritarian rule, and how power is shared over policy decisions (Magaloni & Williamson, 2020; Noble, 2020; Remington, 2019). Recent years have seen scholarly efforts to open the "blackbox" of authoritarian policymaking. Truex (2020)'s work on legislative gridlock, Lü et al. (2020)'s study on policy coalition and Noble (2020)'s research on bill amendment provide micro-level evidence that uncovers important legislative dynamics. My study engages this emerging scholarship by bringing policy influence back in the discussion of authoritarian power-sharing. I propose a new account of authoritarian lawmaking that reveals how autocrats invoke statute ambiguity to covertly share policy power among bureaucratic elites and incentivize their loyalty. By connecting statute language with autocrat's ruling strategy, this study advances our understanding of how policy power-sharing works in a nondemocratic setting.

Second, I identify a reconciliation mechanism of authoritarian elite struggle over policy. How do autocrats manage elite conflicts remains a crucial question to understand authoritarian rule, theoretically and empirically. Autocrats face survival challenges when they are caught between powerful constituencies with incompatible policy demands, each aiming to maximize their own benefits at the cost of others. For example, Pepinsky (2009)'s analysis of the Indonesian experience in the East Asian financial crisis presents an extreme case where a

fundamental cleavage between Soeharto's elite allies over adjustment policies led to the regime's breakdown. Despite their relevance to regime stability and durability, mechanisms through which autocrats appease conflicting stakeholders are insufficiently explored (Lieberthal & Oksenberg, 1988). My study fills the gap. I theorize the value of ambiguity in authoritarian lawmaking and find that in China, statute ambiguity serves a vehicle for compromise among rival ministries and provinces on the legislative floor. At the national level, ambiguity in law allows room for competing bureaucratic units to unilaterally expand their regulatory turfs and pursue their independent policy agenda through departmental rulemaking. In so doing, the regime leader alters the nature of elite bargain over policy by shifting a zero-sum game to a positive-sum game.

Third, this study proposes a new lens to understand China's governance structure. The Chinese system embodies pervasive fragmentation and competition as captured by the notions of "fragmented authoritarianism" (Chen, 2017, p.382; Lieberthal & Lampton, 1992; Lieberthal & Oksenberg, 1988; Mertha, 2009). Despite China's single-party rule, power to make and implement policy is diffused across a large number of party and government organs (Lieberthal & Lampton, 1992; Lieberthal & Oksenberg, 1988; Tanner, 1999; Truex, 2020, p.1457). These bureaucratic actors pursue differing priorities, leading to divergence in implementation at the cost of regulatory coherence. The fragmented nature of Chinese bureaucracy has been widely recognized, but there is far less understanding of why and how such fragmentation persists, despite efforts to create coherent bureaucracies. My dissertation tackles these questions. This study reveals the legal source of China's bureaucratically fragmented system and empirically tests it. Ambiguity creates loopholes for inconsistent interpretations of law, which reinforces bureaucratic factionalism and structural fragmentation in the political system.

1.5 Chapter Outline

Chapter 2 combines insights from core theories of authoritarian politics, organizational politics and legislative processes to propose an account of statute ambiguity under authoritarian rule. The proposed argument focuses on two key actors: bureaucratic elites and autocrats. It details their motivations, calculations and interactions and theorizes the value of statute ambiguity in authoritarian lawmaking. Chapter 3 provides a detailed analysis of national level legislation in China. It discusses the sources and structure of Chinese laws as well as the two arenas and the six stages of lawmaking in China. It also examines the role of lawmaking actors involved in the different legislative stages. Chapter 4 provides an in-depth qualitative case study of the Anti-monopoly Law to illustrate the plausibility of the proposed causal mechanisms. It draws upon the AML drafting documents, legislative records and implementing regulations to examine the bill's textual change during the legislative process and investigate the post-legislative outcome. Chapter 5 employs a quantitative approach with large collections of legislative texts to investigate the causes of statute ambiguity. Using administrative sanction articles of 167 national statutes promulgated between 1993 and 2021 and their legislative records, I develop two novel measures of statute ambiguity and create proxy variables of bureaucratic policy conflict. Chapter 6 presents a statistical analysis of post-legislative policymaking. Using collections of implementing regulations and rules between 1993 and 2017, I create novel empirical measures of administrative regulation velocity and departmental rule fragmentation to investigate the consequences of statute ambiguity. In the conclusion, Chapter 7, I summarize the argument, empirical findings, limitations and significance of this study. The chapter also puts forward new avenues for future research.

Chapter 2 Theory

To understand the politics of lawmaking in China, I combine insights from frameworks of legislative processes, bureaucratic and organizational politics, and authoritarian institutions. I build upon work on legislative dynamics in non-democracies (Lü et al., 2020; Noble, 2020; Tanner, 1995, 1999; Truex, 2020), which suggests that authoritarian legislature serves a key arena for policy battle among regime insiders. The assumption is that the authoritarian elites have different policy preferences on a range of issues. I focus on two actors of interest: 1) the bureaucratic elites aiming to transform their policy preferences into formal laws, and 2) the regime leader motivated to incentivize elite loyalty and ensure passage of introduced bills. Protracted policy disputes in lawmaking pose a challenge to the regime leader. Bureaucratic division makes it hard to find ways to please stakeholders with incompatible demands and increases the likelihood of legislative gridlock and delay. Drawing insights from the public law literature and particularly VanSickle-Ward's (2010, 2014) work on the language of US legislation, I argue that statute ambiguity helps China's top leader to facilitate compromise between conflicting bureaucratic actors and implicitly shares policy power among these players when laws are interpreted and implemented. Via ambiguity, the regime leader manages to navigate competing interests, maintain loyalty of bureaucratic elites and ensure timely passage of introduced bills. Below I discuss in detail these two types of actors and their motivations, how authoritarian legislative institutions shape their calculations and interactions in lawmaking, and how statute ambiguity helps deliver what they want. Figure 2.1 summarizes the actors, motivations and interactions in the lawmaking process. Section 2.2 discusses alternative explanations.

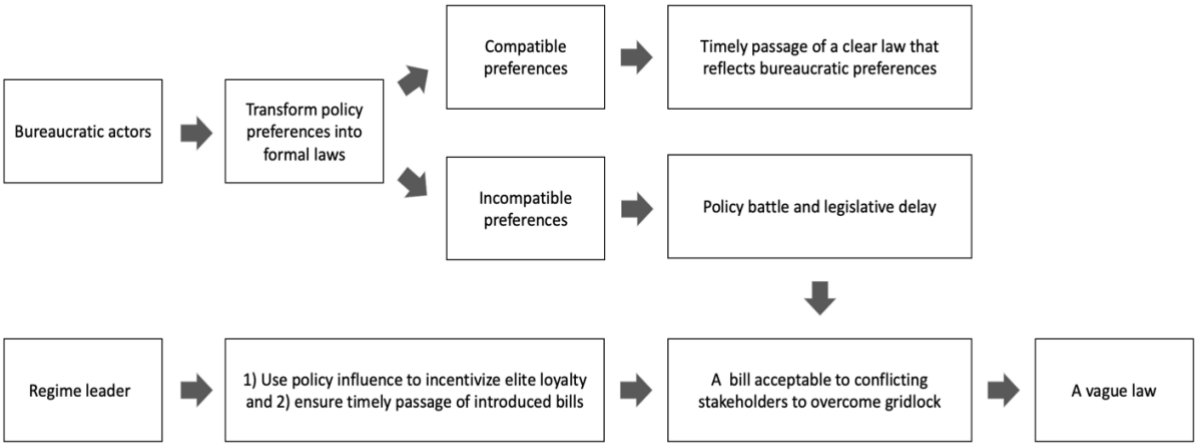

Figure 2.1: Actors, motivations and interactions in lawmaking

2.1 Legislative Processes as Arenas for Elite Conflicts

Autocrats rely on the support of elite actors to stay in power (Haber, 2008). Cross-national evidence reveals that a majority of authoritarian leaders were removed by "government insiders" rather than a popular uprising (Svolik, 2009). But providing elite allies with credible incentives to remain loyal can be difficult, considering the opaque and unstable nature of authoritarian politics (Magaloni, 2008; Svolik, 2012; Magaloni & Williamson, 2020). The creation and development of a set of institutions — legislatures, parties, elections — reflect regime efforts to facilitate and stabilize elite power-sharing. These power-sharing institutions are associated with regime longevity: they help reduce information asymmetries, as well as the commitment and monitoring problems between autocrats and their elite allies, as well as between competing elite factions (Boix & Svolik, 2013; Gehlbach & Keefer, 2012; Magaloni, 2008; Noble, 2020; Svolik, 2009, 2012). Recent studies of authoritarian legislatures extend this power-sharing logic to policy making, providing micro-level evidence about how legislative institutions are used to credibly distribute policy power among regime elites with divergent preferences (Lü

et al., 2020; Noble, 2020). This study aligns with this scholarship and treats authoritarian legislative processes as arenas for policy influence and contestation from within the elite coalition.

2.1.1 Bureaucratic Actors, Policy Preferences and Disputes

The composition of the elite coalition, and the preferences of those who comprise it, are central to understanding policy outcomes in authoritarian regimes (Gallagher & Hanson, 2013, p.201). In China, the general pool of regime elites includes members of the Chinese Communist Party Central Committee, the Politburo and its Standing Committee (Politburo Standing Committee, PSC), central level bureaucracies (ministerial-level functional organizations of the State Council and the Party), the State-Owned Enterprises (SOEs) and other key firms, the People's Liberation Army and its functional bureaucracies, and provincial level administrations (Truex, 2020, p.1459). In this study, I employ the organizational or bureaucratic politics model (Allison, 1969, 1971; Downs, 1967; Lampton, 1983; Lieberthal & Oksenberg, 1988; Oksenberg, 1983) and conceptualize elite actors in terms of discrete administrative units, such as ministries and government bodies. The bureaucratic politics model claims that the government should be viewed as a collection of "many individuals representing different government departments participating in 'a competitive game'" (Zhang, 2016, p.438), rather than a unified actor working towards a common goal (Allison, 1971). Adopting this framework, I study regime elites in the bureaucratic sense and focus on two types of bureaucratic elites in China's policy process: functional bureaucratic units at the ministerial level (hereafter ministries) and territorial administrative units at the provincial level (hereafter provinces). The Chinese bureaucratic system is divided both functionally and geographically (Lieberthal, 2004, p.204). At the national level, bureaucracies are divided according to their professional functions, generating a large

number of ministries, commissions, bureaus and other organizations, whose heads hold minister or vice-minister[4] ranks. These central level bureaucracies have offices at the provincial, prefecture (city), county and township levels, constituting a vertical line of authority, referred as *tiao* (条). Geographically, territorial administrations at the provincial or lower levels represent the horizontal pieces, referred as *kuai* (块) of the Chinese bureaucratic structure. Among the four administrative levels under the Chinese central government, the provincial level administrative divisions are at the highest level and provincial leaders (provincial party secretaries and governors) have the same administrative rank as ministers. In the Chinese political system, the political status of a bureaucratic unit is defined by the rank of its head. In other words, ministries and provinces are equal in rank. I argue that these two types of bureaucratic actors are important political players in China's national lawmaking process, and their policy preferences and interactions are central to understanding the content of national statutes.

My choice to limit the study of Chinese elites to bureaucratic actors, so defined, is guided by several considerations. First, ministerial and provincial officials are the two key constituencies in the Chinese lawmaking institutions.[5] Second, bureaucratic actors are central to the functioning of both the society and the polity. China's top leadership relies on ministries and provincial governments to implement governance tasks and maintain authoritarian rule. Third, the way bureaucratic units are structured and where they are located, helps us yield relatively clear insights about their motivations and preferences, as well as source of disputes in the policy

[4] In China, heads of National Administrations administrated by ministry-level agencies (国家局) conventionally hold vice-minister rank. These units are at the vice-ministerial level (副部级).

[5] Ministerial officials are ministers and minister-level heads of functional bureaucracies in the national government. Provincial officials are party secretaries and governors of provinces, including mayors of direct-controlled municipalities and chairpersons of autonomous regions. In China's National People's Congress and the Central Committee of the Communist Party, some officials ranked below ministerial-provincial level, such as vice-ministers and deputy governors, also hold a seat.

process. Fourth, bureaucratic actors develop patron-client relations with non-bureaucratic elites. My bureaucratic-centered view of regime actors does not mean that other members of the elite coalition (e.g., Politburo members, SOEs, key firms) are irrelevant or unimportant in China's lawmaking process. Instead, I emphasize a form of reciprocity that non-bureaucratic elites serve as either political patrons or clients of bureaucratic actors (ministerial and provincial officials). The prospect of the former depends on the success of the latter, and vice versa. I thus expect non-bureaucratic elites to align with their bureaucratic patrons or factions and advocate for their interests in the lawmaking process.

Ministries. Functional bureaucracies are among the most relevant and powerful political actors in national policy making. In China, a large share of legislative proposals originate from within the executive branch and the bulk of bill drafting is performed by government ministries (Tanner, 1999, p.214).[6] Moreover, since authoritarian legislatures either align with or embed their powers on the Party-state bureaucracy (O'Brien, 1994; O'Brien & Luehrmann, 1998; Noble, 2020), government agencies continue to exert influence when bills are discussed on the legislative floor. For functional bureaucratic units, policy influence could be even more important than financial payoffs as an incentive to remain loyalty to the ruler, since "the latter can often be pursued through nonpolitical channels, while the former cannot" (Magaloni & Williamson, 2020, p.5). Just like business firms in the marketplace, government agencies act as utility maximizers and compete to push policy toward their preferences in the policy market (Posner, 2014, pp.227-

[6] Over time, the role of the NPC and its Standing Committee in drafting laws has become increasingly important (Wang & Shi, 2022, p.13-14). Nevertheless, legislators' employment ties to ministries and provincial governments allow these bureaucratic actors to continue to exert influence when laws are drafted by the NPC players. I discuss in detail the employment ties in Section 3.3.2 in Chapter 3.

230). They have an incentive to utilize bill proposing, drafting and amending opportunities to inscribe their preferred policies in legislative statutes and block those that harm their interests.

Such an incentive is particularly strong for authoritarian states with massive, parallel functional bureaucratic units. The Chinese party-state created a large number of ministries, commissions, bureaus and organizations at the national level to oversee different and overlapping aspects of the economy and society. Chinese ministries are organized by sector and professional function (Shirk, 1992, p.72).[7] The institutional design shapes the structure of interest articulation and aggregation, which embodies the logic of "where you stand is where you sit" (Allison, 1971, p.56; Shirk, 1993, pp.98-99). These functional units are created to have particular missions that they should pursue with zeal; they are expected to articulate the interests of particular sector and industry they oversee and lobby for policies that benefit their business clients; their heads should represent the perspective of their units (Lieberthal & Oksenberg, 1988, p.29; Shirk, 1992, 1993). Holding comparable ranks, they compete with one another for resource and attention from the top to advance their respective agendas and fulfill their organizational missions (Lieberthal & Oksenberg, 1988, p.29). Such pursuit of "departmental interests" (部门利益) is thus ubiquitous in the policy process. For ministries, the policymaking arena matters. Unlike the administrative venue where policies produced have relatively lower legal effect and are not always universally binding, enactments of the national legislature are superior. To mitigate the credible commitment problem in authoritarian politics (Lü et al., 2020; Myerson, 2008; Svolik, 2012) and guard them against future meddling of rival actors, ministries

[7] In China, there are different names and terms to describe these ministerial-level functional organizations, which can sometimes be confusing to outsiders. For the purpose of simplicity, I refer to all central government bureaucratic units whose heads hold minister-level rank as "ministries".

are motivated to finalize policy making at the highest legislative authority and codify their preferred policies into formal laws.

The risk of agency termination further exacerbates inter-ministry competition. Government organizations are overall stable, but not immortal (Kaufman, 1976). Technological change, economic growth, societal transformation, and political turnover could all drive organizational change (Christensen, Lægreid, & Røvik, 2007), through which ministries are reorganized, merged, and even abolished. These environmental changes are frequent and prevalent in China's reform era. With the onset of economic transition in 1978, public and private spheres have been constantly redefined and regulatory space has been adjusted from time to time. The rapidly changing environment has produced both challenges and opportunities for government ministries in terms of survival. To mitigate external risks of termination and enhance durability, ministries and their provincial and local offices strive to show their "significance" and "indispensability" to regime performance, as peripheral and redundant units are more vulnerable to termination (Carpenter, 2001; Chen, Christensen, & Ma, 2019). There is also a tendency to use law to expand their jurisdiction and size (Guo, 1988, p. 85-86; Tanner, 1999, p.121), given that agencies could be "too big to fail" (Chen et al., 2019, p.765). The point here is not to say that statutory underpinning guarantees survival, but to emphasize the bargaining power it grants to ministries and their local offices who might be involved in organizational restructures in the future.

Policy power is essential for government ministries. Exclusive authority and control over a range of key policies allow ministries and their local offices to survive and thrive in a competitive, evolving system. Motivations revolve several themes. First, control of a policy space helps these units to demonstrate the legitimacy of their existence and uniqueness of their

service, and thus survive future government reorganizations (Chen, 2017, p.386). Second, it allows them to request for increase in budget, personnel and other resources so that they could better carry out their responsibilities (Li, 2015, p.732; Lieberthal & Oksenberg, 1988, p.29). Third, it provides ministerial officials as well as heads of local agencies with the opportunity to accumulate "administrative merits" (*zhengji*, 政绩) and establish records of achievements that could be drawn on for future political promotion (Shih, 2008, p.54). Fourth, it helps ministries and their local offices to form and maintain patron-client relationships with businesses and interest groups who they regulate (Chen, 2017, p.386). Bureaucrats' ability to craft preferential policies for their clientele implies not just greater chances of rent-seeking but also better career prospects as promotions depend largely on the success of their private-sector constituents (Chen, 2017, pp.386-387; Li, 2015, pp.732-733; Steinberg & Shih, 2012, p.1413; Shih, 2008). In China, SOEs and some key firms remain the primary business clients of sectoral and industrial regulators as well as the State-owned Assets Supervision and Administration Commission (SASAC). They form policy coalitions with these government organizations and lobby for beneficial policies from the top leadership.[8]

These motivations spur bureaucratic pursuit of policy power and incite inter-ministry infighting in the legislative process. Disputes rage over jurisdictional issues as well as substantive policy matters. On one hand, ministries compete against each other to expand and protect their policy turf, creating jurisdictional disputes. Common manifestations of such include competition for implementation authorities under a new law, and wrangling over the scope of enforcement. On the other hand, decisions over substantive policy questions such as the

[8] In fact, some central SOEs hold vice-ministerial ranks and have inter-personal and other ties with senior party leaders. Thus, they are better equipped to advance their commercial interests than other firms.

objective, approach, and standard of application may benefit or harm the interests of key constituencies of various ministries. These substantive elements may also have significant jurisdictional implications, which may affect the allocation of policy power among competing ministries. My analysis of the AML case in Chapter 4 shows that a slight decrease in merger review threshold could benefit small- or medium-sized domestic firms and international investors at the expense of large SOEs, and shift policy power from the industrial regulators and the SASAC to antitrust regulators. In addition, jurisdictional disputes can "spillover" to substantive matters. I expect ministries to advocate for their own missions, expertise, methods and instruments for addressing particular economic and societal issues. When a piece of legislation involves multiple ministries competing for control in a regulatory space, substantive questions like what are the goals and what to do to achieve these goals can be just as contested as jurisdictional matters such as who will be empowered to implement the law.

Provinces. In China, territorial administrative units refer to provincial and lower level Party Committees and governments. Compared with ministries, the motivations and preferences of territorial units are relatively more difficult to capture with a single characterization such as an organizational mission (Tanner, 1999, p.23). On one hand, provincial party secretaries and governors represent and advocate for their own territories' interests. On the other hand, they serve as mediators among the various functional units within their geographical domains and they engage in such mediation with their own agendas (Lampton, 1992, p.39).

First, China is a vast country with wide regional variations in factor endowments, producing a variety of subnational development strategies and priorities. When a piece of national legislation or policy project concerns multiple territorial units with divergent preferences, each aiming to push forward its own priority, the policy process can be quite messy

and conflictual (Jiang, 2023, p.119). For example, Lampton (1992) has documented sharp contradictions regarding the Danjiangkou Dam's utilization priorities and its height not only among the various ministries at the center, but also between territorial administrations involved, when the Chinese government launched a comprehensive development plan for the Han River Basin in the 1950s (p.46). Henan and Hubei are the two provinces that shared the resulting reservoir. Henan province (upstream) had agricultural concerns and wanted to use water for irrigation purposes, while Hubei province (downstream) was more concerned about flood control as well as power generation to support the electrically starved industries in Wuhan, the provincial capital (Lampton, 1992, pp.47-48). Divergence among ministries, coupled with disputes between the two provinces, led to "complex and literally never-ending discussions" over the dam's principal use (Lampton, 1992, p.48). More recently, scholars find that there are sharp disparities between revenue-rich and revenue-poor Chinese cities in their positions toward central governance reforms which place more emphasis on environmental performance (van der Kamp, Lorentzen, & Mattingly, 2017). Cities with stronger revenue sources and more air pollution are more likely to embrace such an effort. Some may even advocate for clear, concrete environmental transparency regulations from the center not only to reduce pollution in response to local demands, but also to phase out low-end, backward industries and promote economic restructuring (Ang, 2018; van der Kamp et al., 2017). In contrast, officials in fiscally weak cities are more prone to protect polluting industries due to their importance in local economy, causing them to oppose or resist implementation of such governance reforms (van der Kamp et al., 2017). We can speculate that because of divergent preferences among local governments, as well as wrangling along vertical lines between the Ministry of Environmental Protection (MEP) and economic agencies such as the National Development and Reform Commission (NDRC), the

Environmental Protection Law was subject to heated debates and substantial delay (Wang, 2012).

Second, leaders of territorial administrations serve as mediators among the various functional units within their jurisdictions and they do so with their own calculations. From an organizational survival perspective, local functional bureaucratic units are expected to align with the interests of their parent departments in the national government,[9] who strive to codify their organizational missions, influence, and preferences into formal laws. A local functional unit and its officials will benefit from its ministry's enlarged jurisdiction through legislation, which implies more budgetary or resource allocations, more rent-seeking and promotion opportunities, and greater chances of organizational survival of both the ministry and its local offices. In China, local government reorganization is largely influenced by changes in the national government, fostering rivalry along the vertical line of authority at both national and local levels.[10] In other words, inter-ministry competition is often extended to local level among their subordinate offices. But how do local leaders mediate among functional units within their localities?

The upward accountability created by the cadre evaluation system governs the vast number of local officials in China (Chen, 2017, p.383). For example, at the city level, municipal party secretaries and mayors are evaluated and promoted by provincial-level officials through a set of policy targets (Ang, 2016; Landry, 2008; Li & Zhou, 2005; Liu & Tao, 2007; Manion, 1985; O'Brien & Li, 1999). It can be speculated that bureaucratic agencies who have the ability

[9] For example, the Ministry of Education is the parent organization of Provincial Departments of Education or Municipal Bureaus of Education.

[10] It is worth noting that local government reorganizations are not always synchronized with the changes at the national level, and there may be variations in the timing, scope, and nature of the reforms. The point here is to emphasize the bargaining leverage a local functional unit gains or loses when a piece of national legislation enlarges or shrinks its parent ministry' regulatory jurisdiction. After all, the national government plays a significant role in shaping local government reorganization in China.

to maximize policy targets benefiting the careers of top city leaders and generating economic bonuses are granted more bargaining power and are therefore better equipped to push forward their preferences at the expense of others. In addition, which agencies and what policies would be prioritized vary across regions. Chen (2017) finds that in cities where the international commerce department forms strong, cohesive vested interest coalitions with foreign capital and where FDI remains a major driver of local economic growth, leaders are more likely to resist the transition to domestic technology upgrading and continue supporting FDI-attraction and export promotion. Whereas in cities where such coalition is absent, weak or noncohesive, leaders embrace domestic upgrading more enthusiastically and the domestic technology department become potential bureaucratic winners (Chen, 2017). It is likely that the policy making processes of "Made in China 2025" and the following national industrial policies were subject to high levels of discord due to not only inter-ministry tensions between the Ministry of Commerce (MOFCOM) and the Ministry of Science and Technology, but also differences between cities or provinces that prioritize the international commerce coalition and the domestic technology coalition respectively. The subsequently enacted Foreign Investment Law in China can be seen as an effort from the top leadership to reassure the policy coalition comprised of foreign firms, the vertical functional organizations in charge of international commerce, and regions dependent on FDI, who worried about becoming losers because of the "Made in China 2025" initiative. This rationale applies not only to the various vertical functional organs within territorial units, but also to horizontal territorial units within the geographical domain of their upper-level administrations. Like city leaders, provincial officials are also subject to upward accountability created by the cadre evaluation system and compete with one another to impress central leaders. Thus, provincial officials are more likely to prioritize proposals from cities that perform better in

terms of policy targets and economic indicators. Among the several levels of local government in China, I focus on the provincial level. This is because provincial governments are the highest level administrations under China's national government. Their leaders hold administrative rank equivalent to ministers. Also, they are able to influence national policymaking through formal representation at the Central Committee and Politburo, the NPC and its Standing Committee, or through connections with senior party leaders. Territorial interests of lower administrative levels often need to be "integrated" at the provincial level through calculations of provincial leaders to influence national policy and legislation. As for local functional units, if they sense their departmental agendas are underappreciated by provincial leaders, they can always choose to align with their parent organizations in the national government to enhance their position.

Apart from struggles among ministries and among provinces, tension could also occur between ministries and provinces. Shih's (2008) study of elite conflict in China demonstrates clearly divergent preferences over monetary policies between the central economic bureaucracy and provinces. The central technocratic factions led by senior economic officials prefer financial centralization for the purpose of preserving overall price stability, while the generalist factions comprised of provincial leaders desire decentralization, since a loose monetary environment allow local officials to obtain more capital with which to pursue local economic growth (Shih, 2008, pp.53-54). The persistent tension between the two types of factions explains the cyclical nature of inflation in China (Shih, 2008). In other cases, there could be an alignment of interests between certain ministries and provinces. Jiang (2017) noted that some local governments in economically advanced regions and the People's Bank of China stand on one line in supporting financial liberalization, including exchange rate reform, capital account liberalization, and interest rate reform (pp.184-185). While the conservatives such as the Ministry of Finance, the

NDRC, state commercial banks and SOEs oppose such reform (p.185). Competing interests between the two groups have resulted in the consensus on financial reform being reached only on the surface, whereas disagreements remain regarding the specific steps and pace of reform (Jiang, 2017, p.181). Thus, there may not be a single defining fault line when a piece of legislation affects both functional and territorial units, since some ministries and provinces could form policy coalitions if their interests are well-aligned. Just as Lampton (1992) has noted: "with respect to any given issue, specific ministries may find that their interests and policy preferences correspond with, or diverge from, those of a complex array of other ministries and territorial administrations" (p.39).

Like ministerial officials, provincial government officials also scramble for control over policies. These actors compete against each other for promotion opportunities. Their ultimate objective is to utilize policy powers to maximize economic indicators and other policy targets within their geographical domains so as to impress senior party leaders for a better career prospect.[11] Like rivalry among ministries, competition among provinces may also lead to jurisdictional and substantive disputes when policies are made at the national level. When it comes to lawmaking, decisions over jurisdictional matters such as which functional unit has the power to regulate or make preferential policies could have varied impact across territorial units, affecting provincial leaders' ability to maximize policy targets. Likewise, substantive issues such as the policy objective, the approach, and the standard of application can also affect the

[11] Shih, Adolph, and Liu (2012) find that factional ties, such as family relationship or a work relationship, play a more important role than economic growth in influencing promotion of Central Committee members. But it bears noting that provincial officials sharing factional ties to a senior party leader are not totally cohesive (Lieberthal & Oksenberg, 1988). They are also marked by internal rivalries. Using policy influence to maximize economic indicators and other policy targets could still be an important approach to impress the political patron for greater chances of promotion.

development of local industries and businesses and the resultant chances of promotion of provincial officials. In other words, substantive policies can also be an object of struggle among provinces. But I expect that provincial officials have a relatively lower stake in fighting for policy control in lawmaking than ministerial officials as territorial units don't face risks of organizational termination as functional units do. In addition, their ability to shape the content of legislation may be limited, because unlike ministries, provincial governments cannot formally sponsor or draft national legislative bills, nor are they conventionally involved in inter-agency review in the State Council arena, which according to Tanner (1999), was the most significant arena for determining the majority of policy content for Chinese laws (p.49). Then how do they influence lawmaking? I argue that provinces channel policy influence through formal representation in the Party Central Committee, Politburo, NPC and its Standing Committee, or connections with members of the Politburo Standing Committee.

Party Central Apparatus. I argue that elite members in China's Party Central Apparatus – the Central Committee, Politburo, and Politburo Standing Committee – have incentives to promote interests of ministries and provinces in the policy making processes. This is because ministerial and provincial officials hold seats in these high-level party organs and develop patron-client relations with senior party leaders.

The Central Committee is a political body comprised of a general pool of the leaders of the Chinese Communist Party and is formally the "party's highest organ of authority" when the Party Congress is not in session.[12] The Central Committee usually meets at least once a year at a plenary meeting, when relevant policy issues are discussed. It currently consists of 205 full

[12] According to the Constitution of the Chinese Communist Party, the highest leading bodies of the Party are the National Congress and the Central Committee which it elects. Since the national party congress is held only once every five years, the Central Committee it elects is formally the party's highest organ of authority.

members and 171 alternate members. Members of the Central Committee are nominally elected by the Party Congress once every five years in its plenary sessions. But in practice, the Party Congresses merely "rubber-stamp" what have been decided closed-door by the top party leadership. Some of the Central Committee members are eventually promoted to the pinnacle of China's political power: the Politburo and its Standing Committee. The Politburo of the Central Committee is at the core of the Party apparatus, which currently consists of a group of 24 senior leaders. Power within the Politburo is further centralized in its Standing Committee, which is currently a small group of seven most powerful individuals from among the larger Politburo. The top-ranked PSC member holds the title of General Secretary of the Party and is the paramount leader of the country. It is said that the full Politburo meets once a month and the Standing Committee meets weekly to conduct policy discussions and make decisions on major issues (Miller, 2004), but the decision-making processes and dynamics within the two bodies are highly secretive. According to the Party's Constitution, the Central Committee is vested with the power to elect members of the Politburo and its Standing Committee. In practice, members of the Central Committee have limited control over the selection process. The membership of the Politburo and its Standing Committee is said to be determined through consultations and deliberations among party elders, retired and incumbent members of both the Politburo and the Standing Committee (Li, 2016; Benjamin, 2017). Nevertheless, support from Central Committee members is also important for senior party leaders to stay in power.

Ministerial and provincial officials are the two major constituencies within the Central Committee (Shih, 2008; Shirk, 1992, p.75).[13] Formal representation empowers ministries and

[13] The norm governing candidate selection into the Central Committee is that provincial governors and party secretaries, ministers and minister-level heads of organizations of the State Council and the Party are generally expected to hold a seat on the Central Committee.

provinces to voice their opinions and promote their interests when major policy issues are discussed in the Central Committee meetings. What about policy discussions at the Politburo and its Standing Committee? In practice, most of the ministerial and provincial officials holding a seat on the Central Committee are unable to move up to the next political level, and they lack the de facto power to determine who will be advanced to the Politburo and its Standing Committee. Nevertheless, they control valuable resources that Politburo and PSC members can mobilize in the course of power competition (Shih, 2008, pp.51-52).

Provinces and ministries are important political powers that central leaders cannot ignore. Senior party leaders who want to launch a new set of policies have to appeal to enthusiasm of provincial leaders, since they have served as the main driver in the implementation of central policies at the local level (Cheung, 1998; Lampton, 1992, p.43; Shih, 2008, p.51). Moreover, they control the provincial propaganda apparatus, which can be used by senior party leaders to launch attacks against political rivals (Shih, 2008, pp.51-52). For ministerial officials, they can distort key policy information to the senior party leaders or paralyze policy implementation that makes leaders more vulnerable to political attacks (Lieberthal & Oksenberg 1988, p.131; Shih, 2008, p.52). Also, these officials could produce rumors, which can bolster or harm the reputation of PSC members and thus "can make or break a leader" (Shih, 2008, p.52). Since these resources are at the disposal of provincial and ministerial officials, senior party leaders competing for power have an incentive to build up support among these two key groups and form patron-client relations with them (Shih, 2008; Shirk, 1992, p.75). It bears noting that although it is ideal for members of the Politburo and its Standing Committee to build broad-base support by developing extensive connections with the ministerial and provincial officials, their ability to form ties with these elite actors is constrained due to their experience in the regime (Shih, 2008, p.55). For

example, compared with central technocrats who are eventually promoted to the Politburo and its Standing Committee, senior party leaders with experience in the local governments and the Party apparatus may find it more difficult to forge bonds with central functional bureaucracies due to the lack of shared work experience, and vice versa (Shih, 2008). Thus, they tend to prioritize their core constituencies, which are provinces or ministries where they currently hold or formerly held leading positions. For senior party elites, an important method for building and maintaining support from provincial or ministerial officials is to satisfy their policy demands when decisions are made at the Politburo and its Standing Committee. In terms of lawmaking, for instance, this small group of party elites could help get their bureaucratic factions' legislative proposals onto the agenda, given that NPCSC's legislative plans must be approved by the top party leadership. Also, they could help promote their clients' interests when law drafts are subject to review and approval by the Politburo and its Standing Committee before legislative introduction. This exchange relationship could run smoothly if policy demands from various provinces and ministries are compatible. However, when a piece of legislation opens up substantial division among ministries, among provinces, or between ministries and provinces, the Politburo and PSC can become forums of elite policy debate. In terms of lawmaking, Tanner (1999) points out that the Party leadership exercised only loose control over the content of legislation, by "failing to signal to the legislature any clear and unified intention concerning the handling of the law" (p.65). One of the reasons for this lack of clear Party leadership intent, according to Tanner (1999), is that this group of senior leaders is also deeply split over the issue to reach a decision (p.65).[14] When law-related policy disputes arise in the Politburo and its Standing Committee, the

[14] The other two reasons, according to Tanner's (1999) interviews with Chinese lawmaking officials, is that top leaders are simultaneously preoccupied with other issues and cannot give a law their attention; or the leadership simply lacks the expertise to understand the true meaning of the draft legislation under consideration (p.65).

top-ranked person in the Chinese political system, the general secretary of the Party, becomes the ultimate arbitrator. But as I will show in Section 2.1.3, the incentives to maintain elite loyalty and ensure timely bill passage prevent the regime's top leader from unilaterally imposing a specific policy decision that creates clear bureaucratic losers in the political system.

To summarize, functional and territorial units with provincial-ministerial status exert policy influence in the party arena of decision-making. They influence policy making through formal representation at the Party Central Apparatus or by building patron-client relations with senior party leaders. The point here is not to say that elites in the Politburo and its Standing Committee cannot independently propose polices, but to focus on the motivations and purposes behind their policy proposals, and the need to use policy influence as a lever to incentivize loyalty and build support among ministerial and provincial officials in order to gain advantage in power struggles. Still, it bears noting that not all ministries and provinces are treated equally in the party arena. Some could gain more clout because of formal representation or even dominant presence at the Politburo and PSC. As a result, some actors' policy proposals are "more equal than others" while some may not get much attention from the party leadership (Tanner, 1999, p.211). Below I discuss the stages and arenas of lawmaking in China and the legislative monitoring mechanisms embodied. I demonstrate that ministries and provinces with weak bargaining power in the State Council arena or the Party arena (Party Central Apparatus) could (re)open policy discussions and mobilize support when a bill is considered in the NPC arena.

2.1.2 Legislative Monitoring Mechanisms

Lampton (1992) also noted: "Senior authoritative leaders may not intervene, because they lack the knowledge to decide, they do not care, their resources are insufficient to enforce a decree, or the leadership is itself divided." (p.34)

Lawmaking in China is a "multistage, multiarena" process (Tanner, 1995, 1999). Here I discuss two stages and three arenas, which allow bureaucratic actors to monitor each other more effectively and compete over policy details in lawmaking.[15] The lawmaking process features a "basic two-stage sequence": a bill is drafted, discussed and approved in **the pre-legislative stage** before it can enter **the legislative stage** for review and passage (Laver, 2006, pp.125-126; Noble, 2020, pp.1422-1423). The three arenas are: 1) the executive branch (the State Council), 2) the Party arena (the Central Committee, Politburo and its Standing Committee), 3) the legislative branch (the NPC and its Standing Committee). The pre-legislative stage of lawmaking takes place mostly in the State Council arena and the Party arena behind closed doors, while the legislative stage happens within the NPC/NPCSC arena and is a relatively public process. Bureaucratic actors who are unhappy of the draft approved within one arena could seek to resume policy debate and alter law content in another arena where they can exert greater influence (Tanner, 1999).

It often requires cabinet approval before a bill is formally introduced into the legislature for review. The State Council, China's executive branch, is a major arena of the pre-legislative stage of policymaking, and the ministries are key actors (Tanner, 1995, 1999). Ministries do not serve as formal "veto players" in authoritarian legislatures (Krehbiel, 2010; Tsebelis, 1995, 2002), but they are key regime stakeholders who can "obstruct and delay legislative activity" (Lieberthal & Oksenberg, 1988; Lieberthal, 1992; Truex, 2020). Because of the consensus-based nature of decision making in the State Council, ministries are considered to have de facto mutual

[15] I provide a more detailed analysis of the lawmaking stages and arenas in Section 3.2 in Chapter 3. Here lawmaking is broadly divided into two stages for the purpose of analytic simplicity. In Chapter 3, I draw insights from Tanner's work (1995, 1999) and discuss six stages of lawmaking (agenda-setting, drafting, inter-agency review, top leadership approval, NPC/NPCSC review and passage, and post-promulgation rule-making) in China, which includes the post-legislative stage.

veto powers in the inter-agency consensus building process.[16] As bill drafting is delegated to particular ministries, draft providers have an incentive to confirm, guard and expand their own jurisdictions and lock in preferential policies for their constituents. This however could irritate other bureaucratic actors, if a law draft includes certain provisions that could be used to encroach on their policy turf or harm the interests of their clientele. Cabinet review is meant to provide an opportunity for other ministries to "monitor for, scrutinize, contest, and possibly amend proposed bills with which they disagreed," before compromise bills can be approved by the entire executive and sent off for legislative review (Noble, 2020, p.1431). In China, the "pre-legislative, cabinet-level stage" of lawmaking involves extensive consultation, negotiation and deliberation among ministries in the State Council to ensure executive unity (at least nominally) over policy (Tanner, 1995, 1999). This inter-agency review process, as will be discussed in detail in Chapter 3, creates veto opportunities for other ministries to "block, water down, or delay legislation if it moves a policy away from their desired outcome" (Tanner, 1995, 1999; Truex, 2020, pp.1459-1460). To ensure bills do not die in this pre-legislative stage, these "veto points" often become "alteration points" (VanSickle-Ward, 2010, p.8), where bill contents are modified to garner support of other ministries.

It is worth noting that although the formal status of each ministry is the same, the actual influence varies with the prestige of its head (like whether a Politburo member and the political ranking), its function, its control over enterprises, its ability to generate revenues, its factional ties to top Party leaders, and so forth (Lampton,1987; Lieberthal & Oksenberg, 1988; Shirk,

[16] It bears nothing that consensus-based decision-making does not necessarily require unanimity (Shirk, 1992, p.73). Bureaucratic actors' abilities to veto policy proposals they dislike may differ depending on whether they generate revenues, have control over lucrative enterprises, hold a seat in the Politburo and have ties to senior party leaders (Lampton,1987; Lieberthal & Oksenberg, 1988; Oksenberg,1982; Shirk, 1989, 1992). I will discuss how bureaucrats from weak agencies leverage legislative institutions to compensate for their disadvantage in the pre-legislative stage.

1992). Thus some ministries are granted more bargaining power and are better equipped to push the content of a piece of legislation toward their preferences when that bill is discussed in the State Council arena. In addition, since provincial administrations do not have formal representation in the State Council where most of the pre-legislative lawmaking activities occur, they lack access to influence policy content when a bill is discussed within this arena.[17]

After a law draft is approved by the State Council and its ministries, it is conventionally forwarded to the Party Central Apparatus for review and approval. This is the second arena where the pre-legislative stage of lawmaking takes place. How does the Party review law drafts? Who are the key players in the Party arena? How do their preferences and interactions shape the content of legislation? According to two apex documents issued by the Party Central Committee in 1991 and 2016, important laws to be passed by the NPC/NPCSC shall receive prior approval "in principle" by the Party Central Apparatus.[18] Drafts of constitutional revisions, some important political laws and some especially important economic and administrative laws must be reviewed and approved by the Politburo or its Standing Committee and a full Central Committee plenum before they can be submitted to the NPC/NPCSC for passage; political laws, and important economic and administrative laws shall be approved by the Politburo or its Standing Committee prior to legislative introduction; the Party Group within the NPCSC shall submit law drafts written by the NPC and its Standing Committee as well as law drafts for NPC review to the Party Center for pre-approval (Fang, 2015; Tanner, 1999, pp.68-70). Also, it bears

[17] Local governments may be incorporated in the inter-agency review process in a later stage. But given that provincial officials do not hold a seat in the State Council, the scope and degree of local participation in cabinet review could be limited.

[18] The two documents are: "Several Opinions of the CPC Central Committee on Strengthening the Leadership of the Legislation Work of the State" (中共中央关于加强对国家立法工作领导的若干意见) released in 1991 and "Opinions of the CPC Central Committee on Strengthening Party Leadership in Law-Making" (中共中央关于加强党领导立法工作的意见) released in 2016.

noting that the Party's leadership could extend to the legislative stage. If major disputes emerge or reemerge when bills are discussed on the NPC/NPCSC floor, the Party Group of the NPCSC can bring them to the Politburo or its Standing Committee for decision (Fang, 2015).

Tanner's (1999) interviews with legislative officials and scholars and other source (Liu, 2017) suggest that the Party did not exercise detailed control over the content of lawmaking. Party review was "at a fairly general level" (Tanner, 1999, p.69) and tended to focus on "only the law's 'guiding principles', justification and most basic content" (p.65). What was reviewed and deliberated by the Party leadership is "a brief report explaining the law, its purpose, major problems in it and how they have been dealt with, and a list of important issues regarding the law which the Party Centre must decide," instead of "the full current draft of the law" (Tanner, 1999, p.69).

These sources provide some valuable insights about lawmaking in the Party arena. Still, it is hard to develop a full picture of the processes and dynamics in this arena, given the confidential nature of decision-making in high-level Party organs. There is generally no public records regarding how members of the Party Central Apparatus review law drafts in practice. A key difference between the State Council arena and the Party arena relating to my elite-conflict account is that provinces are able to exert policy influence due to formal representation in the Party Central Apparatus or connections with senior party leaders. Thus, it can be speculated that the Party arena gives a provincial stakeholder an opportunity to monitor for, challenge and block potentially hostile policies from ministries or other provinces, and amend law drafts to reflect its interests. Still, readers should keep several caveats in mind. First, some laws are not required to

be reviewed and pre-approved by the Party leadership.[19] In other words, members of the Party Central Party Apparatus, particularly provincial officials and their political patrons, may not be able to scrutinize drafts of these laws in the pre-legislative stage. Second, not all provincial and ministerial officials and their opinions are treated equally in the Party arena. Bureaucratic units whose heads acquire a position in the Politburo or have ties with Politburo Standing Committee members have more clout and their proposals are "far 'more equal than others'." Third, when the core constituencies within the top-level Party organs diverge sharply on the content of a piece of legislation, the Party arena could also become a forum of elite debate. This small group of party elites may fail to finalize a concrete solution over disputes or provide a clear, unified message concerning the handling of the law to the NPC (Tanner, 1999, p.65). As I will show in Section 2.1.3, various factors also prevent the top party leader from imposing a policy decision that creates clear bureaucratic losers in the political system.

Lawmaking enters the legislative stage when bills are formally introduced to the NPC or NPCSC arena for deliberation and passage. Conventional wisdom suggests that authoritarian legislatures only "rubber stamp" government-proposed legislation and this stage of lawmaking is simply ceremonial (Brancati, 2014, p.317). Recent work challenging the "rubber stamp" theory suggests that the legislative stage of lawmaking serves as an active venue for policy contestation among regime elites (Noble, 2020; Truex, 2020). In fact, intra-government policy discussions are not necessarily concluded before bill introduction into the legislature (Noble, 2020; Paler, 2005; Tanner, 1999). First, the pre-legislative stage of lawmaking does not guarantee opportunities for

[19] According to the two documents released by the Central Committee, laws do not fall into the following categories are not required to receive prior approval by the Party leadership: constitutional revisions, political laws, important economic and administrative laws, laws drafted by the NPC or NPCSC, and laws shall be promulgated by the NPC (basic laws).

all bureaucratic actors to sufficiently scrutinize law drafts. Some stakeholders lack time and expertise to review proposed bills in detail or are simply cut out of the earlier consultations and deliberations (Noble, 2020). For example, Noble (2020) finds that in Russia, bills introduced by the Presidential Administration are not subject to formal procedures to gain the assent of the entire executive. As a result, other executive actors, such as federal ministries, are "not necessarily aware of proposals in the pipeline, nor do they have an opportunity to amend or block such initiatives" (Noble, 2020, p.1433). In China, provincial actors are generally not entitled to enter the State Council arena of lawmaking and scrutinize executive-sponsored bills during cabinet review. Since some laws are not required to receive prior approval by the Party leadership, provinces may not be able to review drafts of these laws in the Party arena. Additionally, not all bills introduced to the NPC or NPCSC are subject to a formal inter-agency review process within the State Council. According to the Legislation Law, other state organs such as the Standing Committee of the National People's Congress, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, and the National People's Congress special committees can also introduce bills to the legislature. Unlike executive-sponsored bills (bills submitted by the State Council), bills introduced by non-executive state organs do not require formal cabinet approval before legislative entry. In other words, some ministries may be cut out of the pre-legislative discussions. For example, sponsored and drafted by the NPC's Environment Protection and Resources Conservation Committee (EPRCC), the 2014 amendment of the Environmental Protection Law (EPL) did not go through a formal process of inter-agency consensus building in the State Council arena. It was not until the publication of the law draft following its legislative introduction that a key bureaucratic stakeholder – the MEP – discovered clauses with which it disagreed (He, 2012; Wang, 2012).

The formal procedures and rules of legislative review, such as broader consultation and draft publication, enable these actors to monitor for potentially "hostile" proposals (Noble, 2020).

Second, some ministries or provinces may not be able to push policy toward their preferences or exercise effective vetoes to proposals they dislike in pre-legislative stage. The relative publicity of the legislative floor enables actors with an unfavorable position to "politick" within the NPC arena and push for their policy objectives, by mobilizing support from the public and forming policy coalitions with members (NPC delegates, NPCSC members, experts, opinion groups, etc.) excluded from the pre-legislative policy negotiations (Lü et al., 2020; Noble, 2020; Tanner, 1999). For example, in the EPL case, the MEP found that few of its proposals appear in the draft law introduced to the NPC (Wang, 2012). As a State Council department which had long been at the vice-ministerial level and does not make any financial contribution to the central government, the MEP had a relatively weak position compared with economic bureaucracies such as the NDRC, whose head is conventionally granted a position in the Politburo. It was no surprise that few of the MEP's proposals were adopted if they contravene the NDRC's position. To compensate for this disadvantage and enhance its position in negotiations over the pending EPL, the MEP publicly released its opinions and suggestions on the draft law two months after legislative introduction, which heightened citizen attention, appealed to NPC delegates and environmental NGOs (He, 2012; Wang, 2012). By publicizing its discontent over the introduced draft, the MEP managed to mobilize support for its position in the NPC and the society, boosting its bargaining power in the legislative process.

To summarize, bureaucratic actors use legislative institutions to overcome the monitoring problems and compensate for disadvantages in the pre-legislative stage. This is in line with findings from existing studies of lawmaking in China and Russia (Noble, 2020; Tanner, 1995,

1999). In her writing of the Chinese NPC, Paler (2005) pointed out that "State Council ministries, forced to compromise on draft legislation, have re-opened the debate when it comes before the NPC, inevitably prolonging disagreement on legislation through the unlimited opportunities for opponents to block progress" (p.308). Likewise, in his analysis of bill amendments in Post-Soviet Russia, Noble (2020) provides evidence of the "spillover" of inter-ministerial disputes from cabinet to the legislative stage of policymaking and how relative publicity of the State Duma enables "discovery" of controversial policy proposals. In other words, legislative floors, as well as the cabinet table and the party venue, come as important battle grounds for policy contestation among bureaucratic stakeholders.

How do authoritarian regimes deal with elite policy conflicts in lawmaking? Truex (2020) argues that elite division and public attention together predict the pace of lawmaking in China. Legislative delay is a result of bureaucratic conflicts whereas the authoritarian leader can break gridlock when facing heightened public attention in times of crisis (Truex, 2020). Truex (2020) operationalizes delay using the time difference between a bill's inclusion on legislative plan and its subsequent passage, which spans the pre-legislative and legislative stages. I find that delay is rare in the legislative stage when bills are discussed in the NPC/NPCSC arena (Chapter 3, Section 3.2), while the pre-legislative stage is where wide time variation occurs. Moreover, by focusing on legislative delay as the key dependent variable, the question of how does the regime leader arbitrate elite conflicts is largely unanswered. Noble (2020) finds that bill amendments are frequently used to resolve intra-executive policy disputes in the Russian legislature. But it is unclear how agreement upon amendments is achieved and how much detail such agreement contains. In the legislature, drafting agencies also have the opportunity to challenge amendments proposed by rival actors. How to secure successful amendments in cases of inter-agency

disputes? What kind of bill text change is acceptable to all bureaucratic actors concerned? What role does the autocrat play in the mediation process? These questions are not sufficiently addressed. Both studies seem to suggest that there exists a resolution mechanism of elite conflict over policy, either forced by the regime leader or achieved through amendments. However, neither has sufficiently explored the "substance" of settlement signed into law and how it reflects elites' and autocrat's interests. I address these issues by theorizing the value of ambiguity in authoritarian lawmaking. I argue that statutory ambiguity allows Chinese top leader to navigate competing interests of bureaucratic actors, facilitate compromise in the legislature and overcome gridlock. Next I discuss the motivations of the autocrat in the lawmaking process.

2.1.3 The Autocrat's Role in Lawmaking

In this section, I discuss the two incentives that define the autocrat's role in lawmaking: 1) to use legislation to incentivize and maintain elite loyalty, and 2) to ensure timely passage of introduced bills. Autocrats need elite allies to maintain authoritarian rule. By allowing elite actors to transform their policy preferences into formal laws through authoritarian legislatures, autocrats provide them with credible incentives to remain loyal (Williamson and Magaloni, 2020). We expect this statutory mechanism of policy power sharing to run smoothly when elite preferences are compatible. However, when elite actors are divided on jurisdictional matters or substantive policy issues concerning a piece of legislation, the autocrat faces competing pressures from within the elite coalition. Lawmaking is thus characterized with a protracted bargaining process and is subject to substantial delay. To overcome impasses and move a policy forward, it often requires a dispute resolution process, with the autocrat as an ultimate arbiter. In China, conflicts among ministries, among provinces, and between ministries and provinces that cannot be resolved at the ministerial-provincial level are often kicked upstairs to the State

Council Standing Committee, the Politburo and its Standing Committee, or the president for decision (Lieberthal & Oksenberg, 1988; Shirk, 1992; Tanner, 1999). The State Council has built up special office and bodies to coordinate policy making activities. The Legislative Affairs Office (LAO) is an administrative office of the State Council responsible for coordinating legislative work in the executive branch.[20] One of the LAO's main duties is to resolve inter-ministerial disputes in law drafting and cabinet review before they can reach the State Council Standing Committee (Tanner, 1999, p.124). However, holding rank no higher than State Council ministries, the LAO cannot unilaterally impose its solution on the latter and thus often lacked the authority to effectively carry out this task (Tanner, 1999, p.124). Another policy coordination approach is the group mechanism. The State Council has set up various leading small groups and coordination work groups to integrate the interests and opinions of their constituent departments to ensure consistency in policy formulation and implementation. But the group mechanism is not a "silver bullet" for coordination challenges in the Chinese bureaucracy and its effectiveness varies across groups. Jiang (2023) finds that groups chaired by low-authority officials and address high-conflict issues are less able to promote inter-ministry coordination in policymaking. For example, the Anti-Monopoly Commission, which was formed by the State Council to coordinate administrative enforcement of the Anti-Monopoly Law, was criticized for failing to fulfill its tasks (Liu, 2018). Despite of the establishment of this high-level coordination body, turf battles among the primary bureaucratic stakeholders (MOFCOM, SAIC and NDRC, as well as multiple industrial regulators) continued in the State Council arena, leading to substantial delay in the passage of anti-trust regulations and inconsistent applications of the AML (Liu, 2018; Ng, 2018; Zhang, 2014). If neither the LAO nor other coordination bodies can settle inter-ministerial

[20] In 2018, the LAO was merged into the Ministry of Justice (MOJ). The MOJ has since assumed the LAO's duties.

disputes, issues of conflicts will be referred upward to the State Council leadership for decisions. The State Council Standing Committee is the leadership of the executive branch, which constitutes the premier, the first-ranked vice premier, three other vice premiers and several state councilors. This group of executive leaders meets weekly to discuss problems and make decisions. Disagreement could also occur within the State Council Standing Committee, considering that each vice premier oversees different areas of administration and develops connections with ministries and commissions within their jurisdiction. Since the premier is the head of China's executive branch and holds the highest rank in the State Council, he is able to impose a decision when members of the State Council Standing Committee disagree over policies.[21]

If disputes concern actors outside of the State Council, such as ministries of the Party Central Committee or the Central Military Commission, senior party leaders are expected to intervene. Likewise, in the Party arena, when disputes arise within the Central Committee, Politburo or Politburo Standing Committee, the top-ranked person in China's political system, the general secretary of the Party (who is also the President of the country), becomes the ultimate arbitrator. I speculate that the newly established Commission for Comprehensive Law-based Governance (CCLBG, 中央全面依法治国委员会) is now heavily involved in coordinating and guiding the legislative work. The predecessor of the CCLBG first emerged as a leading small group headed by President Xi Jinping in 2017 and was quickly upgraded to the status of a commission in 2018 (Li, 2020). The CCLBG is, in CCP terminology, a "coordination and

[21] The premier is the second-highest ranking person in China's current political system, under the general secretary of the Party (top-ranked Party official and the paramount leader of the country). The premier and the first-ranked vice premier are also members of the Politburo Standing Committee.

consultation body" (议事协调机构) within the Party arena, responsible for top-level design and overall coordination of the work of law-based governance. Several work groups were formed within the CCLBG and the legislative coordination small group is responsible for the legislative work assigned by the commission (Wu, 2022). Since President Xi Jinping is the chair of the commission, he probably needs to personally arbitrate the many conflicting interests within the system. When disputes spillover to the NPC arena, I speculate that the Chairman of the NPCSC (also serving the Secretary-General of the NPCSC's Party Group), who is conventionally a third-ranked Politburo Standing Committee member, needs to consult with other PSC members, or report the matter directly to the president for a decision.[22]

It can be a legislative "headache" for the president, when rival bureaucratic actors engage in "competitive persuasion" to illustrate the value of their preferred policies and demonstrate their competence for implementing a particular policy (Halpern, 1992; Tanner, 1999). To stay in power, the top leader of the regime has an incentive to build up broad support among various elite actors. As discussed in Section 2.1.1, loyalty of ministerial and provincial officials are essential as they control valuable resources that "can make or break" a leader during the course of power struggle. When a decision must be made at the top political level, it is best for the leader to employ tactics that can broaden the appeal of his position, at least not to anger particular segments of the elite coalition. When a piece of legislation opens up division among ministries and/or provinces, Chinese leaders adopt a "balancism" approach (Shirk, 1992, p.77) to appease competing actors.

[22] According to "Opinions on Strengthening Party Leadership in Law-Making," the Party Group of the NPCSC shall frequently consult with and report to the Politburo or its Standing Committee about major issues in lawmaking (Feng & Zhou, 2022).

In addition to meeting policy demands from within the elite coalition when laws are drafted and deliberated, another primary concern of the top leader is to ensure bill passage. Autocrats face internal incentives as well as external pressures to spur faster lawmaking. Like politicians in democracies, leaders in authoritarian regimes have a desire to claim credit for policy accomplishments by enacting laws. Bill passage is one of the many symbolic political aspects of lawmaking which contributes to regime legitimacy (p.23). For example, in China, by passing laws at the NPC, the president is able to publicize the progress he has made in promoting one of the basic governing strategies of the party (党的基本方略) – "Law-based Governance (依法治国)" – and claim credit. China's Communist Party has attached great importance to the construction of rule of law since the 3rd Plenum of the 11th Party Congress in 1989. In the 15th Party Congress in 1997, then-President Jiang Zemin announced "law-based governance" as a basic strategy of the Party's leading the people and governing the country. The 4th Plenum of the 18th Party Central Committee in 2014 further passed a high-profile document exclusively on this subject, titled "CCP Central Committee Decision concerning Several Major Issues in Comprehensively Advancing Governance According to Law" (中共中央关于全面推进依法治国若干重大问题的决定). The document emphasizes the role of legislation, stating that "to construct a Socialist legal system with Chinese characteristics, we must persist in giving precedence to legislation." This document, released in Oct 2014, signals serious efforts to strengthen law-based governance in the Xi Jinping's era. President Xi has delivered numerous remarks establishing guiding principles of the work of law-based governance. Also, Xi has recently urged China to speed up legislation in important emerging fields, particularly the tech sector (digital economy, internet finance, artificial intelligence, big data, cloud computing, etc.) and called for more laws related to national security and foreign matters (Xi, 2022). Unlike in the

United States where legislators receive credit from their constituents for enacting legislation, in China the credit goes to the top party leader considering that the NPC is subordinate to the Party's leadership. By enacting legislation, the incumbent leader can easily demonstrate and credit claim his productivity to the elites and the citizenry, boost his legitimacy and strengthen his rule (Wang & Shi, 2022).

External incentive denotes motivation to legislate as a response to urgent domestic problems or intense international pressures. Truex (2020) finds that citizen attention shocks from the Sanlu milk powder scandal compelled the Chinese government to break the bureaucratic impasse and pass the Food Safety Law to signal a response to citizen concerns. In addition to domestic public opinion, foreign pressure from a powerful international organization or a hostile foreign government may push a legislative bill onto the top leader's agenda and motivate the regime to fast-track legislation (Tanner, 1999). For instance, the Trump administration's technology war accelerated China's adoption of the Export Control Law, which represents an effort to fight back against the US ever-expanding export control regime (Wessling, 2020). In addition, my case study research shows that China's entry into the WTO sparked serious external concerns over compliance issues, which impelled the Chinese leadership to speed up antitrust legislation to signal commitment.

More importantly, there is time pressure internal to the legislative stage of lawmaking. The relative publicity entailed by bill introduction in the legislature significantly increases the audience cost of gridlock. For regime leaders, the expectation is that bureaucratic policy disputes are settled in the closed-door meetings (the pre-legislative stage) so as to ensure elite unity when a bill is discussed in the public domain (the legislative stage). But as discussed before, various factors work against intra-elite policy disputes being concluded before bill introduction, which

makes the legislature an important adjunct arena for policy battle among regime insiders. For the citizenry, the pre-legislative stage of lawmaking is often too opaque to detect any policy delay or gridlock. Thus, before draft bills are formally introduced into the legislature, the regime leader has some leverage over the lawmaking process, by prioritizing those he believes that are "ripe" for passage. However, the leader may have imperfect information on the policy preferences of regime insiders on a piece of legislation or the support behind certain policy proposals by these actors (Lü et al., 2020, p.1385). This information asymmetry is resulted from the private nature of lawmaking in the State Council and Party arenas, or due to the fact that some bureaucratic actors are cut out of the earlier discussions. In addition, some may lack the ability to push for their policy preferences when a bill is discussed in the State Council and Party arenas. These actors can utilize the legislative institutions to compensate for deficiencies and disadvantages in the pre-legislative stage. They can leverage the relative publicity of the legislative floor to discover hostile proposals, re-open policy discussions and mobilize support to exert influence over bill content (Lü et al., 2020; Noble, 2020). Public displays of internal discord pose a challenge to the autocrat. I view this challenge and the sources of bureaucratic policy disputes as structural and persistent in the Chinese political system. Ministerial and provincial interests have become increasingly embedded in the system and officials representing these interests remain important elite allies during Xi's era. Even if Xi becomes the ultimate decision-maker of everything, his rule has not fundamentally changed the nature nor the structural source of bureaucratic conflicts in the policy process (Jakobson & Manuel, 2016; Grünberg, 2018). Even though Xi possesses supreme commanding power that allows him to override others' interests, he still needs to take into account the consequences of each policy proposal, particularly the cost of each available option incurred on segments of the elite coalition and the loyalty problem that it

entails. In addition, Xi's rule has not changed the nature of lawmaking in the NPC/NPCSC arena. It is the rules and procedures governing legislative review, particularly the relative publicity of the NPC/NPCSC floor, that enable bureaucratic actors who feel they have been ignored or cut out of the pre-legislative negotiations (the State Council arena and the Party arena) to open or re-open policy battles in the more "sympathetic" legislative stage (NPC/NPCSC arena) (Tanner, 1999). In fact, publicity of the legislative stage has been strengthened during Xi's time. According to the 2015 amendment of the Legislation Law, almost all draft laws on the agenda of a session of the NPCSC should be published along with an explanation of the drafting process and amendment thereof for public comment for at least 30 days.[23] This is an improvement of the original Legislation Law enacted in 2000, which leaves to the discretionary judgment of the Council of Chairpersons whether to publish draft for public comment and did not specify the length of time for public consultation. The increased bill text publicity further empowers actors who are dissatisfied with the current version of the law draft or with relatively weak bargaining power (compared with those holding a seat in the Politburo or develop connections with members of the Politburo Standing Committee), giving them more leverage to mobilize support to enhance their positions. In fact, with more legislative bills placed on Xi's agenda, an increased incentive to legislate to facilitate "law-based governance," less time will be spent in the pre-legislative stage for resolving conflicting interests and more likely policy debates will (re)open in the legislative stage. Protracted legislative debate is not uncommon during Xi's tenure. Since Xi took office, news outlets have reported bureaucratic division when some bills were deliberated in the NPCSC arena, such as the 2014 Environmental Protectional Law, the 2014 amendment

[23] Still, the Legislation Law grants the Council of Chairpersons of the NPCSC the authority to hold particular law draft from public view.

Budget Law, the 2016 Assets Appraisal Law, the 2018 E-Commerce Law, etc.[24] These controversial bills spent longer time than others on the legislative floor and were subject to gridlock if not intervened by the top leadership.[25] The structural source of policy disputes and the defining feature of legislative review, coupled with the anecdotal evidence of bureaucratic policy conflict in the NPC during Xi's time, suggest that legislative gridlock is still relevant and remains a threat to the top leader in today's China.

Once a bill enters the legislature, audience cost of delay increases. Just as they do in most parliamentary systems, in China, bills typically go through three separate readings on the NPC/NPCSC floor to ensure thorough legislative review and the quality of legislation. With three readings and a final vote, it takes approximately six months for an introduced bill to pass into law (Kan, 2019). Controversial bills may require additional readings and take longer time to pass. According to the Legislation Law, if an introduced bill cannot be put to vote within two years, the NPC deliberation shall be terminated and the pending bill becomes a "failed bill" (废案) (Liu, 2014). Failing to pass bills approved by the top party leadership within the time limit could be politically embarrassing and publicly humiliating. Significant delays in the legislative stage send a public message that elites are divided and the top leader is unproductive and

[24] See, for example, Wang, Q. (2012, November 12). Ministry of Environmental Protection's forceful involvemnt in the legislative game [环保部强势介入立法博弈]. *The New York Times Chinese Website* [纽约时报中文网]. Retrieved from https://cn.nytimes.com/china/20121112/cc12wangqiang/; Budget law revision entangled: Power struggle over power allocation between the National People's Congress, the People's Bank of China, and the Ministry of Finance [预算法修订纠结：人大、央行与财政部争夺权力配置]. (2014, May 14). *The Beijing News* [新京报]. Retrieved from http://finance.people.com.cn/n/2014/0514/c1004-25013841.html; The third draft of the asset appraisal law maintains the existing regulatory regime due to disagreement [意见分歧大 资产评估法三审稿维持现有管理体制]. (2015, August 27). *Caixin* [财新网]. Retrieved from https://economy.caixin.com/2015-08-27/100844182.html; Game theory of e-commerce law: Controversies over the details of the bill are far from settled [博弈电商法：围绕法案细则的争议远未平息]. (2019, September 9). *China News Weekly* [中国新闻周刊]. Retrieved from http://www.ce.cn/cysc/tech/gd2012/201809/09/t20180909_30248663.shtml.

[25] The amendment of the Budget Law and the Assets Appraisal Law spent more than two years on the NPCSC floor.

incompetent, which undermines his legitimacy in the public eye and makes him more vulnerable to political attacks by potential rivals. How to ensure timely legislative passage in the face of continued policy conflicts?

2.2 The Value of Ambiguity

In this study, I highlight the role of statutory ambiguity in 1) facilitating compromise and overcoming gridlock in the legislative stage, and 2) creating a mechanism of policy power-sharing between competing bureaucratic actors in the post-legislative stage.

The extensive literature on delegation, mostly developed by political scientists studying bureaucracy and legislative-executive relations in the United States (hereafter the delegation literature), understands statute ambiguity as the amount of policy discretion transferred from the legislature to the executive branch (Epstein & O'Halloran, 1999; Huber & Shipan, 2002; McCubbins, Noll, and & Weingast, 1987; Moe, 1987; Vakilifathi, 2019; Vannoni, Ash, & Morelli, 2021; Yackee & Yackee, 2016). Given limitations of time, resources, and policy expertise in the legislative stage, policy choices are often devolved to particular administrative agencies. This delegation from legislative political principals to bureaucratic agents, however, runs the risk of "bureaucratic drift," where policies produced and implemented reflect agency interests rather than congressional preferences (Moe, 1989). Thus, a central theme of this literature is about congressional control of bureaucratic behavior and policy implementation (McCubbins & Schwartz, 1984; McCubbins et al., 1987; Levine & Forrence, 1990; Epstein & O'Halloran, 1994, 1999; Martin, 1997; Gailmard & Patty, 2012). Among the various control mechanisms that legislators employ to discipline the bureaucracy, statutory tool has been a focus of considerable scholarly works (e.g., Epstein & O'Halloran, 1994, 1999; Gersen & Posner, 2007; Huber & Shipan, 2002; Yackee & Yackee, 2010). Statutory control is referred to as the use

of legislation to influence agency decisions (Huber, Shipan, & Pfahler, 2001). The level of detail of legislation can have dramatic consequences for how a particular law is applied (VanSickle-Ward, 2014, p.2). Vague legislation necessitates administrative regulations and rules, which enables bureaucratic discretion, while detailed legislation gives more policy direction and less discretion to bureaucratic actors. Moe (1990) argues that "the most direct way to control agencies is for today's authorities to specify, in excruciating detail, precisely what the agency is to do and how it is to do it, leaving as little as possible to the discretionary judgment of bureaucrats" (p.228). Scholars find that whether government is divided, as reflected by partisan alignment and misalignment between the Congress and the president, is a major determinant of legislative language: statutes enacted under united government (alignment) tend to be more general and vague, while statutes written under divided government (misalignment) tend to be more prescriptive and detailed (e.g. Epstein & O'Halloran's, 1996, 1999; Huber & Shipan, 2002). Elected officials are more willing to delegate policy discretion to politically like-minded administrative officials, as under united government, whereas a misalignment incentivizes the legislature to pass more detailed statutes to limit the discretion of agencies, a pattern which has been termed the "ally principle" (Huber & Shipan, 2007; Lavertu & Weimer, 2009).

Despite its contribution to understanding statutory language in the United States, this well-cited literature does not seem a good fit to the authoritarian context. To begin with, treating legislators in autocracies as political principals is conceptually and empirically problematic. Unlike the U.S., where the primacy of Congress is widely recognized, parliaments in nondemocracies have been conventionally labeled as "rubber stamp" bodies (Brancati, 2014, p.317; Fainsod, 1965, p.384). Authoritarian legislatures are largely subservient institutions and legislators rarely exert independent influence over policy content, let alone using legislation to

discipline the bureaucracy (Lü et al., 2020; Noble, 2020; Truex, 2014). The legislative control logic is therefore untenable in these regimes. More importantly, the need for compromise between competing actors and how this need shapes the language of law is under-explored in the delegation literature (VanSickle-Ward, 2014). Instead, quite contrary to the control story that division results in detailed laws that constrain the bureaucracy, I argue that conflict encourages ambiguity in law that ultimately empowers administrative agencies in authoritarian states.

I draw insights from the public law literature in the United States to theorize the value of statute ambiguity.[26] The public law literature discusses the language of law in the judicial context and suggests that the need for compromise encourages ambiguity. Contradictory to the findings of the delegation literature developed by political scientists (e.g. Moe, 1990; Huber & Shipan, 2002; Epstein & O'Halloran, 1996, 1999), public law scholars argue that the contentious and fractured nature of American politics results in laws being vague, leaving room for substantive court interpretation (e.g. Atiyah & Summers, 1987; Kagan, 2001; Lovell, 2003; Melnick, 1994). Melnick (1994) asserts that "controversial legislation is revised again and again in order to garner enough support to pass both chambers" (p.11). As a result, many American statutes are ambiguous and disjointed, demanding judicial rulings to "give specific meaning to vague legislation" (Melnick 1994, p.27). Kagan (2001) points out that the quality of American legislation has gotten worse in an era of divided government and weak political party unity, due to incentives to compromise between opposing parties (p.49). The statutes produced, therefore, are less coherent, which invites litigation and "judicial reconstruction of congressional policy" (Kagan, 2001, p.49). Stone (2001) highlights the role of ambiguity in facilitating compromise in the policy-making process, arguing that "ambiguity enables the transformation of individual

[26] I draw from VanSickle-Ward's (2014) detailed analysis of this "public law literature."

intentions and actions into collective results and purposes. Without it, cooperation and compromise would be far more difficult, if not impossible" (p.157). In his study of legislative deference in the United States, Lovell (2003) emphasizes the political advantages of crafting ambiguous statutes. Using vague language, members of Congress are able to "avoid the political costs of making clear decisions" when they are "caught between powerful constituencies with incompatible demands," and thus "covertly empowered the courts" (Lovell, 2003, p.3). Despite their focus on the nature of judicial policy-making and lack of sophisticated empirical test of the causes of ambiguity in US laws, these studies offer valuable insights on why statutory ambiguity occurs. Using this public law literature and the bureaucracy scholarship as a foundation, VanSickle-Ward (2011, 2014) takes a step further to theorize and empirically investigate the causes of ambiguity and specificity of laws passed in the U.S. states. VanSickle-Ward (2014) proposes a conditional model of statute specificity, which posits that the impact of policy conflict, resulted from institutional and political fragmentation, is contingent on policy salience. Through content analysis of health and mental bills across states and interviews with legislators in the United States, VanSickle-Ward (2014) presents detailed, extensive evidence that policy disputes produced by partisan discord, interest group diversity, and pluralistic executive branches beget statutory ambiguity for high-profile legislation. Legislators care more about ensuring passage if the bill tackles a high-salience issue and are more likely to use open-ended wording in legislation to facilitate compromise with conflicting actors (VanSickle-Ward, 2014).

The utility of ambiguity suggested by the public law literature and demonstrated by VanSickle-Ward (2010, 2014) is not unique to policy making in the United States or democratic cases. Single-party rule does keep many authoritarian regimes from partisan discord, but it does not indicate that members of governing coalitions share identical preferences and that policy

conflict is absent in these regimes (Gallagher & Hanson, 2013). In fact, recent works find that policy processes in authoritarian legislatures are often defined by competing regime actors whose preferences diverge sharply on a range of issues, and as such, these processes can be rather conflictual (Lü et al., 2020; Noble, 2020; Truex, 2020; Williamson and Magaloni, 2020). In this study, I conceptualize authoritarian elites primarily in the bureaucratic sense and focus on functional organizations and territorial administrations at the ministerial-provincial level as the major regime actors in China (Section 2.1.1). The role of ambiguity for appeasing conflicting stakeholders has been noted in studies of authoritarian policy processes. Jiang's (2023) case study of leading small groups in China suggests that regime leaders tend to resort to broad and ambiguous policy language to "integrate" divergent ministerial interests (p.115). The 2010 guidelines on health system reform promulgated jointly by the State Council and the Party Central Committee, for example, contain vaguely contradicting statements about the direction of public hospital reform. Ambiguity is seen as an effort to overcome impasse resulted from the protracted disputes between the Ministry of Health and the Ministry of Human Resources and Social Security, which advocate the government-led approach and the pro-market approach respectively (Jiang, 2023, p.115). In her analysis of China's financial policies, Jiang (2016) argues that the need for compromises between reform-minded liberals (as represented by the People's Bank of China and economically advanced localities) and conservatives (as represented the National Development and Reform Commission, the Ministry of Finance, the Ministry of Commerce, financial regulatory commissions, state commercial banks and SOEs) at the elite level has resulted in only vague and superficial consensus regarding the necessity of financial reform in China. As such, policy documents out of national congresses and economic work meetings often lack policy details such as specific steps and timeline of reform (Jiang, 2016).

I draw insights from these studies and took a step further to theorize the value of statutory ambiguity in the authoritarian context. I develop a new framework that incorporates the role of the autocrat. As discussed in Section 2.1.3, the autocrats' role in lawmaking is defined by two considerations: to use legislation to maintain elite loyalty and to ensure timely passage of introduced bills. Bureaucratic division over policy, however, makes it difficult to achieve these two goals. In this context, ambiguity offers functional utilities to the autocrat. First, statute ambiguity allows the ruler to avoid the political costs of creating losers within the governing coalition and embodies the logic of "balance of power" in authoritarian politics (Boix & Svolik, 2013; Shih, 2008; Shirk, 1993; Svolik, 2009). Creating clear losers under a new law risks dividing the loyalties of elite allies and inducing noncompliance by disgruntled actors. Loyalties may change and supporters may shift to the camp of a political rival if they believe the incumbent leader cannot deliver what they want (Lieberthal & Oksenberg, 1988, p.155). The potential losers are likely to block or distort policy implementation by refusing to cooperate in the future, which makes the leader more vulnerable to political attacks. In addition, by making a clear decision dictating who should do what, the top leader may have to take the blame for any policy failure resulted from such a decision. He takes the risk of being held accountable by his fellow PSC members, the broader elite coalition, and possibly the mass public in the event of missteps (Jakobson & Manuel, 2016, p.108). On the contrary, broad, vague decisions enable the leader to shift blame for policy failure (Jakobson & Manuel, 2016; Tullock, 1987, p.20). In their analysis of the foreign policymaking process during Xi's time, Jakobson & Manuel (2016) find that Xi has continued in his predecessors' styles by mostly resorting to vague language when making decisions. They note that Xi has insisted on ambiguous formulation of policies concerning the measures that China should adopt to defend its sovereignty over disputed islands

in the East and South China Seas (Jakobson & Manuel, 2016, p.109). At one point Xi emphasized that China should show a determined response, while also stressed that what China do should not engender stability in these regions, without articulating how (Jakobson, 2014, p.29; Jakobson & Manuel, 2016). The ambivalence of his position and the lack of concrete instruction allow Xi to avoid being held accountable if something went wrong in maritime affairs. Also, decision vagueness from the top gives space for competing foreign policy actors in the Chinese bureaucracy to justify their actions (Jakobson & Manuel, 2016). In fact, Xi has proposed a couple of ill-defined foreign policy initiatives as key components of China's grand strategy. The most high-profile project is the Belt and Road Initiative (BRI). Xi's vague framing of BRI has made it easy for various ministries and provinces to enter the policy processes and to pursue their own agendas under the "BRI" umbrella (Ang, 2019).

Second, a truly "balance of power" solution – for example, an option that divides policy power equally among the competing bureaucratic factions – is often difficult to find or secure in practice. Though this option could be ideal, it requires profound knowledge of the issue at hand and takes plenty of time to coordinate, which the regime leader often lacks in a time-pressured legislative setting (Tanner, 1999, p.23). In addition, dividing policy power unavoidably causes some stakeholders to give up their claim on jurisdiction in certain scenarios or adversely impact their constituents. This proposal is likely to foster further policy battles that are subject to additional delay and gridlock. As the AML case (Chapter 4) illustrates, how to divide the antitrust responsibilities continued to be a thorny problem. Bureaucratic stakeholders keep fighting over the most rewarding components of law enforcement and avoiding the least rewarding ones. These considerations make statutory ambiguity a political viable choice. Ambiguity serves a vehicle to reconcile policy conflicts and enables a channel to satisfy

competing agencies along the policy process. Ambiguous statute wording tolerates various interests and allows for a broad range of possible interpretations (McCubbins et al 1987; Williams, 2018). The "creation of interpretative space" (Williams, 2018) via ambiguity provides some common ground for agreement between the parties in dispute, while clarification serves only to extend and intensify disagreement (Landau, 1969; Lindblom, 2017). Under this strategy, policy disputes are not further pursued in the legislature, but deferred to the post-promulgation stage when implementing regulations and rules are to be drafted. In so doing, the autocrat manages to overcome bureaucratic impasse in the legislature and ensures timely passage of introduced bills.

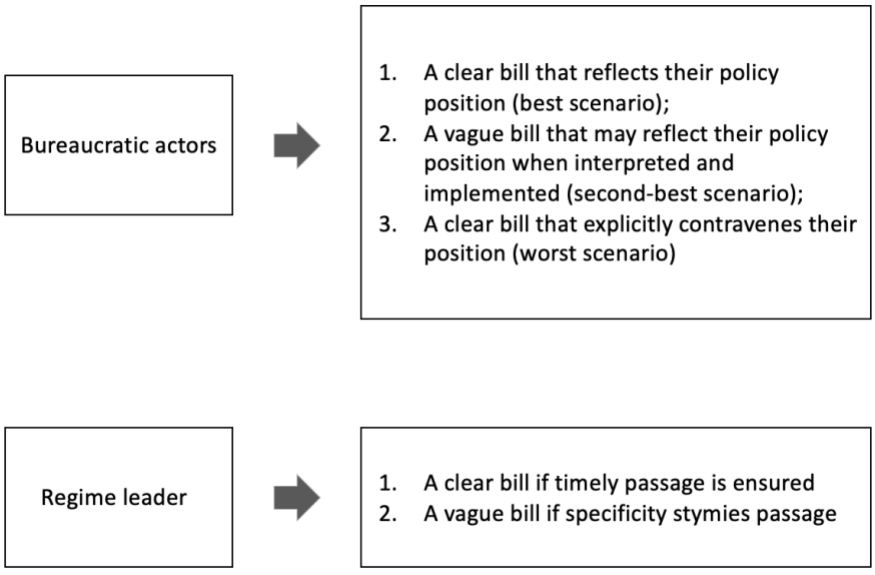

Figure 2.2: Preferences over bill content

Why is a vague law acceptable to bureaucratic stakeholders? To illustrate the utility of ambiguity to bureaucratic actors, let's examine their ranked preferences over the content and language of law (Figure 2.2 provides a summary). For a bureaucratic stakeholder, it would be

ideal to transform its preference to a clear, detailed law. By codifying the details of preferred policies into legally binding national statutes, the agency secures a credible underpinning for its policy influence, which guards it against meddling of rival actors or organizational restructure in the future. However, as discussed, this is often difficult to achieve when preferences diverge sharply on the bill content, considering the mutual veto opportunities in the legislative process. For a bureaucratic actor, it would be worst to pass a clear law that explicitly contravenes its position and it will fight hard to avoid it from happening. Therefore, although not come as the best option, it is acceptable to pass a vague law that may reflect the actor's policy interests when interpreted and implemented.

I focus on two aspects of ambiguity that relate to the object of bureaucratic wrangling in the policy process. As discussed in section 2.1.1, bureaucratic conflicts revolve around two themes – jurisdictional issues and substantive policy matters. I argue that efforts to get past those disagreements can lead to ambiguity of both jurisdictional and substantive policy language. Corresponding to these two themes, I identify two forms of ambiguity: jurisdictional ambiguity and substantive ambiguity.[27] Jurisdictional ambiguity refers to ambiguity over the recipient of statute delegation, which concerns the question of who will implement the law. Substantive ambiguity refers to ambiguity over the policy substance, which concerns the question of what should be done or how to regulate. Scholars studying statutory control in the U.S. focus on procedural elements within legislation, arguing that precise procedural instructions such as deadlines and hearings allow legislators to micromanage policy implementation (Epstein & O'Halloran, 1994, 1999; McCubbins, Noll, & Weingast 1987, 1989; Moe 1987, 1990). Huber &

[27] Jurisdictional ambiguity and substantive ambiguity are collectively referred to as statute ambiguity in the rest of the dissertation.

Shipan (2002) move attention away from procedural elements to substantive policy elements, contending that "policy precision," rather than procedural control, serves as the most important statutory tool. From a legislative control perspective, Huber & Shipan (2002) argue that procedural language is less constraining than policy language. My choice to not include procedural elements in my analysis of ambiguity of Chinese laws is based on the judgement that administrative procedures have little effect on policy influence. Unlike substantive policy issues that directly influence the prospects of bureaucratic actors and their constituencies, procedural elements do not involve the interests at stake and hence are not at the center of legislative debate. I focus on substantive policy language and argue that the need to reconcile bureaucratic disputes over policy substance results in substantive ambiguity in law. In addition, I identify another dimension of ambiguity resulted from bureaucratic infighting over who will receive statutory delegation: jurisdictional ambiguity. Previous works on U.S. laws note that some statutes contain duplicative delegations that create bureaucratic redundancies and overlapping jurisdictions (e.g., Freeman & Rossi, 2012; Gersen, 2006; Marisam, 2011). But these studies adopt the same political control rationale, treating the number of delegated authority as a function of legislative design. Also, these studies rarely discern cases where recipients of delegation are undefined within statutes, which is common in Chinese laws. My conceptualization of jurisdictional ambiguity fills this gap.

How does ambiguity affect the post-legislative processes to facilitate policy power-sharing? Vague legislation enables bureaucratic discretion. Statute ambiguity creates room for continued persuasion, debate and bargaining in the post-legislative stage of policymaking, which Tanner (1995, 1999) refers to as the "second campaign." When jurisdictional and/or substantive specifics are not spelled out in the newly promulgated law, implementing regulations are

expected to do so. In China, at the national level, such policies take the form of administrative regulation (行政法规, executive decree) and departmental rule (部门规章, ministerial decree). They are enacted respectively by the State Council and its ministries to implement national statutes, in descending order of authority. Formulation of administrative regulations features collective decision-making, where inter-ministry review and consensus-building are required. While departmental rule-making is a prerogative of ministries, which resembles a unilateral decisional process. Though both types of regulations have the force of law, departmental rules are not binding upon other entities of equivalent ranks and have lower authority. In the post-legislative stage of policymaking, bureaucratic actors prefer to have their interests inscribed in administrative regulations than in departmental rules in order to bind rival agencies. However, when a vague statute provides bargaining space for ministries to push for their own preferred interpretations in the form of administrative regulation, policy debates unresolved in the legislature re-opens. As policy battle resumes in the State Council arena and administrative regulation delays and ambiguity remains, bureaucratic actors are likely to forgo the multilateral process and instead pursue a unilateral path that is less costly. With unilateral power to promulgate departmental rules, ministries unfulfilled in the legislature can exploit statutory ambiguity to craft implementing policies that reflect their own interests. At the subnational level, implementation regulations of national statutes take the form of local government rules (地方政府规章). Like the State Council departmental rules, local government rules are a prerogative of provincial administrations and do not require consultation and consensus building with actors outside of their respective geographic domain. Vague laws allow room for provinces to pursue territorial interests by adopting their preferred interpretation when issuing local rules.

Through statutory ambiguity, the regime leader alters the nature of elite bargain over policy by shifting a zero-sum game to a "positive-sum" game. Ambiguity provides interpretative space for ministries and provinces to unilaterally expand their regulatory turfs and pursue their own preferred policies without having to force each other to shrink territories or repeal regulations if there are overlaps, inconsistencies or contradictions.[28] In so doing, the autocrat covertly shares policy power between competing stakeholders and avoids creating clear losers inside the party-state bureaucracy.

It bears noting that the legal effect of different types of enactments shapes bureaucratic agencies' calculations about which policy-making venue they prefer and when. Although departmental rule-making is the least politically costly channel for a ministry to push for its policy interests, the legal status and effect of a departmental rule do not match those of a legislative statute. Legislative enactments (statutes) outrank administrative enactments (administrative regulations and departmental rules), meaning that the latter are not allowed to contravene the former. If a ministry managed to transform a hostile policy into a detailed statute, other ministries see their interests harmed by the statute cannot use departmental rules to change this new status quo. Instead, to ensure legal consistency, these ministries may need to amend or repeal certain departmental rules they have issued, if these rules contain any provision in conflict with that in the new statute. In addition, departmental rules issued by a ministry do not bind other bureaucratic units of comparable rank (provinces and other ministries). In other words, unlike the statutory approach, the unilateral administrative path of rule-making does not tie the hands of

[28] This is because the State Council departmental rules and local government rules have the same legal effect. There is generally no legal guideline on how to resolve inconsistencies among departmental rules, and between departmental rules and local government rules. According to the Legislation Law, the State Council shall adjudicate if inconsistencies occur at the level of departmental rules and local government rules.

rival ministries and preclude them from meddling. Thus, all else equal, bureaucratic actors prefer the statutory approach (to make policy through law enacted by the legislature) to the administrative venue (to make policy through administrative regulation or departmental rule) to pursue their policy interests. When it comes to the administrative arena, enactments of higher legal effect (administrative regulations) are preferred to enactments of lower legal effect (departmental rules). This is why departmental rulemaking, albeit a convenient mechanism for pushing forward one's policy preferences, is not the best strategy.

Still, it bears noting that not all legislative proposals are transformed into formal laws enacted by the NPC or NPCSC. In the agenda-setting stage, some proposals may fail to win a spot on the legislative plan of the NPCSC due to a lack of urgency, attention or interest from the top leadership. This could result in bureaucratic actors enacting departmental rules to pursue their own independent agenda, as a matter of expediency. But as Tanner (1999) points out in his book, these political actors, particularly the Central-level Party and State Council departments, will "draft ready-made legislative proposals and keep them 'alive' internally for years, decades even, until they sense that the political mood is ripe for them to emerge or re-emerge on the active agenda." (p.214) This suggests that making policy through a legislative statute which purports to universal applicability and higher-level legal effect (subject only to the Constitution) is the ultimate goal for bureaucratic actors seeking policy influence. In addition, enacting departmental rules in advance, in some circumstances, can be viewed as a tactic to enhance one's position and help push law content toward its preference during the lawmaking process. My case analysis of the AML shows that the two competing ministries, the MOFCOM and the NDRC, issued departmental rules on merger review and price monopoly respectively when the antitrust law was drafted and reviewed in the State Council arena. What is the purpose of making policy

through departmental rules when they were fully aware that serious efforts were under way toward finalizing and eventually promulgating the AML? In fact, the two departmental rules were either repealed or amended to ensure consistency with the later-promulgated AML. But enacting departmental rules during the course of lawmaking allows enacting ministries to claim antitrust authority and demonstrate competition-related experience, thus gaining bargaining leverage in later negotiations over the policy content of the AML. Investigating which policy proposals eventually become legislative statutes is not the primary focus of this study, though it remains an important question needing additional scholarly inquiry.

In summary, I argue that statutory ambiguity serves important functions for the autocrat and the elites. Ambiguity 1) helps the autocrat overcome legislative delay by facilitating compromise between bureaucratic stakeholders with conflicting policy demands, 2) serves as a "second-best" solution for the competing actors to avoid locking in unfavorable rules and creates room for post-promulgation bargaining and interpretation. Figure 2.3 provides a summary of these mechanisms. My argument emphasizes that preference divergence among bureaucratic elite actors is central to understanding ambiguity in law. There can be varying degrees of bureaucratic division, depending on the policy space that a law oversees. When their preferences diverge sharply over the content of legislation, the lawmaking process will become messy and conflictual, and the regime's top leader is more likely to resort to statute ambiguity to facilitate compromise and avoid "visible" gridlock in the legislature. In other words, statute ambiguity helps ensure timely passage of disputed bills and enables a unique mechanism of policy power sharing among conflicting bureaucratic actors. The following hypotheses summarize these insights.

Hypothesis 1: Bureaucratic policy conflict will increase the amount of jurisdictional ambiguity in the final law.

Hypothesis 2: Bureaucratic policy conflict will increase the amount of substantive ambiguity in the final law.

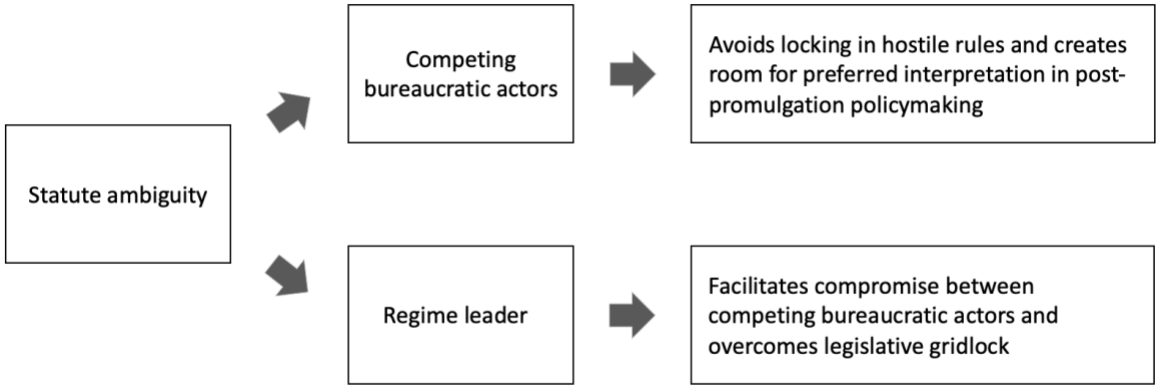

Figure 2.3: The value of statute ambiguity

2.3 Alternative Explanations

2.3.1 Legislative Control

Why and when are laws vague? The delegation literature treats the amount of statutory ambiguity as essentially a matter of control. Vague statutes grant the bureaucracy greater autonomy of policy making but runs the risk of "bureaucratic drift" (Moe, 1989). The delegated agencies have the incentive to craft policies on behalf of their own interests, which might deviate from legislative preferences. On the contrary, detailed laws delegate little discretion by placing more restrictions on the bureaucracy for implementation. A number of factors have been proposed to explain the varied amount of statutory discretion, including whether the government

is divided, term limits, the level of legislative professionalism, and the availability of non-statutory and ex-post means of control (e.g. Epstein & O'Halloran, 1999; Huber & Shipan, 2002, 2008; Moe, 1989, 1990; Vakilifathi, 2019). Scholars have also tried to account for redundant, duplicative or overlapping delegations by showing their potential virtues. They argue that delegating the same task to more than one agency can spur productive competition and innovation, produce valuable information, insulate agencies from capture, aid congressional monitoring, and bring policy closer to legislative preferences than would delegation to a single agency (Bradley, 2011; Farhang and Yaver, 2016; Freeman & Rossi, 2012; Gersen, 2006; Marisam, 2011; Stephenson, 2011; Ting, 2003). But these works have been limited almost exclusively to democratic cases and it is difficult to extend their findings to the authoritarian context. First, authoritarian parliaments do not see the type of legislative-executive power relations that we observe in democracies. By any comparative standard, authoritarian legislatures are weak institutions. Treating legislators in autocracies as political principals is conceptually and empirically problematic. Unlike the U.S., where the primacy of Congress is widely recognized, parliaments in nondemocracies have been conventionally labeled as "rubber stamp" bodies (Brancati, 2014). Recent studies find that authoritarian legislators either remain subservient to the executive actors or serve as proxy fighters for key government (Lü et al., 2020; Noble, 2020). They rarely exert independent influence over policy content, let alone using legislation to discipline the bureaucracy. For example, in China, many former government and party officials retire to the legislature and continue representing the interests of their former ministries and allied constituencies (Lü et al., 2020; Tanner & Ke, 1998). Though the Chinese Communist Party is able to impose control over the bureaucracy, Party leaders rely mostly on non-statutory means of control and rarely signal clear policy preferences in the legislative

process (Tanner, 1999, p.66). Second, by focusing on partisan alignment and misalignment between legislators and bureaucrats, prior work assumes away policy cleavages within the executive branch. In authoritarian states like China and Russia, the party-executive is relatively powerful over the legislature and can at the same time be internally divided over a range of issues. Recent studies of authoritarian legislature present evidence for such intra-executive division. For example, Noble (2020) discusses the policy debate between Russia's Ministry of Finance and Ministry of Economic Development over the specifics of the budget rule in a bill related to oil and gas revenues. Lü et al. (2020) reveal varying preferences for education policies between China's Ministry of Education and Ministry of Finance. Truex (2020) notes the existence of "infighting and territorial behavior" among the various Chinese ministries in drafting the country's food safety law. Diverse intra-executive preferences shape legislative processes and outcomes in these contexts, but they are largely absent from the standard delegation story. Third, I identify a particular type of ambiguity common in Chinese national statutes: jurisdictional ambiguity. Unlike the United States, where the lawmakers mostly vary the amount of discretion delegated to particular agencies or actors, Chinese laws contain a large amount of jurisdictional ambiguity, where regulatory tasks are assigned to "relevant departments" (有关部门). In such cases, who may receive law implementation authority is not clearly defined. Why don't Chinese lawmakers clarify the recipients of delegations? This form of ambiguity is puzzling and calls for a new explanation different from the control theory. Additionally, there is little evidence that Chinese leaders intend to use duplicative or overlapping delegations for the purpose of legislative control. In this study, I propose an alternative account of authoritarian lawmaking that theorizes the value of ambiguity. I argue that statutory ambiguity allows the regime leader to appease conflicting bureaucratic stakeholders to avoid gridlock in the

legislature and covertly share policy power among these competing actors when laws are interpreted and implemented in the post-promulgation stage.

2.3.2 Adaptive Logic

Scholars studying China's development path highlight the adaptive logic behind ambiguity. The adaptive framework treats policy vagueness as a tool to manage uncertainty and incentivize innovation (Ang, 2016; Heilmann, 2008; Heilmann & Perry, 2011). The logic of the argument is based on the premise that central leaders have limited policymaking abilities in an uncertain world. Chinese national legislation and regulations are intentionally drafted in broad terms to allow room for the Party to be "flexible and adaptable" (Lubman, 2006, p.44). Under vague guidelines and broad delegations, agencies and local governments can function as "laboratories" for policy ideas. By varying the amount of ambiguity in central directives, the Chinese leaders empower local states to innovate and experiment with different strategies on one hand, and closely monitors localization and experimentation on the other (Ang, 2016). Despite its unique lens to understand China's development path, the adaptive account overlooks the political dynamics of policymaking. The central state is treated as a unified entity and the political cleavages inside the government are assumed away. Despite China's single-party rule, authority over economic policy is highly dispersed and the topic of reform has always been contested (Huang, 2013; Lieberthal & Oksenberg, 1988; Shih, 2008; Wu, 2013). Policy contestation takes place not just at the elite level between conservatives and reformers, but also between rival ministries competing for bureaucratic influence (Tan, 2020; Wu, 2013). The Chinese party-state created a large number of ministries, agencies and bureaus to oversee different and overlapping aspects of the economy and society. These fragmented authorities have different agendas and pursue divergent interests, generating ubiquitous struggles in the policy

process (Jiang, 2023, p.99 ; Lieberthal & Oksenberg, 1988; Shirk, 1992). Jiang's (2023) analysis of China's leading groups shows that protracted disputes between the Ministry of Health and the Ministry of Human Resources and Social Security over the direction of healthcare reform resulted in highly ambiguous guidelines. To satisfy competing agencies and their divergent interests, both government-led and pro-market approaches of running public hospitals were endorsed, causing confusion about how to blend the two poles (Jiang, 2023, p.113). The territorial administrations are also important political players during the course of lawmaking and compete to influence policy. This study suggests a contestability dimension to understand the causes of ambiguity. I take bureaucratic policy dispute into account and propose an alternative view of statutory vagueness in the authoritarian context.

2.3.3 Legal Norm

Other accounts of statutory ambiguity center around the legal drafting norm in China. Loose drafting has long marked Chinese legislation and ambiguity in laws is considered a cultural preference (Chen & Zhang, 1981; Guo, 1988; Keller, 1994). Jurisdictional and substantive details are not codified into statutes but determined by policy deals made in closed-door meetings and may remain inside knowledge. Chinese lawmakers prioritize the stability of law (Corne, 2002, p.375). Statutory ambiguity helps ensure such stability, since detailed laws are subject to more frequent change as the economy and society change. They prefer to write policy details into non-statutory documents such as party and executive orders, directives, or other documents that may be only internally circulated. This explanation, however, fails to address the motivations and strategies of bureaucratic stakeholders and the credible commitment problems associated with any closed-door policy bargains in an authoritarian regime (Myerson, 2008; Svolik, 2012). In an evolving, competitive system, bureaucratic agencies pursue a legislative

strategy to overcome commitment problems (Lü et al., 2020). Statutes are primary legislation enacted by the legislature and have higher legal effect than enactments of administrative organs. They are universally applicable, legally binding and are politically costly to overturn. By transforming their policy interests into legislative statutes, bureaucratic actors secure a statutory underpinning for their preferred policies and continued relevance. Such an underpinning guards them against meddling of rival agencies and helps them survive future government reorganizations. For example, when air pollution in China became an increasingly serious societal issue, the Ministry of Environment Protection seized the opportunity and proposed a strong and ambitious environmental bill, seeking to consolidate its authority as an environmental regulatory agency. When the bill was watered down by the more powerful economic agencies, the MEP adopted a "go-public" strategy to voice its discontent over the "hostile" amendments proposed by NDRC and mobilize public support for its position (Wang, 2012). My case analysis of Chinese antitrust legislation also shows that agency-provided draft can be highly detailed. It is the protracted inter-ministry conflicts over the jurisdiction, scope and standard of antitrust enforcement that made later revised drafts increasingly shorter and vaguer. In this study, I take into account the credible commitment problem and discuss how agency incentive and interactions shape bill content.

2.3.4 Co-optation and Information Provision

Building upon the elite power-sharing theory (Boix & Svolik, 2013; Gehlbach & Keefer, 2012; Svolik, 2012), this study treats authoritarian legislatures as venues for policy influence and contestation from within the elite coalition. A competing expectation of legislative institutions in non-democracies emphasize their utility for managing pressures from outside the government: potential opposition and the citizenry.

Explanations can be derived from two prominent theories of authoritarian institutions: co-optation theory (Gandhi, 2008) and information theory (Truex, 2016; Manion, 2014, 2015). Co-optation theory argues that legislative institutions are used to co-opt members of potential political opposition through distribution of spoils and making policy concessions (Gandhi, 2008; Gandhi & Przeworski, 2006, 2007; Malesky & Schuler, 2010; Reuter & Robertson, 2015; Truex, 2014). By allocating legislative seats to these actors, regime leaders grant them access to rents and limited policy influence in exchange for their loyalty (Lust-Okar, 2006). Recent works on co-optation tend to treat authoritarian legislatures as primarily a site of opposition influence, where potential regime opponents announce their policy demands and forge agreements with regime elites (Gandhi, 2008; Schuler and Malesky, 2014). Following this co-optation logic, bill text change in the legislature can be seen as a concession to members of potential opposition holding parliamentary seats (Gandhi, 2008; Noble, 2020).

Information theory states that legislatures serve as an institutional channel to learn about and respond to citizen demands (Truex, 2016; Manion, 2014, 2015). Leaders of authoritarian regimes run the risk of engendering costly unrest if they choose to ignore issues of citizen grievance or implement unpopular policies. The threat of mass unrest motivates regime leaders to develop channels to gather information about what the public wants, before grievances "fester into something larger" (Lorentzen, 2013, 2014; Manion, 2015; O'Brien, 1994; Truex, 2016; Truex, 2020). Legislatures are one such institution. By developing connections with their constituencies, legislators serves as collectors and providers of information to the autocrats (Truex, 2016; Manion, 2014, 2015). Manion (2014, 2015) finds that in China, representation in local congresses facilitates "upward flows of local knowledge from the grassroots," helps local governments identify and address problems that might cause social unrest, and thereby bolsters

the rule of leaders in Beijing. Truex (2016) finds that Chinese legislators are encouraged to submit short policy recommendations that convey citizen grievances and preferences in the opinions and motions process. These recommendations are then considered by different NPC committees and "can eventually become bills, or they may be incorporated into policies in more informal means by various ministries and agencies" (Truex, 2014, p.243). Following this information logic, the legislative review of draft laws can be seen as a process of incorporating bottom-up policy input before they become formal laws, where legislators serve as "conduits" (Noble, 2020, p.1418). Bill text change during legislative review thus reflects regime responses to information provided by legislators regarding citizen grievances. Regardless of the differences, both the co-optation and information theories suggest that bill amendments in authoritarian legislatures are driven by policy demands of actors outside the ruling coalition. These actors exert influence on bill content through legislators – as representatives of potential political opposition or as loyal delegates who gather and relay information from their constituencies (Noble, 2020, p.1426).

What expectations do the co-optation and information theories generate about the level of statute ambiguity? I expect political oppositions and the citizenry desire concrete, detailed statute language, jurisdictionally and substantively. Broad, vague statutes give bureaucratic actors extensive discretionary power when interpreted and implemented, which is subject to abuse. Without effective ex-post monitoring mechanisms, administrative discretion over substantive matters could be used to push forward bureaucratic preferences at the expense of regime outsiders. In addition, jurisdictional ambiguity is subject to both under-enforcement (free-riding, shirking) and over-enforcement (added regulatory burdens) problems, which would incur additional costs on the regulated and aggreive the citizenry (Gersen, 2006; Li, 2015; Whitford,

2003). To mitigate these problems, members of political opposition and the citizenry prefer clear, concrete, detailed statute wording. Thus, according to the co-optation and information theories, legislative review – a process of inputting demands from outside of the government – will reduce the amount of ambiguity in final laws.

This account of legislative review and amendment suffers from several limitations. First, there is little evidence that the Chinese legislature is used to co-opt members of political opposition in the society. In China, the NPC (legislature) remains politically subservient to the Party-state apparatus and is not autonomous from the latter. Approximately 70% of NPC delegates are Communist Party members (Truex, 2016, pp.52-53). In addition, the Party controls the nomination processes to ensure that non-Party candidates adhere to the leadership of the Communist Party and do not function as a political opposition in the NPC (Truex, 2016). Unlike western democracies where parliaments serve as a forum of debate between the ruling party and opposition parties, Chinese legislators remain loyal to the CPC and do not fight along party lines.

Second, existing studies and my analysis suggest that public opinion plays a limited role in driving bill text change in the legislature. In China, there is likely a subset of the issue space where the CCP does not allow public discussion (Truex, 2016, 2020). According to the Legislation Law, the NPC leadership has the power to decide whether to publish a law draft for public comment. Between 2001 and 2021, half of the introduced drafts of all promulgated laws, amendments and revisions were kept outside of the public eye.[29] Further, Chinese legislators, particularly those in the NPC Standing Committee, forge stronger bonds with bureaucratic officials than with the public due to legislative-executive employment ties and weak electoral incentives. My text analysis of the Law Committee's reports shows that for laws passed between

[29] See a detailed analysis in Chapter 3, Section 3.2.5.

1991 and 2021, only eight percept of all the recorded NPC/NPCSC amendments were driven by public opinions. Noble's (2020) quantitative text analysis of amendments in the Russian State Duma suggests that the information theory cannot account for change between introduced draft and final law, nor can the co-optation theory. Truex's (2020) case study of lawmaking in China shows that regime efforts to placate citizen greivance led to significant improvements in legislative efficiency but not so much in statute quality, particularly in policy areas rife with bureuacratic turf wars. The Sanlu milk powder scandal facilitated the passage of the Food Safety Law in 2009, but the promulgated law provided "no fundamental reform of the system that many people in the industry hoped for" and regulatory jurisdiction over food safety regulation was only vaguely defined (Truex, 2020; MacLeod, 2009).

These deviations suggest that building legislative institutions for co-optation and information provision may be less effective than other strategies at the disposal of autocrats to control potential opposition and the public (Lü et al., 2020; Magaloni & Williamson, 2020). For example, in China, the regime has used the Internet and digital surveillance technologies to monitor citizens, identify dissents, and censor and guide public expressions (Liu & Wang, 2017; King, Pan, & Roberts, 2014; Xu, 2021). If they must respond to citizens, Chinese officials "can simply resort to constituency service rather than legislative policymaking" (Chen, Pan, & Xu, 2016; Distelhorst & Hou, 2017; Gandhi, Noble, & Svolik, 2020, p.1364; Manion, 2015; Truex, 2014).

Chapter 3 Law and Lawmaking in China

Taking legislative documents and existing literature as the starting point, this chapter provides an in-depth analysis of lawmaking processes in China. I first introduce the sources and structure of Chinese laws. I then draw upon the classic work of Tanner (1995, 1999) to discuss the three arenas and six stages of lawmaking in China. I show that bureaucratic actors possess de facto veto powers in the legislative process and policy disputes can "spillover" from the State Council table and the Party venue to the NPC floor. I further discuss the rules and procedures of legislative review and explain the time pressures internal to the NPC stage. Last, I provide a detailed analysis of the primary actors in the State Council, the Party and the NPC arenas, their motivations, calculations, interactions and influence on the nature of lawmaking.

3.1 Structure and Sources of Chinese National Legislation

The Constitution is at the top of China's legislative hierarchy. Only the national legislature, the National People's Congress, can amend the Constitution. According to article 5 of the Constitution and article 87 of the Legislation Law, the Constitution has the supreme legal status and no other law, regulation or rule is allowed to contravene the Constitution. The Constitution stipulates that the NPC and its Standing Committee (NPCSC) have the power to conduct constitutional review, but in reality they have never explicitly ruled that a law or regulation is unconstitutional (Chen, 2008, pp.195-198; Hand, 2006, pp. 124-125; van den Dool, 2019, p.53). Unlike many Western legal systems, courts in China do not have the power to conduct constitutional review and cannot invalidate a law or regulation if it violates the Constitution (Hand, 2013; van den Dool, 2019, p.53).

According to the Constitution and the Legislation Law, national level legislation can be divided into three tiers, in descending order of authority. At the first level are statutes (or "laws"

in Chinese, 法律), which are promulgated by the NPC or its Standing Committee. At the second level are administrative regulations (行政法规), which are enacted by the highest state administrative organ, the State Council. At the third level are departmental rules (部门规章), which are issued by ministries and commissions, along with other organizations with administrative functions directly under the State Council. Table 3.1 shows the sources and hierarchy of national-level legislation.

Table 3.1: Sources and Hierarchy of National Level Laws in China

Enacting Body	Type of law	Legal status
National People's Congress	Constitution (宪法)	Supreme
	Basic laws (基本法律)	Primary
Standing Committee of the National People's Congress	Other laws (其他法律)	
State Council	Administrative regulations (行政法规)	Secondary
State Council departments	Departmental rules (部门规章)	Tertiary

There are two types of national statutes: basic laws (基本法律) and other laws (其他法律). According to article 62&67 of the Constitution and article 7 of the Legislation Law, the enactment and amendment of basic laws fall into the domain of the NPC, whereas other laws are made by the NPCSC.[30] However, the term "basic law" is not clearly defined in the Constitution, nor by any other Chinese legislation. According to article 62 of the Constitution, basic laws concern criminal offences, civil affairs, state authorities and other fundamental matters. Drawing

[30] According to article 67, the NPCSC has the power partially supplement and amend statutes enacted by the NPC when the latter is not in session, provided that the basic principles of these laws are not contravened.

upon Chinese legal scholars' analyses of the scope of basic laws, Chen Jianfu summarized that this term generally refers to laws that "have a fundamental effect on the whole society, including law concerning state organization and structure; minority autonomy and special administrative regions; criminal, civil, and marriage codes and procedural codes; laws dealing with citizens' political and civil rights and personal liberties and freedoms; and other laws establishing state and social systems" (Chen, 2008, p.181; van den Dool, 2019, p.54). The "other laws," on the other hand, refer to laws that in theory "have an effect only on a particular aspect of the society" (Chen, 2008, p.181). But in practice, there is not always a clear distinction between the two types of laws, leading to a situation where the NPCSC enacts what may be considered "basic laws" in some cases (Chen, 2008, p.181). In addition, the NPCSC is granted by the Constitution (article 67(3)) the power to partially supplement and amend laws enacted by the NPC when the NPC is not in session, provided that the basic principles of these laws are not contravened. Hence, the legislative authority of the NPCSC is expanded enormously. Regardless of the differences, both basic laws and other laws are national statutes and come at the top tier of Chinese legislation, subject only to the Constitution. Their enacting bodies, the NPC and NPCSC, enjoy the highest legislative authority among all lawmaking organs.

At the next tier are administrative regulations. Administrative regulations are promulgated by the State Council in accordance with the Constitution and national statutes, as is stipulated by article 89(2) of the Constitution.[31] According to article 4 of the Regulations on the Procedures for the Formulation of Administrative Regulations (行政法规制定程序条例), they

[31] The State Council is the central government of the People's Republic of China and the highest state administrative organ. For additional information regarding the functions and organizational structure of the State Council, see the State Council website: http://www.gov.cn/guowuyuan/index.htm.

shall generally be titled “Regulations” (条例), but may also be named “Measures” (办法) or “Rules” (规定), and are referred to in their totality as administrative regulations. Article 65 of the Legislation Law further stipulates the nature and purposes of administrative regulations as: 1) to implement the provisions of national statutes; 2) to exercise the administrative functions and powers of the State Council as set out in article 89 of the Constitution.[32] Article 89 of the Constitution contains a wide range of broadly defined areas of activities that the State Council oversees, allowing the State Council to enact administrative regulations that cover almost all aspects of social and economic life in China. The Legislation Law goes some way towards clarifying matters that must be made in the form of national statutes in article 8, such as state sovereignty, people’s congresses, criminal sanctions, and litigation systems. But according to

[32] Article 89 of the Constitution stipulates that “the State Council exercises the following functions and powers: (1) to adopt administrative measures, enact administrative rules and regulations and issue decisions and orders in accordance with the Constitution and the law; (2) to submit proposals to the National People’s Congress or its Standing Committee; (3) to formulate the tasks and responsibilities of the ministries and commissions of the State Council, to exercise unified leadership over the work of the ministries and commissions and to direct all other administrative work of a national character that does not fall within the jurisdiction of the ministries and commissions; (4) to exercise unified leadership over the work of local organs of state administration at various levels throughout the country, and to formulate the detailed division of functions and powers between the Central Government and the organs of state administration of provinces, autonomous regions, and municipalities directly under the Central Government; (5) to draw up and implement the plan for national economic and social development and the state budget; (6) to direct and administer economic affairs, urban and rural development, and development of ecological civilization; (7) to direct and administer the affairs of education, science, culture, public health, physical culture and family planning; (8) to direct and administer civil affairs, public security, justice administration, and other work; (9) to conduct foreign affairs and conclude treaties and agreements with foreign states; (10) to direct and administer the building of national defense; (11) to direct and administer affairs concerning the nationalities and to safeguard the equal rights of minority nationalities and the right to autonomy of the national autonomous areas; (12) to protect the legitimate rights and interests of Chinese nationals residing abroad and protect the lawful rights and interests of returned overseas Chinese and of the family members of Chinese nationals residing abroad; (13) to alter or annul inappropriate orders, directives and regulations issued by the ministries or commissions; (14) to alter or annul inappropriate decisions and orders issued by local organs of state administration at various levels; (15) to approve the geographic division of provinces, autonomous regions and municipalities directly under the Central Government, and to approve the establishment and geographic division of autonomous prefectures, counties, autonomous counties, and cities; (16) To decide by law to place parts of provinces, autonomous regions, and municipalities directly under the Central Government under a state of emergency; (17) to examine and decide on the size of administrative organs and, in accordance with the law, to appoint or remove administrative officials, train them, appraise their performance and reward or punish them; and (18) to exercise such other functions and powers as the National People’s Congress or its Standing Committee may assign to it.” See http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm

article 65 of the Legislation Law, the State Council may be empowered by the NPC or the NPCSC to make administrative regulations for matters that shall be governed by national statutes (as stipulated in article 8) but where no statute has yet been enacted. For example, in 1984 the NPCSC authorized the State Council to issue regulations to reform industrial and commercial taxes. In 1985, the State Council was empowered by the NPC to enact provisional rules and regulations concerning economic reform and the open door policy (Chen, 2008, p.183). Seen in this light, the State Council's legislative powers are secondary to those of the NPC and its standing committee but broad in scope. The legal status of administrative regulations is below national statutes but higher than departmental rules.

At the tertiary level are departmental rules. Departmental rules are issued by ministries and commissions, as well as other agencies with administrative functions directly under the State Council (hereafter State Council departments[33]) within the jurisdiction of their respective departments and in accordance with national statutes and administrative regulations, decisions and orders issued by the State Council, as is stipulated by article 90(2) of the Constitution. The Constitution, however, gives no clue whether departmental rules shall be recognized as part of "legislation" or have the force of law. Despite being the most pervasive form of regulation in China, their legal status remained unclear and controversial for a long time until the enactment of the Legislation Law in 2000 (Chen, 2008, p.191). By stipulating provisions that govern the enactment, amendment, and repeal of departmental rules, the Legislation Law brings departmental rules within the scope of lawmaking. According to article 80(2) of the Legislation Law, the purpose of departmental rules is to enforce national statutes or administrative

[33] The term "ministries" usually refers to the various State Council departments, so I use the two terms interchangeably in this study. Still, it bears noting that "ministries" is a broader concept because it can also refer to departments (functional bureaucratic units) of the Party Central Committee and the Central Military Commission.

regulations, decisions, and orders of the State Council. According to article 7 of the Regulations on Procedures for the Formulation of Rules, departmental rules are generally titled "Measures" (办法) or "Provisions" (规定), but cannot be named "Regulations" (条例). Unlike administrative regulations that are the exclusive realm of the State Council, departmental rules are enacted by various bureaucratic units that hold ministerial-level rank under the State Council. According to article 91 of the Legislation Law, rules of different departments of the State Council shall have equal effect and shall be implemented within their respective power. In China, entities of equivalent rank generally cannot issue binding orders to each other (Tanner, 1999, p.121). In other words, though departmental rules have the force of law, they are unilateral orders of the State Council departments and are not necessarily binding upon other ministerial level units. As there is a large number of ministry-rank lawmaking authorities at this level and no prescribed ex-ante external review, legal inconsistencies among departmental rules have become a common problem (Corne, 2002). Different departments may promulgate rules that send conflicting messages on a particular matter or assert exclusive jurisdiction over a certain issue. Though the Legislation Law provides some kind of mechanism for dealing with such inconsistencies, there are basically no exercised ex-ante procedures and ex-post monitoring can be highly costly.[34] My

[34] Article 95 of the Legislation Law stipulated that "where there is any discrepancy between local regulations and rules, the relevant authority shall decided it according to the following power: (1) For any discrepancy between new general provisions and old special provisions developed by the same authority, the authority shall decide. (2) For any discrepancy between the provisions of local regulations and State Council departmental rules in the same matter and the application of such provisions cannot be determined, the State Council shall offer an opinion, and if it deems that local regulations shall be applied, it shall make a decision to apply the provisions of local regulations in the local area; or if it deems that State Council departmental rules shall be applied, it shall request the Standing Committee of the National People's Congress for decision. (3) For any discrepancy between the provisions of State Council departmental rules or between the provisions of State Council departmental rules and the rules of local governments in the same matter, the State Council shall decide. Where there is any discrepancy between the provisions of regulations developed according to empowerment and the provisions of laws and the application of such provisions cannot be determined, the Standing Committee of the National People's Congress shall decide." See http://www.npc.gov.cn/zgrdw/englishnpc/Law/2007-12/11/content_1383554.htm

study argues that statute ambiguity allows competing ministries to promulgate departmental rules to adopt their preferred interpretations of laws but runs the risk of reinforcing bureaucratic factionalism and structural fragmentation.

Local legislation can be divided into two types: (1) local regulations (地方性法规), which are made by local People's Congresses and their Standing Committees, and (2) local government rules (地方政府规章), which are made by local governments. According to article 89 of the Legislation Law, local regulations have a higher authority than rules of local governments at the same level and at a lower level. Local government rules shall be made in accordance with the local regulations. What then is the order of authority between national level laws and local laws? According to article 88 of the Legislation Law, national statutes and administrative regulations take priority over local regulations and local government rules. According to article 91 of the Legislation Law, departmental rules and local government rules have equal effect and are implemented within their respective power. But the Legislation Law does not stipulate the rank relationship between departmental rules and local regulations in terms of their legal status. Because the object of this study is the making of national-level legislation, local laws will not be discussed in this chapter.

In summary, the guidelines relating to legal effect of different laws are fourfold: (1) laws of lower legal status (下位法) shall not contravene laws of higher status (上位法), (2) the legal status of laws depends on the legislative authority of their enacting organ, (3) at the same level, the people's congress has a higher legislative authority than administrative authorities, (4) at the same level, laws enacted by the people's congress outrank those made by administrative authorities (Chen, 2008, p.190; Corne, 2002; pp.412-413).

3.2 The Lawmaking Process

I draw upon Tanner (1995, 1999)'s classic study of China's legislative process and discuss six steps of lawmaking: 1) agenda-setting, 2) writing and drafting, 3) inter-agency review, 4) top leadership approval, 5) NPC/NPCSC review and passage, and 6) post-promulgation rulemaking. Step 2-4 constitute the pre-legislative stage that takes place primarily in the State Council and Party arenas. The 5th step constitutes the legislative stage of lawmaking that takes place in the NPC/NPCSC and the last step constitutes the post-legislative (post-promulgation) stage that occurs in the State Council arena. In this study, I adopt Tanner's analytic framework and treat the State Council, the Party Central Apparatus, and the National People's Congress as major lawmaking arenas.

3.2.1 Agenda-setting

How does a subject enters the legislative agenda? Before proceeding to the discussion of agenda-setting, it is important to distinguish between the hundreds of legislative proposals competing for attention from the top and the dozens of proposed laws that formally entered the lawmaking agenda of the NPCSC (Tanner, 1999, p.211). Although ideas for legislation can emerge from anywhere and the agenda-setting stage has been opened to a greater variety of political actors since 1978, some actors' proposals are "undeniably far 'more equal than others'" (Tanner, 1999, p.211). Most proposals originate from the central-level government bureaucracies, and some are initiated by NPC delegates or suggested by CCP leaders. Provincial governments as well as nongovernment entities and individuals such as trade unions and other mass organizations, think tanks, scholars and experts can also suggest topics for legislation (van den Dool, 2019, p.55). But eventually these players need to seek and secure an organizational sponsor from the central government in order to formally submit their proposed bills to the

NPC/NPCSC for consideration.[35] Tanner (1999) points out that they employ various tactics to get their preferred laws on the agenda, such as "competitive persuasion," "marrying" of policy proposals to strong bureaucratic patrons and careful "packaging" of policy proposals" to appeal to senior party leaders (pp.210-217). Legislative proposals submitted to the NPC/NPCSC have not been systematically published due to the lack of general legal requirements (Lü et al., 2020 , p.1388). By investigating some internal data on Chinese legislative planning during the early reform era, Tanner (1999) found that major organizational actors such as the State Council and its departments clearly account for the lion's share of these legislative proposals (p.214). A key lawmaking group within the NPC Standing Committee – the NPCSC's Legislative Affairs Commission (LAC) – is responsible for reviewing the numerous proposals received and laying out priorities of lawmaking for the Party and NPCSC leaderships to approve. Researchers studying the NPC finds that the LAC generally follows a three-step process when drafting the five-year legislative plans: consultation, analysis, and prioritization (Fan, Wei, & Hu, 2018; Lu, 2013). Fan et al. (2018) explains the three steps using the LAC's recent practice:

> "To prepare the NPCSC's last two five-year legislative plans, for example, the LAC first actively solicited proposals from a wide range of parties, including central government agencies, local legislatures, NPC delegates, experts, and trade associations, while also paying attention to online public opinion. Official bodies, moreover, were required to explain the "necessity, feasibility, main contents, legislative timing, relationship with relevant laws, and drafting schedule" of their proposed projects. The LAC then analyzed the proposals, focusing on the bills submitted by NPC delegates during the most recent NPC session (it also held seminars to hear the delegates' views after having formulated a draft plan). Lastly, it prioritized the projects, dividing them into three categories based on their

[35] According to article 14 of the Legislation Law, only the following state actors can introduce bills to the NPC: the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, the Presidium of the NPC, the Standing Committee of the NPC, and the specialized committees of the NPC. According to article 26 of the Legislation Law, only these state actors can formally introduce bills to the NPCSC for deliberation: the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, the special committees of the NPC, and the Council of Chairpersons of the NPCSC.

urgency and available resources. Finalized five-year legislative plans must also be approved by the Party leadership."

Following approval, the selected projects will appear in the NPCSC's five-year legislative plan, which is released in the beginning of each NPC term (five years) since the 8th NPC (1993-1998). The plans include both new laws and amendments of existing laws, and distinguish different categories of legislative projects, based on maturity of the draft law and the urgency to pass the law. Category I projects are laws "to be submitted for deliberation within the term " (任期内提请审议的法律草案) of the NPC (that is, within the 5-year period of the legislative plan), and category II projects 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). Based on the five-year legislative plan, the LAC will produce subsequent annual legislative plans for the NPCSC leadership to approve, which list bills to be scheduled for review (category I) or research (category II) each year. The State Council also has its annual legislative work plans that include draft bills that are expected to be submitted for NPC/NPCSC review each year, in line with the legislative plans of the NPCSC.

Table 3.2: The 7th-13th NPC Standing Committee legislative plans

NPC term	Time period	Category I bills	Category II bills	Total bills
7th	1988-1993	21	43	64
8th	1993-1998	115	37	152
9th	1998-2003	63	26	89
10th	2003-2008	59	17	76
11th	2008-2013	49	15	64
12th	2013-2018	76	26	102
13th	2018-2023	69	47	116

Data source: NPCSC five-year legislative plans (7th-13th).

A spot on the NPCSC legislative plan is significant. Inclusion as category I bills indicates that a serious effort is under way to produce the draft and eventually promulgate the law within the timeframe outlined in the plan (Tanner,1999, p.211). Though the majority of the included bills will sooner or later be enacted by the NPC and NPCSC (as shown in Table 3.2), there is variation in the length of time spent in the drafting and reviewing processes (Truex, 2020). For category I bills, for example, some were not submitted to the NPC/NPCSC for deliberation within the period specified in legislative plans, while some were already under NPC/NPCSC review or passed when plans were released. For example, of the 263 laws, revisions, and amendments identified as category I projects in the 8th -12th NPCSC legislative plans, 230 were eventually passed by Oct 2021 (about 87%). The passage rate is lower for new laws (82%) than revisions/amendments (95%). Of those category I laws/amendments/revisions that were passed, the mean number of years it took was about 3.46 (1261 days).[36] Roughly 8% of category I bills that were passed take longer than 10 years to do so. About 41% of all category I bills did not pass within the 5-year period of the legislative plan. Table 3.3 shows the percentage for laws, revisions and amendments identified as category I projects in the 8th-12th NPCSC legislative plans that were passed by Oct 2021 and that were passed within the five-year period of the legislative plan respectively. Truex (2020) provides evidence of legislative gridlock in China that some category I bills took longer time to pass than others.

[36] Those that had been passed before legislative plans were released are assigned values of zero for the length of time.

Table 3.3: The passage rate of category I bills on the 8th -12th NPCSC legislative plans

NPC term	Time period	Category I bills passed within the NPC term	Category I bills passed by Oct 2021
8th	1993-1998	58%	84%
9th	1998-2003	67%	86%
10th	2003-2008	54%	83%
11th	2008-2013	57%	88%
12th	2013-2018	61%	88%

Data source: NPCSC five-year legislative plans (8th-13th) and Chinese laws collected from pkulaw website.

Though inclusion is considered the "rule of thumb" for a legislative proposal to become a national statute, not all passed laws were announced as legislative projects in the NPCSC's five-year legislative plans, as shown in Figure 3.1. Yu & Yang (2022) find that out-of-plan bills were associated with significantly shorter NPC/NPCSC review time than planned bills. Van den Dool (2019) finds that amendments of existing laws are more likely to be passed without being included in the legislative plan, because amendments are generally perceived as a less radical change than writing an entirely new law and therefore needs less preparation time (p.58). In addition, as NPCSC legislative plans are published every five years following the NPC plenary session in March, bills put forward as immediate responses to domestic or international crises might not wait till the inclusion on the next plan and thus were passed as "off-plan" laws.

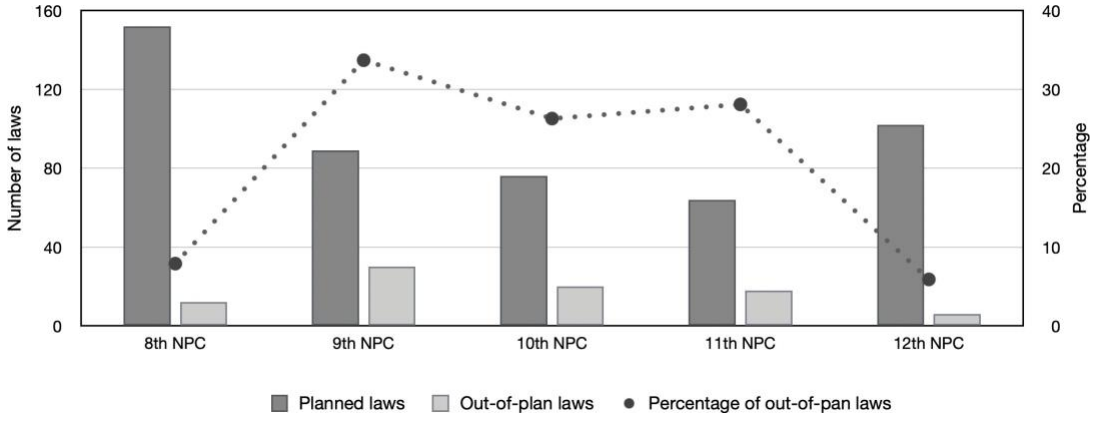

Figure 3.1 : Planned laws and out-of-plan laws (excluding "package legislation"), 8th-12th NPC
Data source: NPCSC five-year legislative plans (8th-12th) and Chinese laws collected from pkulaw website.

3.2.2 Writing and Drafting

When the NPCSC and Party leaderships approve a proposal and place the bill on NPCSC's five-year legislative plan, it will stipulate the "organ submitting for deliberation or drafting unit" (提请审议机关或起草单位). As shown in Table 3.4, the State Council is the most active sponsor of legislative bills. This is no surprise because the State Council departments have access to crucial information about the policy problems at hand and the implementation processes (van den Dool, 2019, p.58).

Table 3.4: "Organ submitting for deliberation or drafting unit" in the 8th-13th NPCSC legislative plans.

To be submitted or drafted by	Number of laws	Percentage
State Council and its departments	340	58.9%
NPC special committees	102	17.7%
NPC Standing Committee	83	14.4%
Central Military Commission	33	5.7%
Supreme People's Court	10	1.7%
Supreme People's Procuratorate	6	1.0%
Communist Party	3	0.5%

Data source: NPCSC five-year legislative plans (8th-13th).

However, except for the 8th NPCSC legislative plan, drafting units are not specified for bills to be submitted by the State Council. Despite being a formal executive sponsor as stipulated in the Constitution and the Legislation Law, the State Council leadership is not directly engaged in writing and drafting legislation. For executive-sponsored bills, the assignment of drafting units are probably deferred to the State Council arena for decision and will then be specified in the State Council's annual legislative work plan. A key lawmaking bureaucracy in the State Council – the State Council's Legislative Affairs Office – is responsible for producing the annual legislative work plan for the State Council leadership to approve. For the LAO, the appointment of drafting units is usually not a difficult decision as the bill proposing unit is expected to take the responsibility for producing a first draft. But when a law oversees a policy space that relates to the jurisdiction of more than one State Council department, who will be in charge of drafting can be a contested topic. This is because drafting allows bureaucratic stakeholders to directly influence the precise content of a piece of legislation in the pre-legislative stage, giving the drafting unit a first mover advantage to shape the policy content in their favor. In cases where a bill regulates a policy space that involves multiple departments, it is likely that all relevant departments will be appointed to jointly produce a draft, or a drafting group will be formed by the LAO to include the representatives from departments concerned. The NPCSC and the NPC special committees are the second most active sponsors, as displayed in Table 3.4. The NPC special committees are usually responsible for drafting the bills they sponsor, while the LAC drafts essentially all the bills submitted by the Council of Chairpersons of the NPCSC (Fan et al., 2018).

Neither the Constitution nor the Legislation Law gives clear guidance on the question of which legislation should be sponsored by the State Council, which by the NPC Standing Committee and which by the NPC special committees. Likewise, there is no pre-existing legal principle relating to the appointment of drafting. Regardless of which unit will be appointed to provide a draft law, the stage of writing and drafting often involves seeking the opinions of a small circle of experts in the field, academics, implementing bodies and other interested parties. According to article 53 of the Legislation Law, for laws that are highly specialized, the drafting unit can invite experts in the relevant fields to participate in the drafting process or commission research organizations to develop a draft.

3.2.3 Inter-agency Consultation and Review

When the drafting unit finishes its first draft, lawmaking enters the prolonged inter-agency consultation stage. It is standard procedure for drafts to be circulated to procure the comments and opinions of various government agencies. Inter-agency review allows bureaucratic stakeholders not involved in the formulation of the first draft to "monitor for, scrutinize, challenge, and amend 'hostile' policy proposals" from the drafting unit and thus exert influence over the bill content (Noble, 2020, p.1422).

For bills to be formally submitted by the State Council, the LAO is responsible for coordinating the inter-agency review process. The appointed drafting unit will send its first draft to the LAO once finished. The LAO conducts an initial review of the draft law to ensure it is consistent with existing laws and proper legal language is employed. After the initial review, the LAO will circulate a soliciting-opinion version of the draft (征求意见稿) within the State Council and may organize symposiums attended by government officials from various departments concerned for the purpose of soliciting opinions. The LAO may also introduce a

small circle of experts in the field, academics, and industry into the process. The LAO then sorts, organizes and summarizes the comments and suggestions received and coordinates with the drafting unit to revise the first draft. For controversial bills, there could be repeated rounds of internal review, negotiations and revisions, which altogether may take several years. The revised draft is then submitted to the State Council Executive Meeting for approval and sign-off to be progressed to the next stage (Tanner, 1999, pp.127-129).

For bills sponsored by the NPCSC and NPC special committees, the LAC is responsible for coordinating inter-agency review and the procedures very much mirror the ones described above (Fan et al., 2018). It can be speculated that the LAC often works with the LAO to coordinate the process, given that the State Council departments are the key participants of inter-agency review. The difference is that unlike executive-sponsored bills, bills sponsored by the NPCSC or the NPC special committees are not subject to formal cabinet sign-off at the State Council Executive Meeting following inter-agency review. Nevertheless, the State Council is still an important arena as its departments remain actively involved in the internal consultations and negotiations for non-executive sponsored bills.

The inter-agency review process alters the informational relation between the drafting unit and other government bureaucracies (Noble, 2020, p.1424), allowing the latter to monitor for clauses that "might give other units a pretext for encroaching on their powers, resources or policy 'turf'" or that would harm the interests of their clientele interest groups (Tanner, 1999, p.219). The departments involved in inter-agency review may seek to "block" a piece of legislation if the law draft moves policy away from their ideal points. Nevertheless, it is often more pragmatic to propose changes to clauses they disagree. Seeking to completely block the adoption of a law may be more difficult, since a place on the legislative plan as category I project

indicates that approval by the NPCSC and Party leaderships is obtained and serious efforts from the drafting body, the LAC, and the LAO are under way toward finalizing and promulgating the law.[37]

Also, it deserves attention that although the LAO and LAC are responsible for mediating and helping to resolve inter-ministerial disputes over law drafts, their political rank limited their ability to carry out this mission effectively (Tanner, 1999, p.124). As ministerial-level bureaucracies, the LAO and LAC are equal to other State Council departments in administrative status, not superior. When disputes over draft content arise, they often lacked sufficient authority to unilaterally impose a solution on other State Council departments. When there are coordination challenges in this stage, issues are likely to be referred to the State Council Executive Meeting, the NPCSC leadership, or even the highest political level – the Politburo Standing Committee – for decision. But detailed solution is rare and legislation is likely to be delayed (USCBC, 2009, p.3). To move the bill forward, disagreements either result in a vague draft or are deferred to the Party or the NPC arena for solution. I argue that inter-agency review is a stage where highly disputed provisions in the early draft are watered down and the amount of statute ambiguity increases.

3.2.4 Top Leadership Approval

Following inter-agency review and cabinet sign-off in the State Council arena, some laws will need to be forwarded to the Party arena for leadership approval. How does the Party leadership review law drafts?

[37] Of course, blocking an ongoing legislative project is easier if it is supported by top leaders.

Tanner (1999) points out in his book that until the issuance of Central Document 8 (hereafter Document 8) in 1991, titled "Several Opinions on Strengthening the Leadership of the Legislation Work of the State" (中共中央关于加强对国家立法工作领导的若干意见), all draft laws to be passed by the NPC/NPCSC shall receive prior approval "in principle" by the Party Center (党中央), which includes the Central Secretariat, the Politburo and 'other relevant senior leaders' (p.64). Prior to 1991, there were generally no documented procedures about how the Party should review draft laws. Document 8 outlined for the first time the scope and procedures of the Party's involvement in lawmaking (van den Dool, p.63). According to Tanner (1999), Document 8 divides laws into four categories: important laws and constitutional revisions, political laws, important economic and administrative laws, and other laws outside of the previous three categories (pp.68-69).[38] It requires that: 1) drafts of constitutional revisions, some important political laws, and some especially important economic and administrative laws must be deliberated and approved by both the Politburo or its Standing Committee and a full Central Committee plenum before they can be submitted to the NPC/NPCSC for review; 2) drafts of political laws and important economic and administrative laws must be approved by the Politburo or its Standing Committee before they can be submitted to the NPC/NPCSC for review; 3) for political legislative proposals, the Party Group (党组) of the NPCSC or particular Party-based leading small groups within the NPC shall submit the guiding principles of these laws to the Party Center for approval before drafting; 4) the Party Group of the NPCSC is responsible for submitting law drafts produced by the NPC and its Standing Committee and

[38] Document 8 does not provide a definition of "political laws" or define the term "important laws". According to Tanner (1999, p.68), "important laws" could be a synonym for "basic laws" discussed in Section 3.1. In Document 8, "economic or administrative laws" is defined as "laws which concern the development of the national people's economy or macroeconomic management, or draft administrative laws which concern the state management structure or which affect the rights and duties of citizens" (Tanner, 1999, p.68).

drafts submitted by other units to the NPC for deliberation to the Party Center for approval (Fang, 2015, p.44; Tanner, 1999, pp.68-69). According to Tanner (1999), "other laws" are not explicitly discussed in Document 8 and are not subject to formal Party review procedures (p.69).

It bears noting that what is reviewed by the Party leadership is "a brief report explaining the law, its purpose, major problems in it and how they have been dealt with, and a list of important issues regarding the law which the Party Centre must decide" provided by the NPCSC or other drafting unit (Tanner, 1999, p.69). Document 8 does not request "the full current draft (cao'an) of the law" to be submitted to the Politburo or its Standing Committee (Tanner, 1999, p.69). This procedure, coupled with the following provisions in Document 8, indicates that Party review is "at a fairly general level" and the Party leadership does not exercise detailed control over the content of lawmaking (Tanner, 1999, p.69; Liu, 2017):

> "When the Party Centre discusses important laws, this will principally mean carrying out research on questions within the laws which touch upon important general directions and policies. There may be a few important legal clauses which require discussion. The majority of legal clauses need not be discussed. (Tanner, 1999, p.69)"

The 2016 Party document titled "Opinions on Strengthening Party Leadership in Law-Making" (中共中央关于加强党领导立法工作的意见, hereafter 2016 Document) is a recent update of Document 8. According to law-making specialists familiar with the contents of the 2016 Document[39], the scope and procedures of how the Party leadership reviews law drafts have not fundamentally changed (Liu, 2017). The 2016 Document[40] sticks to the announcement in

[39] The 2016 Document is only internally available.

[40] In addition, the 2016 Document includes some new requirements to strengthen Party leadership over legislative work (Fang, 2015). For example, it has made clear that the Party Center leads national lawmaking and local party committees lead local lawmaking. It also requires that the Party Group of the NPCSC shall frequently consult with and report to the Politburo or its Standing Committee about major issues in lawmaking (Feng & Zhou, 2022), indicating the Party's involvement in lawmaking has extended to the legislative stage.

Document 8 that the nature of Party leadership is to ensure laws are in line with "the general direction of current party policy" (方针政策领导), indicating that Party review continues to be at a general level and does not involve micromanagement of legal clauses. Indeed, Tanner (1999) demonstrates that the Party leadership in practice exercised only loose control over the content of legislation by "failing to signal to the legislature any clear and unified intention concerning the handling of the law" (p.65).[41] I argue that Chinese top leader is more concerned about the passage of pending bills than their detailed content. Bill passage (legislative efficiency) is one of the many symbolic political aspects of lawmaking which contributes to the Party and regime legitimacy. By passing important legislation at the NPC/NPCSC, the incumbent leader is able to publicize the progress he has made in promoting one of the basic strategies of the party (党的基本方略) – "Law-based Governance (依法治国)" – and credit claim his productivity .

This formal Party review process often takes place before bills are deliberated by the NPC/NPCSC and may overlap with the previous step when conflicts of interests need to be brought to the Politburo or its Standing Committee for decision. My proposed theory argues that when facing bureaucratic conflict over the content of a draft law, the top party leader would resort to ambiguous wording to facilitate compromise and move forward the bill, rather than impose a specific policy decision that creates clear losers among regime insiders. This is overall consistent with Tanner's (1999) observation of leadership involvement in lawmaking. In so doing, bureaucratic stakeholders are "forced" to reach a "superficial" consensus. The compromise law draft will then be formally introduced to the NPC or NPCSC for deliberation.

[41] According to Tanner (1999), there are three major reasons for this lack of detailed Party instructions: division, limitation of time, and lack of policy expertise among senior party leaders.

3.2.5 NPC/NPCSC Review and Passage

Following leadership approval, a bill will be put before the NPC or NPCSC for deliberation and lawmaking enters the legislative stage. Only certain state organs or actors can formally introduce bills to the NPC/NPCSC. According to article 14&15 of the Legislation Law, a bill may be introduced to the NPC by the NPC Presidium, the NPCSC, the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, the NPC special committees, an NPC delegation or a group of thirty or more co-signing NPC deputies. According to article 26&27 of the Legislation Law, a bill may be introduced to the NPCSC by the NPCSC Council of Chairpersons, the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, the NPC special committees, or a group of ten or more co-signing members of the NPC Standing Committee.

The Legislation Law stipulates that as a general rule, an introduced bill shall go through three separate deliberations by the NPCSC before it is put to vote (article 29). However, it also stipulates that a bill may be brought to vote after two deliberations if a consensus has been reached among all parties concerned on the bill; or may be brought to vote after a single deliberation if a consensus has been reached among all parties concerned on the bill that regulates a single matter or amends a part of a law (article 30). Draft laws that are complicated or controversial might have more than three deliberations at the NPCSC. For example, the 2014 amendment of the Environmental Protection Law and the 2016 Assets Appraisal Law were deliberated four times before voting.

Formal legislative deliberation starts with an oral introduction of a bill at a plenary meeting of a session of the NPC or its Standing Committee. According to article 54 of the Legislation Law, a bill shall be introduced along with the text of the draft law and an explanation

covering the necessity of developing or amending the law, feasibility and main content of the law, and coordination and handling of substantially dissenting opinions in the course of drafting. After an introduction by the principal drafting unit, a preliminary deliberation will be conducted at delegation meetings of the NPC or subgroup meetings of the NPCSC, depending on whether the bill is introduced to the NPC or NPCSC (article 18&29). When the draft law is discussed at delegations and subgroups, the drafting unit should dispatch representatives to listen to opinions and answer questions (article 18&31). A delegation or subgroup may also request other relevant authority or organization to send representatives to brief the delegation or subgroup (article 18&31).

The LAC, the Law Committee and other NPC special committees are also heavily involved in the process. According to article 19&32 of the Legislation Law, an introduced bill shall be deliberated by the relevant special committee, which shall submit a deliberation opinion to the Presidium or to the Council of Chairpersons and distribute the printed opinion to the session. For a bill deliberated at the NPCSC, the Law Committee, the relevant special committee, and the LAC shall hear the opinions of all the parties concerned in various forms such as forums, discussion meetings, and hearings. The LAC shall send the draft law to the NPC delegates in the relevant fields, the standing committees of local people's congresses, and the relevant departments, organizations, and experts to solicit their opinions. Where any issue involved in a bill is very specialized and requires feasibility evaluation, a discussion meeting shall be held to hear the opinions of the relevant experts, departments, the NPC deputies, and other parties concerned (Legislation Law, article 36). According to article 16(2) of the Legislation Law, the LAC and special committees may also conduct investigation and research (立法调研) at

localities throughout the country to understand the problems faced by local state agencies, industry and other stakeholders.

In addition to the regime insiders, lawmakers in China has started to engage the general public in lawmaking through increased transparency and public consultation procedures (Truex, 2017; van den Dool, 2019, p.64). According to the 2015 amendment of the Legislation Law, all draft laws on the agenda of a session of the NPCSC should be published along with an explanation of the drafting process and amendment thereof for public comment for at least 30 days, unless the Council of Chairpersons decides not to do so. This is an improvement of the original Legislation Law enacted in 2000, which stipulated that only for important laws, the Council of Chairpersons could decide whether to publish draft for public comment and did not specify the length of time for public consultation. I find that of the 298 laws, revisions and amendments ("package legislation" excluded) passed between July 2001 and Oct 2021, 159 were released for public comment, about 53%. The NPC website has a special section called "soliciting opinions on draft laws" (法律草案征求意见), which posts draft laws for public comments and specifies closing date of each round of public consultation. Citizens can easily use the platform to submit comments. Though comments made by citizens are not publicly available, the website contains information on the number of people commented and the number of comments received for each published law draft. Using these information, I calculated their average values by policy area for the 159 published law drafts, as shown in Figure 3.2. Overall, bills that address redistribution/welfare state issues received on average the most extensive public attention and were most frequently commented, while bills that fall into the category of foreign affairs/security on average were associated with minimal public discussion in both the number of citizens commented and the number of comments received. The LAC then sorts,

organizes and summarizes the public comments received together with opinions offered by all delegations of the NPC or subgroups of the NPCSC and the relevant committee, opinions provided by other parties concerned, as well as other relevant information, and submit these materials to the NPC Law Committee for consideration.

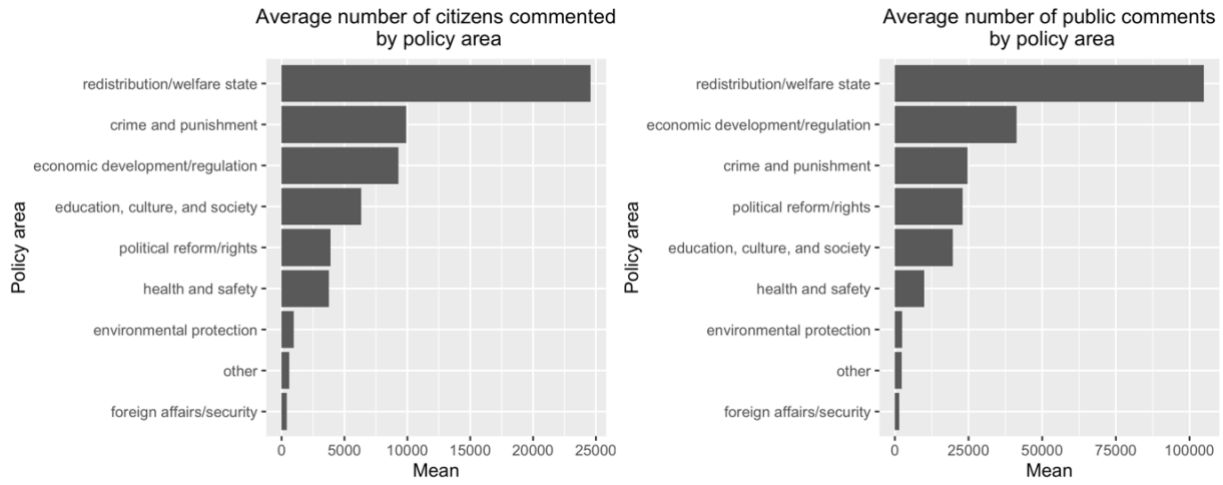

Figure 3.2: Public comments on the 159 published law drafts, by policy area
Data source: NPC website.

The Law Committee is responsible for revising the introduced bill based the opinions received. Based on my preliminary text analysis of the Law Committee's reports, it often consults with the principle drafting unit in the process of producing a revised draft. This revised draft comes with a revision report (修改情况汇报) produced by the Law Committee, which summarizes the major opinions received on the introduced draft (including conflicting views on important matters) and the revisions made. These two documents are presented at the start of the second deliberation and further discussions are conducted at subgroups (article 29). This revised draft may be published for another round of public consultation.

Based on the comments provided during this second deliberation, the Law Committee provides a further revised draft. This new draft comes with a deliberation result report (审议结果

报告). Like a revision report, a deliberation result report explains further revisions made according to the comments on the revised draft as well as disagreements on important issues. In addition, article 33 of the Legislation Law stipulates that the Law Committee should offer an explanation to the relevant special committee if suggestions provided by the latter is not adopted. Like the second deliberation, the Law Committee presents a further revised draft along with the deliberation result report in the beginning of the third review, followed by discussions in subgroups (article 29). To investigate who drives revisions in the legislative stage, I conduct a preliminary text analysis of the Law Committee's revision and deliberation result reports for bills passed between 1993 and 2021. Among the 6318 revisions recorded, opinions of bureaucratic actors (functional organizations and territorial administrations) led to 2628 revisions (41.6%), expert opinions led to 665 revisions (10.5%), public opinions led to 511 revisions (8%).

After the final round of review and revision by the NPC/NPCSC, the Law Committee produces a voting version of the draft law (法律草案表决稿). The Presidium or the Council of Chairpersons submits the voting draft to a NPC/NPCSC plenary meeting for voting and adoption by a simple majority (Legislation Law, article 24&41). The Chinese legislature does not see the type of vote wrangling and trading that we observe in western democracies (Truex, 2020, p.1460). Instead, voting in the NPC/NPCSC is quite harmonious (Tanner, 1995, 1999). This process tends to be more of a formality as bills are rarely voted down.[42]

As said, it is a general rule for an introduced bill to be deliberated three times at the NPC or NPCSC before going to a vote. Nevertheless, some were reviewed once, twice or more than

[42] No bill has been voted down by the NPC (van Den Dool, 2019, p.67). Two bills failed to pass the NPCSC: the Urban Resident Committee Organic Law put to vote in 1989 and an amendment of the Highway Law put to vote in 1999 (Kan, 2014; van Den Dool, 2019, p.67).

three times, depending on the nature and complexity of the bill. There is hence some sort of variation in the length of time a bill is considered on the legislative floor. Still, the legislative stage variation in time across bills is much smaller than that in the pre-legislative stage. This is because, first, NPC/NPCSC has a restricted amount of time to review introduced bills. According to article 42 of the Legislation Law, the NPC/NPCSC deliberation of a bill shall terminate if a bill has been suspended for two years as a result of any major disagreement among all the parties concerned on the necessity or feasibility of developing the law or any other significant issue, or if a bill is not submitted for voting and is not placed again on the NPCSC agenda for deliberation after two years. In other words, an introduced bill not put to a vote after two years on the NPC/NPCSC floor is considered a "failed bill" (废案). The time limit stipulated by article 42 puts pressure on the NPCSC leadership as well as the top party leader, as "failed bills" signal decline in legislative productivity, which works against the overall objective of "Law-based Governance." Second, the relative publicity of the NPC floor increases the audience cost of legislative gridlock. Unlike the pre-legislative stage of lawmaking that is largely outside of the public's eye, NPC/NPCSC review is a relatively more transparent process. It is easier for citizens to detect delay in the NPC/NPCSC arena due to the nature, scope and formal procedures of legislative deliberation, such as bill text publicity required by the Legislation Law. As explained in Section 3.2.4, important laws should receive approval "in principle" from the party leadership before they can be introduced to the NPC or its Standing Committee for deliberation. Seen in this light, failing to pass laws approved by the top leadership in time could be politically embarrassing and publicly humiliating. Significant delays in the legislative stage send a public message that regime elites are divided and the top party leader is unproductive and incompetent, which undermines regime legitimacy.

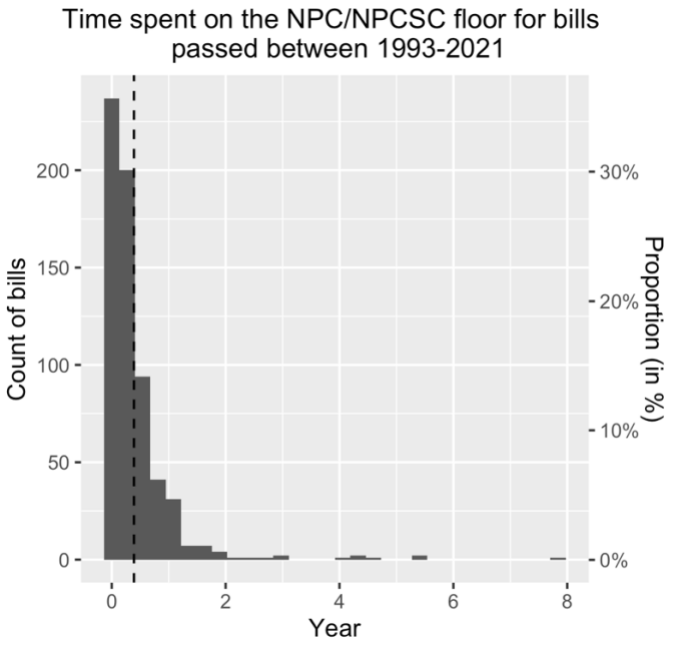

Figure 3.3: Time spent on the NPC/NPCSC floor, 1993-2021

Data source: NPCSC gazettes (8th-13th) and Chinese laws collected from pkulaw website.

I present suggestive evidence to support the "time pressure" argument proposed. Figure 3.3 shows the length of time bills are discussed on the NPC/NPCSC floor. Of the 663 laws, amendments and revisions enacted by the NPC or NPCSC from the 8th NPC (1993-1998) to Oct 2021, 620 were passed within two years following formal introduction to the legislature (98%) and 579 spent less than one year on the legislative floor (91%). The mean number of years a bill was reviewed by the NPC/NPCSC was about 0.39 (about 143 days) and only 2% took longer than two years to do so. New laws took longer on average (0.72 years, about 263 days) than amendments and revisions (0.23 years, about 85 days). Of the passed 663 laws, amendments and revisions, 297 were placed on the NPCSC legislative plans (about 47%) and 336[43] were not

[43] The 336 "off-plan" laws, amendments and revisions include 209 that were passed in the form of "package legislation." The majority of these "off-plan" enactments were amendments and revisions (88%).

(about 53%). NPC or NPCSC spent on average shorter time to review "off-plan" laws, amendments and revisions (0.14 years, about 50 days)[44] than the ones that were planned by the NPCSC (0.68 years, about 248 days), mostly due to the fact that the majority of these off-plan enactments are amendments and revisions (about 88%) and were passed in the form of "package legislation," while more than half of the planned enactments are new laws (about 56%). These observations are consistent with findings of Yu & Yang (2022) and of van den Dool (2019). Overall, it is rare for a bill to spend more than two years on the legislative floor ("fail") and the majority of introduced bills were passed within one year following entry to the NPC/NPCSC. While the majority of lawmaking time was spent in the pre-legislative stage, before bills formally enter the NPC or NPCSC for deliberation, as displayed in Figure 3.4. Using information of 230 laws, revisions, and amendments identified as category I projects in legislative plans for the 8th-12th NPCSC and that were passed by Oct 2021, I find that bills took on average 2.74 years (about 998 days) to enter the NPC/NPCSC (duration between the announcement of laws as category I project in an NPCSC legislative plan and its introduction into the NPC/NPCSC), while spent on average 0.72 years (about 263 days) on the NPC/NPCSC floor (duration between bill introduction into the NPC/NPCSC and official publication of the law). However, the relative efficiency of the NPC/NPCSC deliberation does not necessarily mean that this stage of lawmaking is "ceremonial" that it merely rubber-stamps decisions. In fact, bill deliberations in the NPC arena show deviations from the "rubber stamp" expectations not captured by the "cooptation" or "information" theories that focus on potential oppositions or the citizenry, but in the sense of their relevance to regime insiders (Lü et al., 2020; Noble, 2020). I show that the

[44] Excluding "package legislation" (209 laws, amendments and revisions), NPC/NPCSC spent on average 0.27 years (about 100 days) to review off-plan laws, amendments and revisions.

National People's Congress has become a venue of policy battle among bureaucratic stakeholders. Below I discuss why internal policy discussions are not always concluded in the pre-legislative stage and how intra-executive policy conflicts could rage in the NPC arena. To discount the "rubber stamp" explanation – that relative efficiency of the NPC/NPCSC stage is resulted from policy discussions being concluded before legislative introduction – should increase our confidence that the time pressure internal to NPC/NPCSC deliberations is driving the outcome displayed in Figure 3.4. Figure 3.3 and Figure 3.4, coupled with the "spillover" view of legislative deliberation that I explain below, indicate that serious efforts have been made to prevent introduced bills from being "visibly" delayed on the legislative floor.

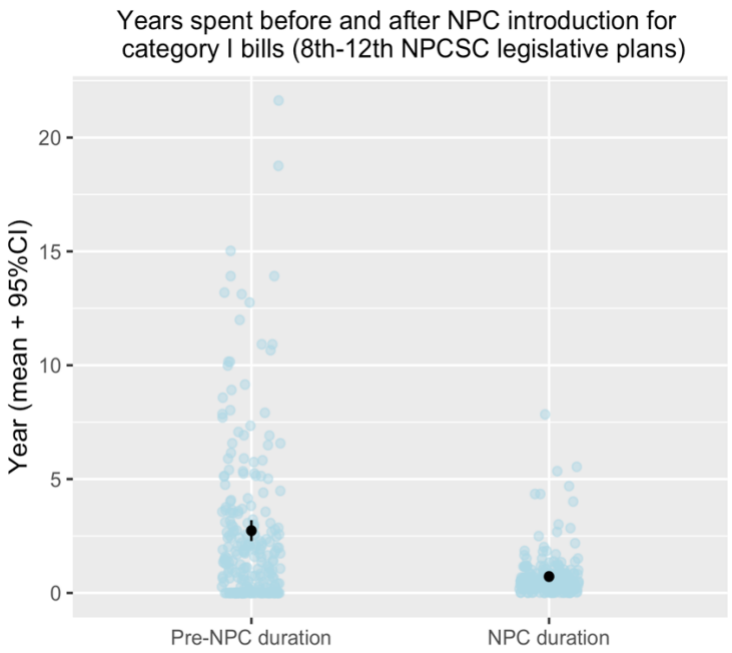

Figure 3.4: Years spent before and after NPC introduction for category I bills on the 8th-12th NPCSC legislative plans

Data source: NPCSC legislative plans (8th-12th), NPCSC gazettes (8th-12th) and Chinese laws collected from pkulaw database.

It deserves attention that the "inter-agency review" step re-occurs during the course of NPC/NPCSC deliberation. In fact, the scope and intensity of inter-agency review in the legislature is increased. In addition to the bureaucratic actors involved in the earlier consultations and negotiations, the NPCSC members, the NPC special committees and NPC delegates are actively involved and opinion solicitation is extended to include provincial and local governments, local implementing agencies, central and local state enterprises, research institutes, experts, citizens and other stakeholders. In the stage of NPC/NPCSC review, the State Council departments are still among the most important political players and keep exerting influence over bill content. Drawing insights from Tanner's (1995, 1999) work of the NPC and Noble (2020)'s recent study of the Russian legislature, I argue that the relative publicity of the NPC/NPCSC floor provides an opportunity for ministries and provinces to discover, challenge and amend a "hostile" draft law. This is more so for actors holding a disadvantageous position in the pre-legislative stage of lawmaking: some ministries or provinces may feel they have been ignored during earlier negotiations. In some cases, the pre-legislative consultations could exclude certain bureaucratic actors, who are unable to scrutinize and challenge bill content until legislative introduction. The legislative introduction of a bill alters the informational relationship between bureaucratic stakeholders to a greater extent, allowing those excluded from the pre-legislative review to "discover" proposals with which they disagree. In addition, the relative publicity entailed and the extensive solicitation process further allow actors not satisfied with the current version of a draft law to contest and modify its content, by mobilizing support from the aggrieved citizens or forming policy coalitions with the NPC deputies, NPCSC members, localities, mass groups and other interest groups who are cut out of the earlier negotiations (Lü et al., 2020; Noble, 2020). The "spillover" of bureaucratic policy disputes from the close-door pre-

legislative stage to the relatively transparent legislative stage is overall consistent with Tanner (1999)'s observation of Chinese lawmaking that if a political actor loses a legislative battle in the Party and State Council arenas, it is still possible to challenge and amend a law by re-opening the battle in a more "sympathetic" arena – the NPC/NPCSC (p.132).

Policy battle among bureaucratic stakeholders in the NPC/NPCSC arena could result in legislative delay and gridlock, increasing the likelihood of "failed bills." This is a structural challenge for the top leader, who is concerned about passing publicly visible bills to credit claim productivity and avoid blame. How to ensure timely passage of an introduced bill despite continued policy conflict in the legislature? In this study, I emphasize the role of statutory ambiguity. Statute ambiguity serves important functions for both the regime leader and the bureaucratic stakeholders. First, ambiguity helps facilitate compromise between competing actors and overcome legislative gridlock. Second, it serves as a "second-best" solution for rival bureaucratic units to avoid locking in hostile rules and creates room for post-promulgation bargaining and interpretation.

3.2.6 Post-Promulgation Rulemaking

Finally, a passed law enters the post-promulgation stage for explication, when regulations and rules are to be drafted to implement the provisions of the law. The formal adoption of a law does not signal the end of the policy-making process. Vague laws create room for a third round of policy discussion, what Tanner (1995, 1999) refers to as the "second campaign." In this stage, bureaucratic stakeholders "rejoin the battle to define how the provisions of the newly promulgated law will be interpreted and carried out" and the primary location for such policy battles shifts back to the State Council arena (Tanner, 1999, p.225). As discussed in Section 3.1, there are two types of implementing regulations at the national level, administrative regulation

and departmental rule. According to the Legislation Law, enactments of administrative organs shall be subordinate and complementary to those enacted by the NPC and its standing committee. The former therefore should ensure that their enactments comply with national statutes. Among the two forms of implementing regulations, administrative regulations are enacted by the State Council and has higher legal status than departmental rules, which are issued by the State Council departments.

It bears noting that the necessity for implementing regulations following the promulgation of a law can be either explicit or implicit. This is because delegation of rulemaking authority via statute ambiguity can take a variety of forms (VanSickleWard, 2014, p.27). Some ambiguity is directive (hereafter explicit delegation), when a law stipulates that a particular administrative agency or some "relevant agency" should develop rules to regulate certain aspects of the policy, but does not give clear instructions on how to do so. Other delegation is not clearly stated in a law but implied (hereafter implicit delegation). It happens "not because the statute instructs the agency to act, but because the wording is so inconclusive or imprecise that it necessitates bureaucratic action to fill the blank" (VanSickle-Ward, 2014, p.27). In both cases, the law does not specify what particular decision should be made or what particular action should be taken. In addition, who should receive the delegation could be equally agnostic, depending on the wording. Implicit delegation usually does not designate any implementing agency, while explicit delegation may also leave the recipient undefined using vague language such as "relevant department." It is worth noting that as I treat the State Council as a lawmaking arena, explicit delegation to the State Council can be interpreted as deferring policy disputes or thorny problems from the legislative floor to the cabinet table for solution, in the form of administrative regulation.

Though administrative regulations are enacted by the State Council, the State Council is not directly engaged in writing and drafting regulations. According to article 67 of the Legislation Law and the State Council's annual legislative work plans, drafting of administrative regulations is undertaken by the State Council departments. It could be inferred that if the newly promulgated law is drafted by a State Council department, that department will be responsible for drafting the administrative regulation to enforce the law; if the newly promulgated law is not drafted by a State Council department, the department that is most relevant to the subject matter of the proposed administrative regulation will be appointed to draft it. Drafting may be undertaken jointly by multiple departments, if the newly promulgated law is drafted by more than one department, or if the subject matter relates to the jurisdiction of more than one department. According to the Regulations on the Procedures for the Formulation of Administrative Regulations, the steps and procedures in the process of making administrative regulations resemble the ones in the pre-legislative, cabinet-level stage of lawmaking. It requires inter-agency review and top leadership approval before a draft administrative regulation can be formally adopted (article 4,9,14,&20). The drafting department will send its first draft to the LAO once finished. The LAO conducts an initial review of the draft to ensure it is consistent with existing laws and administrative regulations and proper legal language is employed (article 18). After the initial review, the LAO circulates a soliciting-opinion version of the draft within the State Council, and may organize forums and discussion meetings attended by representatives from various State Council departments and other state organs for the purpose of soliciting opinions (article 20&22). The LAO may also introduce a small circle of experts in the field, academics, and industry into the process, conduct on-the-spot investigation, and hold public hearings (article 20,21,&22). Based on the comments and suggestions received, the LAO

coordinates with the drafting department to revise the draft. For regulations that are complex and controversial, there could be repeated rounds of internal review, negotiations and revisions, which altogether may take several years. I argue that the more ambiguous a law is, the more room it creates for stakeholders to engage in continued persuasion, debate and bargaining in the State Council arena, and the greater likelihood of delay and gridlock in the passage of administrative regulations. If the LAO cannot resolve a dispute through consensus, the disputes are then brought to the State Council leadership for determination, along with a report from the LAO explaining the conflicting views (article 23&24). My sense is that once again, the top executive leadership tends to facilitate compromise via vagueness rather than a specific arrangement that creates losers among regime insiders. After administrative regulations are approved at the State Council Executive Meeting, to have formal legal effect they must be promulgated by an Order of the State Council (decree) and signed by the Premier and immediately made public.

The State Council departments are responsible for issuing further secondary enactments known as departmental rules to implement the provisions of laws and administrative regulations (article 80(2) of the Legislation Law). Unlike the making of national statutes and administrative regulations, departmental rulemaking usually does not involve the formal process of inter-agency consensus building and top leadership approval.[45] Departmental rule-making is a prerogative of

[45] According to article 4 of the 2017 Amendment of the Regulations on Procedures for the Formulation of Rules, the development of the supporting rules on political laws, and major economic and social rules shall be reported to the CPC Central Committee or the Party committee (Party group) at the same level. The party approval procedure is not required prior to the 2017 amendment. According to article 9, with regard to matters which involve the powers of two or more departments of the State Council, and for which the conditions for formulating administrative regulations are not yet ripe and the formulation of rules are called for, the relevant departments of the State Council shall jointly formulate rules. But there is generally no ex ante nor ex post instruction on how to ensure departments comply with this provision, given the fragmented nature of Chinese bureaucratic system. According to article 17, when drafting departmental rules that involve the powers and responsibilities of other departments of the State Council or are closely related to other departments of the State Council, a drafting unit shall adequately solicit the

the State Council departments, which is essentially a unilateral decisional process. They are promulgated by orders signed by heads of the departments. Though both administrative regulation and departmental rule have the force of law, the latter is not binding upon other entities of equivalent ranks and thus have lower legal status.

In similar fashion, delegation to administrative agencies for departmental rules may be explicit or implicit in national statutes and administrative regulations, depending on wording. Unless the law or administrative regulation designates a State Council department in the delegation command, delegations via vagueness create room for ministries, commissions or other functional organizations concerned to formulate departmental rules to adopt their preferred policies. This is because vague language is open to a variety of interpretations. It is hard to detect whether departmental rules violate enactments of the NPC/NPCSC and the State Council, if the language of national statutes and administrative regulations is vague.

Generally speaking, in the post-promulgation stage of rulemaking, bureaucratic stakeholders prefer to have their interests inscribed in administrative regulations than in departmental rules in order to bind rival actors. Nevertheless, transforming policy preferences into administrative regulations could be politically costly, considering the inter-agency review process. When policy battle resumes in the State Council arena, the passage of administrative regulation is likely to be delayed and ambiguity is likely to remain, motivating a unilateral path: departmental rulemaking. With unilateral power to promulgate departmental rules, departments unfulfilled in the NPC/NPCSC arena can exploit statutory ambiguity to craft implementing policies that advance their own independent agenda. This unavoidably leads to the fragmentation

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comments of these departments. Despite this provision, it is up to the drafting unit to determine when to consult others and whether to incorporate others' opinions, and other departments cannot "veto" the rule.

of departmental rules and legal inconsistency at this level becomes "a recurring and persistent problem" (Corne, 2002, p.413).

3.3 The Lawmaking Actors

3.3.1 State Council Departments: Ministries and Legislative Affairs Office

The State Council is constitutionally the "Central People's Government" and the "highest organ of state administration" of China (Constitution, article 85). It is led by the premier, who assumes overall responsibility for the work of the State Council, and includes vice-premiers, state councilors, and each cabinet-level executive department's executive chief. The current State Council has 35 members and meets every six months. Its Standing Committee (namely the State Council Executive Meeting) currently consists of the premier, one executive vice premier (the first vice premier), three other vice premiers and five state councilors and meets on a weekly basis. The State Council and the CCP are tightly interlocked. With rare exceptions, the State Council members are also members of the Party's Central Committee.

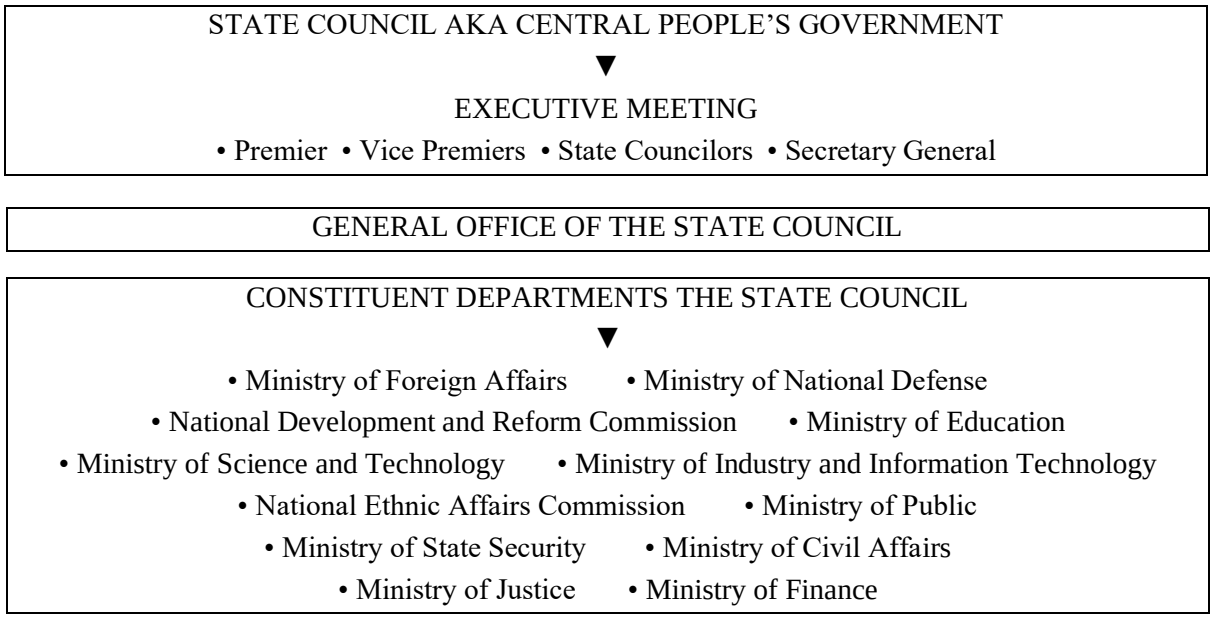

Figure 3.5: The current State Council organizational chart

• Ministry of Human Resources and Social Security • Ministry of Natural Resources
• Ministry of Ecology and Environment • Ministry of Housing and Urban-Rural Development
• Ministry of Transport • Ministry of Water Resources
• Ministry of Agriculture and Rural Affairs • Ministry of Commerce
• Ministry of Culture and Tourism • National Health Commission
• Ministry of Veterans Affairs • Ministry of Emergency Management
• People's Bank of China • National Audit Office

SPECIAL ORGANIZATION DIRECTLY UNDER THE STATE COUNCIL

▼

• State-Owned Assets Supervision and Administration Commission

ORGANIZATIONS DIRECTLY UNDER THE STATE COUNCIL

▼

• General Administration of Customs • State Taxation Administration
• State Administration for Market Regulation • National Radio and Television Administration
• General Administration of Sport • National Bureau of Statistics
• China International Development Cooperation Agency
• Counsellors' Office of the State Council
• National Healthcare Security Administration • National Government Offices Administration
• National Press and Publication Administration (National Copyright Administration)
FUNCTIONS PERFORMED BY CPCCC Propaganda Department
• National Religious Affairs Administration

ADMINISTRATIVE OFFICES UNDER THE STATE COUNCIL

▼

• Research Office of the State Council
• Hong Kong and Macao Affairs Office of the State Council SAME AS Office of the CPCCC Leading Group on Hong Kong and Macao Affairs
• Overseas Chinese Affairs Office of the State Council FUNCTIONS PERFORMED BY CPCCC United Front Work Department
• Taiwan Affairs Office of the State Council SAME AS CPCCC Taiwan Work Office
• Cyberspace Administration of China SAME AS Office of the CPCCC Cyberspace Affairs Commission
• State Council Information Office FUNCTIONS PERFORMED BY CPCCC Propaganda Department

PUBLIC INSTITUTIONS DIRECTLY UNDER THE STATE COUNCIL

▼

• Xinhua News Agency • Chinese Academy of Sciences
• Chinese Academy of Social Sciences • Chinese Academy of Engineering

Figure 3.5: The current State Council organizational chart (continued from previous page)

• Development Research Center of the State Council • China Media Group
• China Meteorological Administration • China Banking and Insurance Regulatory Commission
• China Securities Regulatory Commission
• National Academy of Governance SAME AS CPCCC Party School

NATIONAL ADMINISTRATIONS UNDER THE MINISTRIES & COMMISSIONS
▼
• National Public Complaints and Proposals Administration
• National Food and Strategic Reserves Administration • National Energy Administration
• State Administration of Science, Technology and Industry for National Defense
• State Tobacco Monopoly Administration
• National Immigration Administration • National Forestry and Grassland Administration
• National Railway Administration • Civil Aviation Administration of China
• State Post Bureau • National Cultural Heritage Administration
• National Rural Revitalization Administration
• National Administration of Traditional Chinese Medicine
• National Administration for Disease Prevention and Control
• State Administration of Foreign Exchange • National Mine Safety Administration
• China National Intellectual Property Administration
• National Medical Products Administration
• National Civil Service Administration FUNCTIONS PERFORMED BY CPCCC Organization Department
• National Archives Administration SAME AS CPCCC Archives
• National Administration of State Secrets Protection SAME AS Office of the CPCCC Secrets Protection Commission
• State Cryptography Administration SAME AS Office of the CPCCC Leading Group for Cryptography Administration

Figure 3.5: The current State Council organizational chart (continued from previous page)

Source: NPC Observer website.[46]

Although the State Council is a formal organizational sponsor of legislative bills, the majority of the State-Council-sponsored bills were originated from and drafted by its departments. Figure 3.5 is an organizational chart of the current State Council. In addition to the

[46] See Bilingual State Council Organizational Chart. *NPC Observer*. https://npcobserver.com/resources/bilingual-state-council-organizational-chart/

26 cabinet-level executive departments (ministries and commissions), there are 23 centrally administered organizations and institutions directly under the State Council, and six administrative offices of the State Council, all ranked as ministerial-level organizations. Meanwhile, there are 22 vice-ministerial-ranked national administrations managed by the executive departments. These State Council departments hold comparable ranks and oversee different but overlapping aspects of the Chinese economy and society. They are created to have particular organizational missions that they should pursue and these distinctive missions define their roles in the political system, their policy agendas and goals, the set of problems that they consider important, and the preferred range of methods for dealing with those problems (Tanner, 1999, p.22). In addition, every five years, the State Council undergoes some sort of government restructuring, where ministries, commissions and agencies are reorganized, merged or even terminated. Their functionally defined preferences, coupled with the limited resources and political uncertainty in the Chinese system, contribute to intense bureaucratic struggle and departmentalism in lawmaking. In this competitive, evolving system, the State Council departments have an incentive to transform their policy preferences into formal legislative statutes. Motivations include the desire to survive government restructure, to request for budget increase, to maintain patron-client relations, and to accumulate administrative merits that could be drawn on for political promotions (Chen, 2017; Lieberthal & Oksenberg, 1988; Shih, 2008; Shirk, 1993). Competitive behavior may occur in almost every stage of lawmaking, particularly when a policy space is characterized with multiple departments wishing to expand their turf. For example, the two ministries fighting for regulatory authority over Public-Private Partnership (PPP) projects – the Ministry of Finance and the National Development and Reform Commission – submitted their own legislative proposals on regulating PPP, in which they diverged over major

issues like the competent authority, scope, and enforcement methods (Zhou, 2016). In the stage of law drafting, my case analysis of the Anti-Monopoly Law shows that regardless of the cooperation mandate to draft the AML, the Ministry of Commerce and the State Administration for Industry and Commerce submitted separate drafts for internal review within the State Council, in which they nominated themselves as the sole enforcement authority under the AML. This is because, by getting their preferred bills on the legislative agenda and actually drafting laws, departments gain first mover advantage to influence policy content. In addition, these actors are the primary participants in inter-agency review and NPC/NPCSC review. The State Council departments are central to inter-agency review. This procedure allows non-drafting unit to discover, challenge and amend hostile policy proposals by others. It is essentially a consensus-building process in the State Council arena and is generally viewed as "the most cumbersome part" of the lawmaking process, since inter-department conflict could significantly delay a bill (Truex, 2020, p.1464). When bills are deliberated by the NPC/NPCSC, the State Council departments remain an important "party" where their opinions should be heard by the legislators. Thus, ministries who feel they have been ignored or cut out of the earlier inter-agency review process could use the NPC/NPCSC stage to compensate for these deficiencies and (re-)open policy discussions. Considering the relatively publicity of the legislative floor and the legislative-executive employment ties, bureaucratic units in a disadvantaged position could employ various tactics to gain bargaining leverage in this more sympathetic arena, such as mobilizing public support, building policy coalitions with societal groups or using connected legislators as agents to support departmental interests (Lü et al., 2020). The pending bill could be subject to delay or even gridlock when multiple bureaucratic actors engage in such policy battles in the NPC arena. The State Council departments also exert influence when bills are reviewed in the Party arena.

Ministers and heads of other ministerial level functional units conventionally hold a seat on the Party Central Committee and they develop ties with members of the Politburo and its Standing Committee.

Among the various State Council departments, the Legislative Affairs Office is assigned a set of tasks directly related to lawmaking. The LAO was established as a response to the lack of inter-department coordination in legislative activities in the State Council arena (Tanner, 1999, p.121).[47] The Office is responsible for 1) drafting the State Council's annual legislative plans and overseeing their implementation; 2) participating in other departments' drafting process in advance; 3) organizing and coordinating inter-agency review. One of the LAO's main duties is to resolve inter-ministerial disputes over drafting of laws and administrative regulations before they can clog up the agenda of the State Council Executive Meeting (Tanner, 1999, p.124). However, holding ministerial-level rank no higher than other State Council departments, the LAO often lacked the authority to effectively carry out this task (Tanner, 1999, p.124). Jiang's (2023) study of agency coordination in China's policy process provides evidence that higher-ranking party leaders are better equipped to facilitate policy coordination across various parts of the bureaucracy than officials of lower rank. The fact that the LAO director does not outrank cabinet ministers in the State Council has constrained his/her ability to achieve legislative coordination, particularly when other departments are divided over bill content. I speculate that the LAO has two strategies to deal with such cases. One is to submit a report to the State Council Executive Meeting, in which the LAO explains the major inter-ministry disagreements on the bill and proposes possible methods of resolution. The State Council

[47] The LAO has undergone several reorganizations since formation. In 1954, the State Council established the Legislation Bureau. In 1998, the Legislation Bureau was restructured and renamed the Legislative Affairs Office. In 2018, the LAO was merged into the Ministry of Justice and the latter have since assumed the LAO's duties.

leadership will refer to the LAO's report and decide how to proceed. As the State Council leaders particularly the premier and the first vice-premier (both are conventionally members of the Politburo Standing Committee) outrank cabinet ministers, their decisions could be more effectively implemented. This is likely the LAO's common practice. Second, as the LAO is in charge of organizing inter-agency review of law drafts, it could manipulate the process in order to minimize potential disagreements. For example, the LAO may preempt by excluding particular ministries from inter-agency review or shortening the review time to lighten its workload of dealing with possible disputes. This tactic is somehow risky as it could antagonize other ministries, but is likely when the LAO faces pressures from the State Council leadership who wants bills to be submitted as soon as possible. Further, Tanner's (1999) interviews with the Legislation Bureau (former LAO) officials reveal that the LAO did not intend to promote its own policy views in lawmaking and its role was "normally that of a technician" (p.130). Though the LAO staff members are usually involved in drafting and revising laws and regulations, they do not have much influence over their precise content (Tanner, 1999, p.128). Their roles are limited to ensuring draft documents do not violate existing legislation and proper legal language is employed (Tanner, 1999, p.130).

In addition to the executive branch (the State Council), I speculate that departments (ministries, commissions, bureaus and other functional organizations) within the Party system (Central Party Committee) and the military system (Central Military Commission) have similar motivations, calculations and interactions as their correspondents in the State Council. They compete against one another both within their own systems and across systems to promote their policy interests. There is some division of labor among these systems: the Party bureaucracies are generally in charge of security, propaganda, personnel and political affairs and the State

Council departments primarily focus on social issues and the economy, while the military bureaucracies oversee military affairs and defense. Still, there are overlaps. For example, the Propaganda Department of the Chinese Communist Party oversees areas that concern the Party's Office of the Central Cyberspace Affairs Commission, as well as the Ministry of Culture, the Ministry of Education, and the National Press and Publication Administration within the State Council, which is likely to generate jurisdictional or substantive policy disputes not only within the State Council system or the Party system but also across these two systems.

Just like the Legislative Affairs Office of the State Council, the Legislative Affairs Bureau (LAB) of the Central Military Commission is in charge of coordinating legislative work in the military system. As most laws that address topics concerning the military system also involves the executive branch, in practice the LAO and the LAB often work together in coordinating drafting and inter-agency review. Examples include the Military Facilities Protection Law, the National Defense Transportation Law and the Military Personnel Insurance Law. In the Party, the recently established Commission for Comprehensive Law-based Governance is responsible for top-level design and overall coordination of the work of law-based governance. The legislative coordination small group formed within the CCLBG is said to carry out the legislative tasks assigned by the commission (Wu, 2022). There is generally no public record regarding the composition of this high-level organization, but it can be speculated that representatives from various institutions and systems that deal with legal work are included. Since the CCLBG is chaired by President Xi, law-related conflicts that cannot be resolved at lower levels are brought to this platform for the top leader's decision.

3.3.2 Provinces

As discussed in Chapter 2, provinces are another key political actors in the legislative process. Provinces influence lawmaking through formal representation in the Party Central Apparatus and the NPC and its Standing Committee or connections with senior party leaders. Like ministerial officials, provincial officials (party secretaries and governors of provinces) are generally expected to hold a seat on the Party Central Committee and are able to influence lawmaking when a legislative bill is considered at a full Central Committee plenum. Some of these provincial officials are eventually promoted to the Politburo and its Standing Committee. Close ties with this small circle of party elites give certain provinces leverage to get their proposed bills onto the legislative agenda and push forward their preferences when a bill draft is reviewed by the Politburo or its Standing Committee. Provinces also have formal representation in the NPC. NPC delegates are elected by the delegates in the provincial People's Congresses and are expected to represent the interests of their provinces (Lü et al., 2020, p.1389). Some of the provincial representatives holding seats in the NPC are further selected into the NPC Standing Committee. Through legislative proposals submitted by affiliated NPC delegates or NPCSC members, provinces are able to advance their policy agendas. According to article 15 of the Legislation Law, a provincial delegation or a group of thirty or more co-sponsoring delegates may introduce a bill to the NPC. According to article 27, a group of ten or more cosponsoring NPCSC members may introduce a bill to the NPCSC. Recent examples include the Hainan Free Trade Port Law proposed by the Hainan delegation, the Yangtze River Protection Law proposed by the Hubei delegation and the Financial Law proposed by the Shanghai delegation.[48]

[48] See, for example, Hainan free trade port law: Why was it established? What is its purpose? [海南自由贸易港法：为什么立？有什么用？]. (2019, September 9). *Outlook Weekly* [瞭望], (29). Retrieved from http://lw.xinhuanet.com/2021-07/20/c_1310071513.htm; Jing, C. (2017, March 15). Hubei delegation calls for the establishment of the Yangtze River Protection Law [湖北团代表联名呼吁加快制定《长江法》]. *Hubei Daily* [楚天都市报]. Retrieved from http://hb.ifeng.com/a/20170315/5463459_0.shtml; Thirty NPC deputies from the

In addition, local governments are frequently consulted when bills are deliberated by the NPC or NPCSC and they are an important force in driving amendments during the course of legislative review. Through a preliminary text analysis of the NPC Law Committee's revision reports and deliberation result reports for all laws passed between 1993 and 2021, I find that localities (地方) contributed to 28% of all the comments that resulted in bill change during NPC/NPCSC review. Additionally, as NPC delegates and NPCSC members are key actors on the legislative floor, it can be speculated that provinces use affiliated legislators as their agents or representatives to propose amendments to law drafts. My analysis of legislative records shows that 77% of localities' comments overlap with those of legislators (NPC delegates, NPCSC members, NPC special committees), suggesting that their views are well-aligned.

As discussed in Section 2.1.1 in Chapter 2, provincial officials compete against each other to promote their provinces' interests, to acquire additional resources from the Center, and to maximize economic indicators and other policy targets within their provinces to impress central leaders for better career prospects.[49] They are eager to gain policy influence through legislation to help them advance these agendas. Lawmaking could be quite a messy and conflictual process if we include both ministries and provinces, each seeking to push forward its own preferences. Depending on the policy space a piece of legislation regulates, disputes may arise among provinces, among ministries, or between provinces and ministries.

3.3.3 Party: Central Committee, Politburo and its Standing Committee

Shanghai delegation jointly proposed to formulate a finance law [上海代表团 30 名人大代表联名提交议案：建议制定《财政法》]. *The Paper* [澎湃新闻]. Retrieved from http://sh.sina.com.cn/news/zw/2018-03-06/detail-ifxipenn7440534.shtml.

[49] See also Tanner (1999, p.23).

According to article 3 of the Legislation Law, legislative work should be conducted under the leadership of the Communist Party of China. As discussed in Section 3.2.1 and Section 3.2.4, the main forms of the Party's leadership over lawmaking include: suggesting ideas for legislation, reviewing and approving the NPCSC's legislative plans, reviewing and approving drafts of important laws before their legislative introduction, and determining major issues in laws and resolving major disagreements in lawmaking. Party control over lawmaking agenda and content of legislation tends to take place in the pre-legislative stage. But through control over key NPC and NPCSC appointments and the NPC Party Group system, the Party manages to continue to assert a leadership role in the legislative stage of lawmaking (Tanner, 1999).

Examination of the composition of the Party Central Apparatus helps us to gain a better understanding of the preferences of lawmaking actors in the Party arena. The current Central Committee has 205 full members and 171 alternate members. It has been conventionally composed of CCP officials of provincial-ministerial rank and above. Officials holding positions of party chiefs and governors of provinces as well as ministers and minister-level heads of functional organizations in the national government are generally expected to hold a seat on the Central Committee. Due to formal representation in this institution, ministries and provinces are given an opportunity to push for their own interests when legislative decisions are made at a full Central Committee plenum. But since the Central Committee usually meets once a year, many policy issues are discussed in the Politburo and its Standing Committee, which meet more frequently (Miller, 2004).

Only a small number of the Central Committee members are promoted to the Politburo and eventually to its Standing Committee. Politburo members concurrently hold their provincial or ministerial positions, indicating that some provinces and ministries have more political clout

and gain more bargaining leverage over lawmaking in the Party arena. It is no surprise that provinces and ministries affiliated with members of the Politburo are better equipped to influence the legislative agenda and drafting or amending laws to reflect their organizational-territorial interests. At the apex political level, members of the Politburo Standing Committee are appointed national level positions and no longer serve leading positions in provinces and ministries. Nevertheless, PSC members develop ties with administrative units where they served and leverage their decision-making power to deliver resources and policy influence to their bureaucratic factions in order to main the patron-client relationship (Shih, 2008). Through factional ties, particular provinces and ministries can exert bureaucratic influence when law-related decisions are made at the PSC. Again, the point here is not to say that top-level CCP elites cannot independently propose policies, but to emphasize the need to make their proposals appeal to bureaucratic actors in exchange for their loyalty. As discussed in Section 2.1.1 in Chapter 2, support from ministries and provinces are essential as they control valuable resources that this small group of party elites can mobilize during the course of power struggle.

The decision-making process within the PSC is not transparent, but it is said to follow a hierarchical structure with consensus-building (Dreyer, 2018; Fewsmith, 2001; Li, 2016). The PSC members are ranked in order of seniority, which is determined by their age and length of service within the Chinese Communist Party (Bo, 2007). The most senior member serves as the General Secretary of the Party, heads the PSC, and is considered the top leader of the country. According to publicly available information and expert analysis (Bo, 2007; Dreyer, 2018; Fewsmith, 2001; Li, 2016), PSC decision-making typically involves several steps. First, the General Secretary sets the agenda for each PSC meeting and determines issues to be discussed. Second, the general secretary leads the discussion and solicit input, and other members provide

feedback and opinions. Third, the General Secretary seeks to build consensus among PSC members. This step involves negotiation and compromise in order to reach a common understanding and agreement. Last, the General Secretary makes the final decision based on the consensus reached among the PSC members. As the final decision-making power rests with the General Secretary, he serves as the ultimate arbiter when disputes arise and agreement cannot be reached in the PSC. As Xi amassed more personal power than his predecessor Hu Jintao, it seems that the current PSC decision-making style embodies more hierarchical elements than consultative elements, while Hu put more emphasis on consensus-building. With the establishment of Xi's Commission for Comprehensive Law-based Governance in 2018, the actual location of Party review may have shifted from the Politburo or its Standing Committee to the CCLBG, which involves only a cluster of PSC members (Li, 2020). Nevertheless, as the CCLBG is chaired by Xi, he remains the ultimate decision-maker on legislative issues, particularly when decisions must be made by the top leader to overcome gridlock. I argue that the incentive to build and maintain broad support among ministerial and provincial officials prevents the incumbent leader from unilaterally imposing a policy solution that creates clear bureaucratic losers. When caught between key bureaucratic constituencies holding divergent preferences, the top leader resorts to ambiguous language to avoid political costs and facilitate compromise.

It bears noting that some bureaucratic actors may have a dominant presence in the Politburo and its Standing Committee or the CCLBG, while others are underrepresented, influencing their ability to push forward policy preferences when legislative decisions are made in the Party arena. Those who feel they have been ignored or cut out of the party-level

negotiations can utilize the legislative institution to (re)open policy discussions and gain bargaining leverage when laws are considered on the NPC floor.

3.3.4 NPC: Standing Committee, Council of Chairpersons, Legislative Affairs Commission, and Law Committee

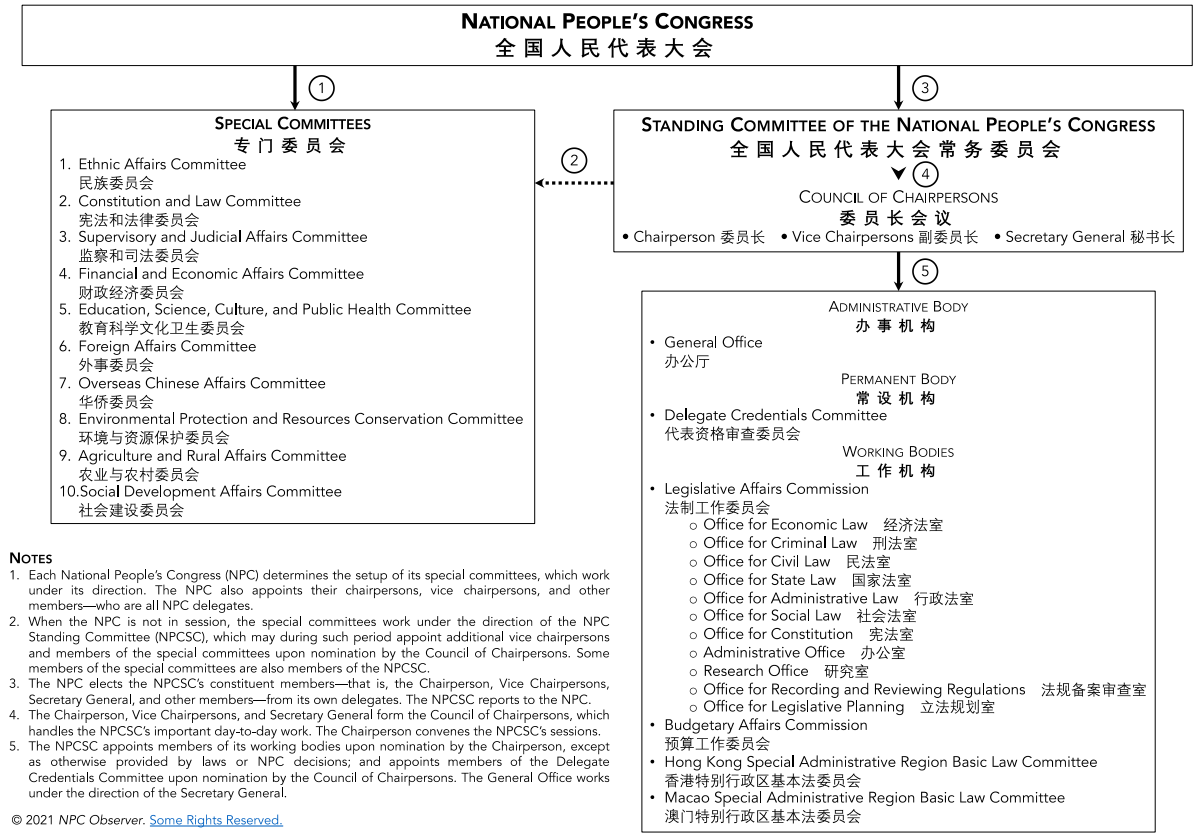

Figure 3.6: NPC organizational chart

Source: NPC Observer website.[50]

Figure 3.6 is an organizational chart of the current National People's Congress. In this section I discuss in detail four groups within the NPC: the Standing Committee of the National

[50] See Bilingual NPC Organizational Chart. *NPC Observer*. https://npcobserver.com/resources/bilingual-npc-organizational-chart/

People's Congress, the Council of Chairpersons, the Legislative Affairs Commission, and the Law Committee.

The National People's Congress is constitutionally "the highest organ of state power" and the national legislature in China. The NPC is elected for a term of five years. It meets in full session for about two weeks once per year in spring (normally in March), when NPC delegates deliberate and vote on important pieces of legislation (the Constitution and basic laws) and personnel assignments. They may also propose or introduce legislative bills to the NPC. NPC delegates are not elected by the general public, but are elected by "the people's congresses of the provinces, autonomous regions, and municipalities directly under the Central Government and by the People's Liberation Army," (van den Dool, 2019, p.72) as stipulated by article 16 of the Election Law (2020 Amendment). The Election Law also stipulates that the election of delegates to the NPC and local people's congresses "shall adhere to the leadership of the Communist Party," indicating the CCP's control over delegate selection at every level in the people's congress system (Truex, 2016). Approval by the Party is essential for NPC membership, resulting in its overwhelming majority in the Congress. Approximately 70% of NPC delegates are Communist Party members (Truex, 2016, pp.52-53). On the other hand, although approximately 30% of the NPC seats have been taken by non-CCP delegates, the Party controls the nomination processes to ensure that non-Party candidates adhere to the leadership of the Communist Party and do not function as a political opposition (Truex, 2016, p.52). In mainland China, there are eight legally-permitted political parties – the so-called "Eight Democratic Parties" (八大民主党派).[51] These eight minority parties are part of the United Front (统一战线)

[51] They are: Revolutionary Committee of the Chinese Kuomintang (中国国民党革命委员会), China Democratic League (中国民主同盟), China National Democratic Construction Association (中国民主建国会), China

and all have nominal representation in the NPC, which gives China's political system a democratic appearance. But in practice they all accept and operate under the leadership of the CPC, playing an advisory role rather than an oppositional one (van den Dool, 2019, p.40). The members of the eight democratic parties elected to the NPC can thus be viewed as no different from CPC delegates in terms of their loyalty (political positions) toward the Communist Party (Wei, 2018). Unlike western democracies where parliaments serve as a forum of debate between the ruling party and opposition parties, Chinese legislators do not fight along party lines.

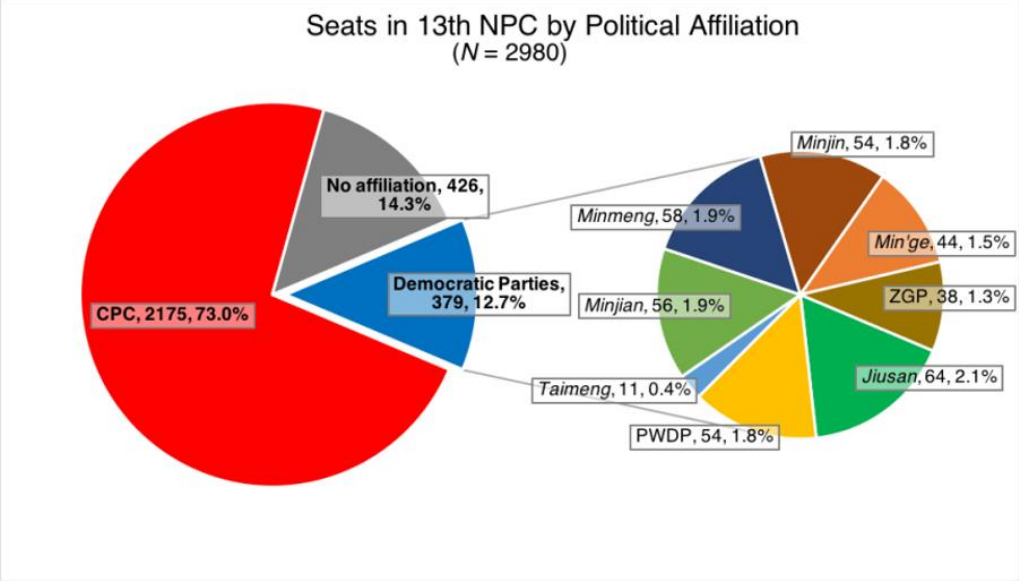

Figure 3.7: Seats in 13th NPC by political affiliation

Source: NPC observer website (Wei, 2018).[52]

Association for Promoting Democracy (中国民主促进会), China Peasants and Workers Democratic Party (中国农工民主党), China Zhi Gong Party (中国致公党), Jiusan Society (九三学社), and Taiwan Democratic Self-Government League (台湾民主自治同盟).

[52] See Demographics of the 13th NPC (Updated). NPC Observer. https://npcobserver.com/2018/03/10/demographics-of-the-13th-npc/

As the NPC convenes only once every spring for roughly two weeks, most of the year its Standing Committee is in charge of legislative activities. The Standing Committee of the National Peoples' Congress is the permanent body of the NPC. Albeit constitutionally inferior to the NPC, the NPCSC is generally viewed to have more power. Due to the temporary nature of NPC's full sessions, most of NPC's functions are exercised by its Standing Committee. The NPCSC has about 170 members, all elected by the NPC from its delegates for a five-year term. As more than two-third of the NPC seats are taken by Party members, the CCP also exerts tight control of the Standing Committee. The *nomenklatura* list of NPCSC appointments must be approved by the Party (Tanner, 1999, p.92). Using biographical information of the Standing Committee members for the 13th NPC (2018-), I examine their political affiliations and career trajectories. The 13th NPCSC has 175 members. 121 are Communist Party members (about 69%), 44 belong to the eight democratic parties (about 25%), the remaining 10 members have no party affiliation (无党派人士, about 6%). 138 members have work experience in government organizations or government-sponsored civic institutions (about 79%).[53,54] The remaining 37 members had no such work experience or their past career information could not be collected (about 21%). The majority of the 138 members with public employment ties held leadership positions in the government or government-sponsored organizations in which they served. 57 served in the State Council departments, 29 served in the Party Central Committee departments, 11 served in the Central Military Commission departments, 5 served in the Supreme People's

[53] In the 13th NPCSC, China Democratic League hold 9 seats, China Association for Promoting Democracy hold 7 seats, China Peasants and Workers Democratic Party hold 7 seats, Revolutionary Committee of the Chinese Kuomintang hold 6 seats, Jiusan Society hold 5 seats, China National Democratic Construction Association hold 4 seats, China Zhi Gong Party hold 3 seats and Taiwan Democratic Self-Government League hold 3 seats.
[54] Here I exclude the NPC, local people's congresses and the Chinese People's Political Consultative Conference (CPPCC,中国人民政治协商会议).

Procuratorate or the Supreme People's Court, and 26 served in People's Organizations (人民团体). People's organizations include eight front organizations of the Chinese People's Political Consultative Conference (中国人民政治协商会议) and 14 organizations that the State Council approved to be exempt from registration. Although they are not official departments of government, people's organizations are established by the Chinese state and thus widely considered "state-owned." They exercise certain government functions and are granted status of party-state administration by the General Office of the Central Institutional Organization Commission (中央编办). Article 93 of the Criminal Law stipulates that personnel engaged in public service in people's organizations should be treated as personnel of state organs. People's organizations are conventionally led by officials who served as leadership positions in the Central Committee departments or the State Council departments. Some people's organizations serve as a complement to the existing State Council and Party bureaucracies. An example is the All-China Women's Federation (妇联), as there is no central-level department that represents women interests. While some organizations serve as a supplement to the incumbent ministries. China Association for Science and Technology (科协) is a case of such, which is considered to share similar goals and missions with the Ministry of Science and Technology. Of the 138 members with public employment ties, 38 haven't worked in the national-level organizations but served as leadership positions at the subnational level, either in provincial-level branches of some of the above organizations, or in provincial party committee and provincial government. Of the 37 NPCSC members without employment ties to government or semi-government organizations, most of them are academics and intellectuals in various fields.

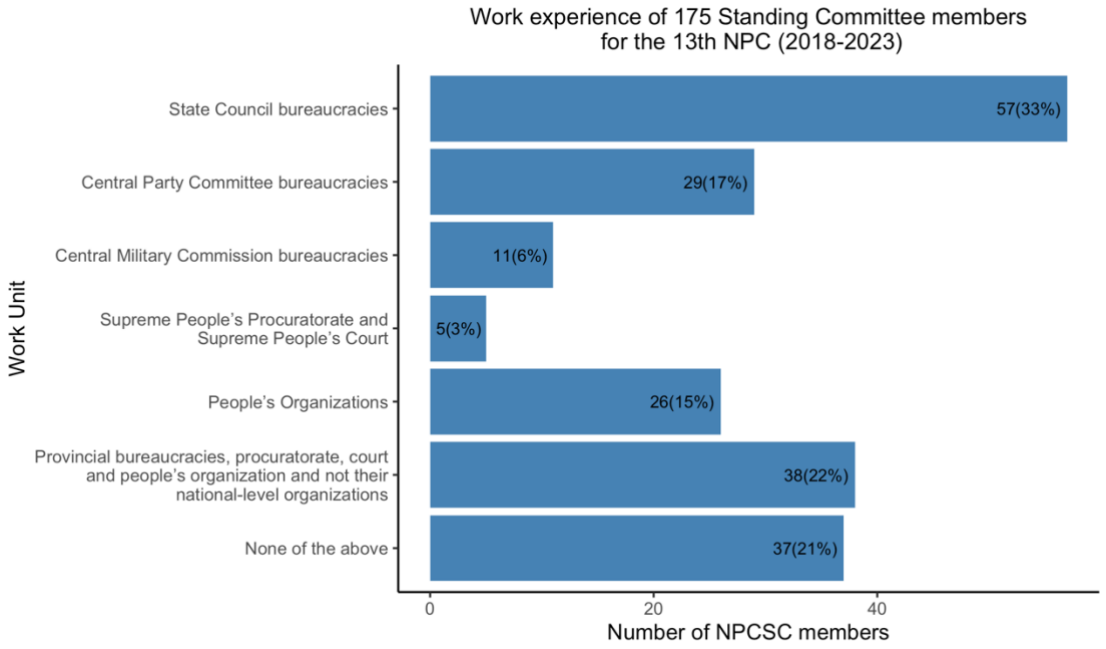

Figure 3.8: Work experience of the 175 Standing Committee members for the 13th NPC (2018-)
Data source: NPC website and Baidu Baike.

The NPCSC members' employment ties to central functional bureaucracies and provincial administrations give them necessary policy expertise and knowledge to review introduced bills. But at the same time, such connections serve as a key channel for bureaucratic influence in the legislature (Lü et al., 2020). It resembles an "iron triangles" relationship in American politics, where NPCSC members continue representing the interests of their former government agencies and allied social constituencies (Tanner, 1995, 1999; Tanner & Ke, 1998; Heclo, 1978). As discussed in the section of NPC/NPCSC review and deliberation, members of the NPCSC play an important role in deliberating introduced bills when the NPC is not in session. With legislative-executive employment ties, policy battles are more likely to re-open in the legislature when bills are deliberated by the NPC Standing Committee members, where they serve as "proxy fighters" on behalf of the various government agencies that they are affiliated with, if the agencies were not satisfied with the introduced version of law draft (Lü et al., 2020).

The NPCSC is led by a Chair, who is conventionally ranked third in the seven-person Politburo Standing Committee – the apex body of the CCP and the top decision-making body in China. Li Zhanshu, NPCSC Chair for the 13th NPC (2018-2023), was the third most powerful in the Politburo Standing Committee, between 2017 and 2022. Those who have served as Chairperson of the NPC Standing Committee since the founding of the People's Republic of China in 1949 include: Liu Shaoqi (1th NPC), Zhu De (2th-4th NPC), Ye Jianying (5th NPC), Peng Zhen (6th NPC), Wan Li (7th NPC), Qiao Shi (8th NPC), Li Peng (9th NPC), Wu Bangguo (10th-11th NPC) and Zhang Dejiang (12th NPC), all were senior Party leaders at the time of appointment. In addition, some Vice-Chair positions and the Secretary-General position are given to other high-ranking Party members, who assist the chairperson in his or her work. The chair, vice-chairs and secretary-general constitute the Council of Chairpersons, which handles the important day-to-day work of the Standing Committee. The lawmaking responsibilities of the Council of Chairpersons can be found in the Legislation Law and National People's Congress Organization Law: it 1) decides the convening date and the schedule of each session of the Standing Committee; 2) drafts the agenda for each session; 3) decides whether to place a submitted bill on the agenda of a session of the Standing Committee or refer it first to the relevant special committee bill for deliberation; 4) decides whether to submit a draft bill for voting or giving opinions about how to proceed if it is not put to the vote for the time being; 5) directs and coordinates the day-to-day work of the NPC special committees; and 6) approves legislative plans. The Council of Chairpersons thus plays an important role in lawmaking processes in the NPC arena, particularly in the sense of timing.(van den Dool, 2019, p.74)

Another NPCSC group heavily involved in legislative activities is the Legislative Affairs Commission. As NPCSC members mostly serve part-time and meet every two months to

deliberate and vote on bills, the burdensome daily work is carried out by the LAC under the NPCSC. As shown in Figure 3.6, the LAC is one of the four working bodies of the NPC Standing Committee. The LAC leadership includes one director and several deputy directors. Shen Chunyao, the current LAC director, also serves as a vice chair on the NPC Law Committee.

The LAC's workforce has been expanding since formation. When established in 1979, the LAC was staffed by 80 law experts (Chu, 2017). By 2020, the Commission has more than 200 staff members (Fan et al., 2018). Apart from the director and several deputy directors, the rest of the LAC staff members are unelected bureaucrats, who are considered to have received rigorous legal training and gained professional expertise (Fan et al., 2018). Though there is generally no public record available of their educational backgrounds, a 2013 research on the provincial-level LAC members suggests that recent LAC positions generally require candidates with law degrees, often at the graduate level (Fan et al., 2018; Lu, 2013). Its large size and highly professional staff make the LAC well-equipped to tackle the onerous daily legislative work (Fan et al., 2018).

According to the Legislation Law, the LAC is responsible for 1) drafting the NPCSC's five-year and annual legislative plans, (article 52) and overseeing the implementation of the approved legislative plans; 2) participating in other entities' drafting process in advance and, as entrusted by the Council of Chairpersons, organizing drafting of important laws that "are comprehensive, general, or fundamental" (article 53); 3) soliciting opinions on draft laws from all parties concerned, including NPC delegates, local legislatures, government agencies, and relevant organizations and experts via methods such as seminars, debate sessions, and public hearings (article 36); 4) collecting and organizing solicited opinions and NPCSC members' views expressed during deliberations, and distributing these materials to the NPC Law

Committee and other relevant special committees and, when necessary, to NPCSC sessions (article 38); 5) assessing the feasibility of major rules in draft laws, the timing of their enactment, the social effects of their implementation as well as any potential issues (article 39). (Fan et al., 2018) The LAC thus plays a central role in setting legislative agenda and coordinating NPC review. Its decisions affect what bills would appear on legislative plans and what opinions would be emphasized in NPC/NPCSC review, which would then be considered when drafting amendments to pending bills. But the LAC is far from being an independent legislative authority and its decisions are heavily influenced by powerful stakeholders in the political system (Cai, 2003, p.476). As a ministry-ranked bureaucracy, the LAC may not be able to reject legislative proposals from entities of comparable ranks if it thinks the time is not ripe. In fact, the drafting of legislative plans has become "essentially an 'iterative' process of 'balancing [competing] interests' " (Fan et al., 2018). Also, the legislative plans that the LAC prepares is subject to the NPCSC and Party leaderships' priorities and approvals. Likewise, in the process of integrating the comments received, it is unlikely for the LAC to shelve opinions from powerful regime stakeholders including ministries, provinces, the NPCSC and Party leaders. The relative publicity and the iterative nature of NPC/NPCSC consultation simply work against such practice. My interview with a former provincial LAC director further suggests that the LAC's work in coordinating NPC review is often "painful" and can sometimes "displease others" (得罪人), particularly when key actors disagree over the content of a pending bill. Peng Zhen, the LAC director of the 5th NPC and the 6th NPC Chair, dubs the LAC "team of coolie" (苦力班子) that takes on the onerous day-to-day legislative work (Gu, 2009, p.43). The late Professor Cai Dingjian, a leading authority on the NPC, explains the LAC's status and points out that it is in

essence “a kind of service body” under the NPCSC with only support functions (Cai, 2003, p.476; Fan et al., 2018).

In addition to the Standing Committee, the NPC has established ten permanent special committees to “examine, discuss and draw up relevant bills” (Constitution article 70). The current special committees are:

- The Ethnic Affairs Committee
- The Constitution and Law Committee[55]
- The Supervisory and Judicial Affairs Committee
- The Financial and Economic Affairs Committee
- The Education, Science, Culture and Public Health Committee
- The Foreign Affairs Committee
- The Overseas Chinese Affairs Committee
- The Environmental Protection and Resources Conservation Committee
- The Agriculture and Rural Affairs Committee
- The Social Development Affairs Committee

In terms of lawmaking, these committees are responsible for 1) participating in other entities’ drafting process in advance, and as entrusted by the Council of Chairpersons, organizing drafting of important laws that “are comprehensive, general, or fundamental” (Legislation Law, article 53); 2) conducting legislative investigations and research on introduced bills (Legislation Law, article 16); and 3) deliberating introduced bills, and as entrusted by the NPC Presidium or Council of Chairpersons, offering opinions on whether bills submitted should be put on the

[55] The Law Committee was renamed “Constitution and Law Committee” in 2018. I use “Law Committee” in this study.

agenda (Legislation Law, article15&27).(Fan et al., 2018) In addition, special committees may formally introduce bills to the NPC/NPCSC.

Each special committee consists of a chair, vice-chairs and members, all elected by the NPC from its delegates for a five-year term. They work under the leadership of the NPC or of its Standing Committee when the NPC is not in session (National People's Congress Organization Law, article 34). According to Tanner (1999), most members of these committees are "retirees from high-ranking Party and government posts which dealt with the very same issues as their respective special committees," and thus gain plenty of expertise to draft certain bills, as well as to deliberate and amend introduced law drafts (p.106). But at the same time, such connections could serve as an informal channel for bureaucratic influence in the NPC/NPCSC. Tanner's (1999) interview with a State Council official reveals such a strategy:

> "One State Council source enthusiastically argued that the legislative subcommittees gain great access and informal influence by incorporating so many former State Council Ministers and Vice-Ministers … ministries sometimes attempt to use their alumni who are special committee members as their agents or representatives to support their views, producing some fascinating and complex influence strategies. For example, the State Council may adopt a policy proposal X, supported by Ministry A but opposed by Ministry B. Ignoring Ministry B's objections, the State Council may then submit policy proposal X, in the form of draft law X, to the NPC Standing Committee for review. This source indicates that Ministry B, in a last ditch effort, will sometimes ask its former minister—now a member of the NPC special committee charged with investigating draft law X—to raise objections to the law (ti yijian) when it comes before the NPC. (p.108)"

Among the ten special committees, the most important is the Law Committee. The NPC's Law Committee should 1) hear opinions of all parties concerned and may hold forums, discussion meetings, and hearings jointly with the LAC and other special committees to solicit a wider range of opinions (Legislation Law, article 36); 2) produce deliberation reports and revised versions and a voting version of the draft law based on opinions offered by all parties concerned and submit these materials to the Presidium or the Council of Chairpersons (Legislation Law,

article 22&33). Though the Law Committee is granted the power to revise law drafts submitted to NPC/NPCSC, it doesn't necessarily mean that the committee has independent influence over bill content. According to the Legislation Law, the revision of draft laws should be based on opinions collected from delegates, NPCSC members, relevant special committees and other stakeholders and the Law Committee should report to the NPCSC about the deliberation results and the revision made accordingly. In other words, one of the committee's primary duties is to draft amendments that reflect opinions collected and organized by the LAC. In addition, my content analysis of the Law Committee's reports between 1993 and 2021 reveals that the Law Committee often consults with the principle drafting unit to draft amendments to pending bills.

The current Law Committee has 19 members, including a chair and seven vice-chairs. Some members held or concurrently hold leadership positions in the LAC or the LAO under the State Council, generating either personnel overlap or employment ties between these institutions. For example, a current vice-chair of the Law Committee, Shen Chunyao, is concurrrently chair of the LAC and served in the LAO. Because of the Law Committee's small staff size (about 20 members) and its connection with the LAC, it can be speculated that the fully-staffed LAC undertakes the onerous work to propose amendments based on the opinions collected for the Law Committee's consideration.

My analysis of the lawmaking actors within the NPC reveals important political dynamics of the Chinese legislature. First, by controlling not only NPC delegate selection but also the key NPCSC appointments, the CCP ensures leadership over the people's congress system and its legislative activities. This leadership, however, is at a rather general level and does not involve micromanagement of lawmaking. Second, as bureaucrats from party-executive bureaucracies retire to the NPCSC and NPC special committees, the Chinese legislature serves a

venue of bureaucratic influence and conflict. The relative publicitiy of the NPC floor also contributes to the spillover of intra-government policy debate to the legislature. In summary, due to these two mechanisms, division in the NPC arena does not occur between the CCP and political oppositions over partisanship or ideologies, but takes place among bureacratic stakeholders over regulatory turf and policy substance.

Chapter 4 Case Study: The Anti-Monopoly Law

4.1 Case Selection

The theory holds that statutory ambiguity is resulted from bureaucratic policy conflict in legislative processes. In this chapter, I conduct case study research on the legislative process of the Anti-Monopoly Law (反垄断法, AML) in China to illustrate the plausibility of the causal mechanism. This case-based approach prioritizes internal validity for theory-building, and therefore is not intended to generalize findings to the complete population of interest.

The AML case presented below is selected for its ability to exemplify the proposed mechanism from bureaucratic policy conflicts to vague statute. The AML legislative process saw: 1) substantial division among bureaucratic actors within the ruling coalition, and 2) increased international pressure to pass the law. AML drafting experienced protracted delay in the 1990s due to intense intra-governmental conflicts over whether China needs a competition law. The impasse was largely broken by China's entry into the WTO in 2001, when the national leadership faced increasing external pressure to enact antitrust legislation. Though the AML was passed by the NPCSC in 2007, major policy disputes were not fully resolved in the promulgated law and much of the substance of the early drafts got whittled away. Key issues such as who would have enforcement authorities under the AML, the jurisdiction over competition issues in regulated industries, and the merger review threshold were either vaguely stated or eliminated in the final law. The AML case illustrates the role of statutory ambiguity consistent with the argument of this study. First, ambiguity can help overcome bureaucratic impasse in lawmaking and move the bill forward, by forging a "superficial" consensus among rival bureaucratic actors. Second, ambiguity serves as a "second-best" solution for the competing ministries to avoid locking in unfavorable rules, leaving room for post-promulgation bargaining and interpretation

when implementing regulations are to be drafted. Although it is difficult to gather micro-level evidence about how particular party leaders were involved in the lawmaking process, the ambiguity of the final settlement signed into law implied that China's top leaders tried to avoid creating losers when caught between powerful stakeholders with competing policy demands. By resorting to vague statute language, the regime leaders managed to get past major disagreements and covertly share policy power between rival ministries.

Table 4.1: Bill Length: 2004 draft, 2006 draft and 2007 law

2004 draft	2006 draft	2007 law
Prepared by MOFCOM	Approved by the State Council	Passed by the NPCSC
68 articles, 6691 words	56 articles, 5936 words	57 articles, 5839 words

The AML case was discovered through a close reading of texts of the enacted AML, its published drafts, the LAC review reports, and press coverage and commentaries about the legislative process. Because many of the early drafts were only internally circulated, I also rely on excerpts of or references to these drafts made in existing research and secondary materials.[56] I conduct detailed content analysis of three versions of the AML that are publicly available: a 2004 draft, a 2006 draft and the final law passed in 2007. The 2004 draft was provided by a key stakeholder, the Ministry of Commerce, and submitted to the LAO in March 2004 to solicit opinions from other government agencies. After several rounds of reviews, consultations and

[56] For the unpublished AML drafts, I draw upon writings by Wang Xiaoye and H. Stephen Harris Jr.. Wang Xiaoye is a well-known Chinese competition law scholar. Wang was the first academic that participated in AML drafting. She was a member of the drafting group established by the LAO in 1994 and was deeply involved in the legislative process. Her publications on AML contain valuable first-hand information of the antitrust legislative process. H. Stephen Harris Jr. is a US legal practitioner specializes in antitrust law. Harris participated in early symposia with Chinese officials and scholars during the drafting of the AML and has frequently written about the law. Some of his writings include excerpts of unpublished drafts. Wendy Ng provides a comprehensive political economy analysis of the AML. Her book (2018) draws heavily upon interviews with academics, legal practitioners, economists and government officials who were involved in the enactment of the AML. My case analysis also relies on her research.

revisions, a revised draft, namely the 2006 draft, was approved by the executive leadership and passed in the State Council Executive Meeting in June 2006. The 2006 draft was then submitted to the NPCSC for review. After three discussions and a few more revisions, the AML was adopted by the NPCSC in 2007. Examination of what language and content were altered among the various AML versions, coupled with analysis of the legislative records, allow me to probe the primary stakeholders, their preferences, points of contention and methods of reconciliations throughout the drafting process, and thus assess the plausibility of the hypothesized pathways. Table 4.2 provides an overview of the major disputes and textual changes in the lawmaking process.

Table 4.2: Overview of the AML lawmaking process

Form	Disputed issue	2004 draft	2006 draft	2007 law
Jurisdictional	Law enforcement agency (AMEA)	Ministry of Commerce	Deferred to the State Council	Deferred to the State Council
Substantive	Scope of AML	AML applies to all sectors	AML does not apply to regulated industries	Deleted
Jurisdictional	Competition enforcer in regulated industries	Ministry of Commerce	Industry regulators have decisive authority while AMEA takes a minor role	Deleted
Substantive	Merger notification threshold	Low threshold, strict standard	High threshold, low standard	Deferred to the State Council

4.2 Legislative History

In August 2007, China promulgated the Anti-Monopoly Law after over a decade of discussion, debate and drafting. Work toward building a comprehensive antitrust legal system started in 1994, when a drafting team was organized by the State Council, comprising officials from the State Economic and Trade Commission (国家经济贸易委员会, SETC) and the State

Administration for Industry and Commerce2 (国家工商行政管理局, SAIC) (Shang, 2005; Wang, 2004, p.285). By 2002, a draft prepared by the former SETC had taken shape and soon began circulating in small circles for comment (Harris, Wang, Cohen, Zhang, & Evrard, 2011, p.15). In 2003, the MOFCOM was created through the merger of the SETC and the Ministry of Foreign Trade and Economic Cooperation (对外经济贸易部, MOFTEC), and had since assumed the SETC's drafting role (Owen, Sun, & Zheng, 2008, p.236; Shang, 2005). In March 2004, a draft (soliciting opinion version, 征求意见稿) prepared by the MOFCOM was submitted to the LAO for its review (Cao, 2007). To coordinate the interests of various concerned ministries and commissions and modify the 2004 draft, the LAO setup an AML Review and Modify Team, which included representatives from the NDRC, MOFCOM and SAIC (Cao, 2007). A number of revisions followed during the next two years. In June 2006, a revised draft with nominal support of the entire executive was passed in the State Council Executive Meeting and submitted to the NPC Standing Committee for its first review (Cao, 2007). A further revised draft was commented on during the NPC Standing Committee's second review in late June 2007 (Jiang, 2007). With 150 out of the 153 votes, the NPC Standing Committee passed the final draft during its third review on August 30, 2007 (Yang, 2007).

The lawmaking process of AML represents a case of pre-legislative gridlock. It took thirteen years from the setup of a drafting team to the passage of AML. The Anti-Monopoly Law was listed on the legislative agenda by the 8th and 9th Sessions of the NPC Standing Committee. However, the State Council failed to submit a draft for NPC review within the stated 5-year period. The 10th Session of the NPC Standing Committee placed AML among the "top priority laws" on its legislative plan, urging for draft submission during this term. In June 2006, a draft was finally introduced to the NPC for deliberation. After one public comment period and three

separate draft discussions, the law was passed in 2007. For the AML, it spent one year on the NPC floor before passage, while much of the delay took place in the less transparent pre-parliamentary stage when the State Council struggled to build inter-agency consensus on a draft bill ready for NPC review (Harris, 2006). China's entry into the WTO in 2001 played an important role in helping break the impasse (Harris, 2006, p.176-177; Wang, 2003). The Chinese government had undertaken commitments to the WTO, stating that "the government of China encouraged fair competition and is against unfair competition of all kinds," and an antitrust law was considered necessary to comply with WTO rules (Harris, 2006, p.177; Harris et al. 2011, p. 13-14). China's top leaders faced pressure from other WTO members to pass an antitrust law, as WTO entry significantly increased the regime's reputational cost. Efforts to fast-track AML lawmaking had intensified since WTO entry. The AML was included in the 2002, 2004, 2005 and 2006 annual legislative work plans of the State Council. Soon after the bill entered the NPC, the People's Daily —the official CCP mouthpiece —published an article on antitrust legislation titled "Monopolistic Conducts Must be Prohibited" (‘‘垄断不反不行") (Du, 2006), signaling the Party's resolve in enacting a competition law.

The rest of the case study will discuss stakeholders' preferences, points of contention, and methods of reconciliations in the antitrust lawmaking process, as well as the post-promulgation policy process. I show that bureaucratic policy conflicts led to both jurisdictional and substantive ambiguities in the enacted AML.

4.3 Turf Battles and Jurisdictional Ambiguity

4.3.1 Law Enforcement Authority

Who would be empowered to enforce the AML had remained an intractable issue since the beginning of the drafting process (Harris et al., 2011; Harris, 2006; Wang, 2004, 2008; Ng, 2018). Three central government ministries, the Ministry of Commerce (MOFCOM), the National Development and Reform Commission (NDRC), and the State Administration for Industry and Commerce (SAIC) were competing for enforcement authority under the AML and no one was willing to make significant concessions (Harris et al., 2011; Harris, 2006; Wang, 2004, 2008). Their claims to jurisdiction were largely based on their competition-related responsibilities prescribed in pre-existing laws and regulations (Harris et al., 2011, p.268). The SAIC was responsible for micromanagement of market activities, ranging from business and trademark registration, consumer protection, to street market regulation. The SAIC was given competition enforcement authority by the 1993 Anti-Unfair Competition Law (AUCL, 反不正当竞争法), which expressly prohibits certain monopolistic conducts such as sales below cost, tying and collusion in bidding. To enforce the competition-related provisions of the AUCL, the SAIC established an Anti-monopoly Division within its Fair Trade Bureau. Nonetheless, the AUCL does not prioritized its enforcement efforts against monopolistic practices and is not considered a comprehensive antitrust law (Harris, 2006, p.175). As the enactment of AML became almost certain with China's entry to WTO, SAIC would seize the lawmaking opportunity to assert its antitrust authority.

The NDRC is a central ministry-level entity responsible for formulating economic and social development plans. As successor to the former State Planning Commission, NDRC serves as China's macro-economic planning body with broad control over national industrial and economic policies. The Price Law (价格法) promulgated in 1997 granted the NDRC broad regulatory and investigation power over price matters. The NDRC's Price Department is charged

with formulating price policies and its Price Regulation and Supervision Department is responsible for price-related anti-monopoly enforcement. The NDRC would use the antitrust law to fulfill its broader mission and to tighten its policy control over price-related issues (Zhang, 2014).

The MOFCOM is formed through the merger of the State Economic and Trade Commission and the Ministry of Foreign Trade and Economic Cooperation in 2003. The MOFCOM assumed its predecessors' responsibility for foreign investment, domestic and foreign trade and economic administration (Harris et al., 2011, p.275). The MOFCOM's anti-monopoly responsibility was prescribed in the 2003 Regulation on Mergers with and Acquisitions of Domestic Enterprises by Foreign Investors (here after Foreign MA Rules). According to the Foreign MA Rules, the MOFCOM conducts competition reviews of mergers and acquisitions by foreign investors, together with SAIC. However, unlike SAIC and NDRC that derived their competition-related authority from pre-existing statutes enacted by NPCSC, MOFCOM was authorized by a departmental rule, which has lower legal status. The lack of statutory authorization made MOFCOM more eager to push for the passage of the AML and use the new law to assert its role in the antitrust regime (Yang, 2004).

The antitrust law would create new regulatory space and is likely to alter the distribution of power among these incumbent ministries. The new law thus presents an opportunity for these ministries to expand their regulatory turf, as well as a challenge to their existing authority. Their pursuit of policy power had incited intense bureaucratic struggles in the AML legislative process.

Among the three ministries, the MOFCOM and the SAIC had considerable experience in competition-related matters and were tasked to jointly draft the AML (Wang, 2004, p.285). Regardless of the cooperation mandate, they undertook the drafting work separately over time

and submitted separate AML drafts to the State Council for review, in which they nominated themselves as the sole enforcement authority under the AML (Ng, 2018, p.215). Beyond drafting, each ministry engaged in unilateral activities to claim authority, demonstrate competence and mobilize support, which intensified the bureaucratic rivalry. For example, the SAIC published a report in 2004, asserting itself as the competition enforcement agency.[57] The report highlighted SAIC's responsibility for formulating and enforcing regulations against anti-competitive practices of multinational firms in China, as well as promoting international exchange and cooperation on competition policy issues.[58] As China's representative in the 2003 OECD Global Forum on Competition, the SAIC "publicly lobbied to be the enforcement agency under the AML" by demonstrating its competition-related experience and expertise to the international community (Ng, 2018, p.216).[59] With respect to the MOFCOM, it issued a joint announcement with other six ministries in June 2004, requesting their provincial agencies to amend and repeal local rules containing content of regional blockade in market economic activities.[60] A few months later, the MOFCOM led an inter-ministry working group to carry out inspections (Sun, 2005). Both activities targeted local administrative monopolies but excluded the SAIC, regardless of the fact that it was authorized to "investigate into and punish the acts of regional blockade"6 (Sun, 2005). In September 2004, the MOFCOM proceeded to setup its own

[57] For details, see Fair Trade Bureau and Anti-monopoly Division of the State Administration for Industry and Commerce. (2004). Competition restricting conduct of multinational companies in China and countermeasures [在华跨国公司限制竞争行为表现及对策]. *Biweekly of Industry and Commerce Administration* [工商行政管理], *5*, p.43.
[58] Ibid.
[59] For details, see "The Objectives of Competition Law and Policy and the Optimal Design of a Competition Agency – China" (Note submitted by China at the OECD Global Forum on Competition, 9 January 2003), p.4.
[60] See "Notice on Rectifying Regulations Containing Provisions of Regional Blockade in Market Economic Activities" jointly released by the Ministry of Commerce, Ministry of Supervision, Legislative Affairs Office of the State Council, Ministry of Finance, Ministry of Transportation, the State Taxation Administration and the General Administration of Quality Supervision (商务部、监察部、国务院法制办、财政部、交通部、税务总局、质检总局关于清理在市场经济活动中实行地区封锁规定的通知).

Anti-Monopoly Office to be responsible for anti-monopoly investigations, legislative work and international cooperation activity (Yang, 2004). The NDRC joined the battle in a later stage and made the issue even more complex. The NDRC promulgated the Interim Provisions on Preventing the Acts of Price Monopoly (制止价格垄断行为暂行规定, hereafter Interim Provisions) in 2003, which empowered its Price Department to determine and punish monopolistic conducts related to pricing. Not directly involved in preparing an AML draft, the NDRC had limited influence over the substance of the bill in the early drafting stage. Instead, it chose to enact a departmental rule on price monopoly to enhance its bargaining leverage. The NDRC used the Interim Provisions to preempt the AML and assert its role as an antitrust regulator, resulting in certain elements of the AML draft being issued in the form of the its departmental rule (Harris, 2006, p.178; Hu, 2003). Some note that the Interim Provisions "read like a rough draft of the AML" (Bush & Bo, 2011, p.3; Ng, 2018, p.216).

The ever-changing expressions of the enforcement structure in various drafts at different stages reflect these struggles (Harris et al., 2011; Ng, 2018). Before the bill was submitted to the NPCSC for review, institutional options fluctuated from creating a new independent ministry-level anti-monopoly enforcement agency directly under the State Council (2002 draft), to dividing enforcement authority among the three incumbent agencies (2003 draft), to designating the MOFCOM as the sole enforcement authority under the AML (2004 draft) (Harris et al., 2011; Ng, 2018). As the main provider of the 2004 draft, the MOFCOM crafted the bill in its favor by granting itself sole authority to enforce the law. Article 6 stipulated that an "Anti-Monopoly Authority will be established under the Ministry of Commerce" to be responsible for all aspects of law enforcement. When the 2004 draft was sent out for inter-ministry review, article 6 sparked strong opposition, particularly from the SAIC, arguing that the draft should

specify the SAIC as the competent authority of the AML (Wang, 2014, p.xvii). Though NDRC showed less interest in taking sole charge of AML enforcement, it certainly wished to preserve its authority over pricing issues.

Opposition from SAIC and NDRC resulted in later drafts retreating from that position. The draft approved by the State Council (the 2006 draft) deleted references to an enforcement authority under MOFCOM. Instead, the 2006 draft provided a less certain solution – an Anti-Monopoly Enforcement Authority (反垄断执法机关, AMEA) "designated" by the State Council, without specifying where. Article 5(2) stipulated that "The authority responsible for enforcement of the Anti-monopoly Law designated by the State Council (hereinafter referred to, in general, as the authority for enforcement of the Anti-monopoly Law under the State Council) shall be in charge of such enforcement in accordance with the provisions of this Law." It was therefore unclear in the 2006 draft whether the AMEA would be a new government body under the State Council or created within an existing ministry or multiple ministries (Harris, 2006). Though NPCSC members and commentators expressed serious concerns over such a vague statement of authority assignment (Hu, 2007; Jiang, 2007), there seemed no coordinated efforts to clarify the structure and composition of the AMEA during the NPC stage, or such efforts simply failed. This provision kept intact in the later drafts and remained in the final law passed in 2007.

This vague expression of AMEA provided in the 2006 draft and the 2007 law leads to speculations that who shall be responsible for enforcing the AML was unsettled in the pre-legislative stage, and continued to be a disputed issue when the bill entered the NPC (Harris et al., 2011; Ng, 2018; Wang & Zhang, 2007; Wang, 2008). The three ministries were apparently competing for the law enforcement authority throughout the process and no one was willing to

make significant concessions. For the political leaders of the regime, they were facing pressure from other WTO members and wanted to facilitate the progress of the AML (Ng, 2018, p.218). Though we are unable to discern where top leaders stand on the allocation of enforcement authority, the ambiguity of the enforcement structure signed into law implied that those at the highest level tried to avoid creating clear losers.

Establishing a new independent agency to be in charge of AML enforcement would cause all three incumbent ministries to lose some of their powers, which is likely to provoke extensive opposition. Granting any one of the three ministries sole authority of AML enforcement would undoubtedly antagonize the other two ministries and cause further delay (Ng, 2018; Wang, 2014). Several years after the AML was promulgated, an NDRC official commented that "had there been insistence on a single competition enforcement agency, the enactment of the AML might have been delayed by several years" (Ng, 2018, p.218).[61]

Dividing AML enforcement powers among the three ministries seemed viable. But how to divide remains an intractable problem. First, it is hard to find a tripartite division of power that satisfies everyone. The three ministries are likely to keep fighting for control over the most rewarding portions of the AML enforcement and shirk from the least rewarding ones. Second, some enforcement power is not easy to divide. For example, the division between price-related and non-price-related monopolistic conduct is hard to implement in practice, since many cartels and abuses of a dominant position are likely to have both elements (Harris et al., 2011, p.281). None of the above proposals seemed to be able to overcome the impasse and spur faster lawmaking. To break this gridlock, the top leaders resort to a less certain but politically viable

[61] For details, see 国新办就反垄断执法工作情况举行吹风会[State Council Information Office Briefing on Anti-monopoly Law Enforcement Activities] (11 September 2014), State Council Information Office, available at www.china.com.cn/zhibo/2014-09/11/content_33487367.htm.

solution – ambiguous delegation. Under ambiguous delegations, questions of who would be the recipient(s) of AML authority or how would the power be allocated were not further pursued but deferred to a later stage (Ng, 2018, p.219). By deferring the ongoing dispute to the post-promulgation stage, ambiguous delegations help to reach a tentative consensus between the competing ministries so that the bill can move forward.

Meanwhile, the 2006 draft introduced a new structure, namely an "Anti-Monopoly Committee (AMC)" under the State Council. Article 5(1) stipulated that "The State Council shall establish an anti-monopoly committee to be in charge of organizing, coordinating and guiding anti-monopoly work." However, the committee's setup was unclear, as stipulated in Artcile 9 of the AML, "The State Council shall stipulate composition and working rules of the Anti-monopoly Commission." According to the Law Committee's report on the revision of the third review draft, the AMC would only be an *ad hoc* coordinating and consulting body composed of relevant departments and organs of the State Council and had no substantive enforcement powers (Yang, 2007). The establishment of the AMC and the Law Committee's reports implied that the AMEA would not be a single unified agency. Instead, multiple state organs would be involved in AML decision-making and implementation and inter-agency coordination was required (Ng, 2018, p.218; Wang & Zhang, 2007; Yang, 2007).

4.3.2 Jurisdictions in Regulated Industries

Another bureaucratic dispute concerns the application of the AML in regulated industries. It comes as a substantive policy issue but also embodies strong jurisdictional implications. This matter is more complex as it involves not only the three competing ministries, but also multiple sectoral and industry regulators, the State-owned Assets Supervision and Administration Commission (SASAC), SOEs and local governments (Ng, 2018, pp.219-220). The debate

centered on the following questions: 1) who would have authority over competition issues in regulated industries? And 2) what is the relation between the AML and the sector-specific laws and regulations? (Ng, 2018, p.220) In China, there are numerous incumbent monopolists in the sectors of telecommunication, post, railway, electricity, banking, etc. Almost every monopolist is state-owned and is under the supervision of a sectoral or industrial regulatory body according to specific sector laws and regulations (Wang, 2008, p.146). Some of these laws and regulations also contain competition-related provisions. For example, the 2000 Regulation on Telecommunications (电信条例) authorized the Ministry of Information Industries under the State Council to be responsible for "the nation-wide supervision and administration of telecommunications." Article 72 stipulated that those who commit "unfair competition in their business shall be ordered by the Ministry of Information Industries."

These sectoral and industry regulators form patron-client relationships with the businesses they regulate. They have strong interests in defending their regulatory turf and protecting their business clients, particularly state-controlled "champions," from competition (Harris, 2006, p.223; Ng, 2018, p.220). The SASAC also has an incentive to advocate for the interests of big SOEs. SASAC was established in 2003 as an "ownership agency" through which the state manages its capital (Naughton, 2015). It holds ownership rights over a broad range of government firms (nonfinancial) and is responsible for restructuring China's SOEs to help them gain competitive advantage (Naughton, 2015). With a new antitrust law, they all worried about losing some of their power and influence if regulated industries particularly the big central SOEs are subject to the AMEA under the law (Ng, 2018, p.221).

The vacillations In the scope of the AML and the AMEA proposed at different stages reflect these struggles. The 2004 draft did not include any sectoral exemption provision,

indicating that the MOFCOM would exercise ultimate power over competition issues throughout all sectors of the economy. A 2005 version (unpublished) further "prohibited the government and its subordinate departments from promulgating rules eliminating or limiting competition," which was intended to prevent sectoral regulators from abusing their powers to provide preferential treatment to firms under their supervision (Harris, 2006, p.223; Harris et al., 2011, p.27).

The 2006 draft, however, shifted wildly from that position by subordinating the Anti-Monopoly Law to sector-specific laws and regulations (Harris, 2006, p.170). The 2006 draft granted the sectoral regulatory bodies primary responsibility over competition issues in regulated industries, with only a minor role left for the AMEA (Harris, 2006, pp.170-171). Article 44(1) of the 2006 draft stipulated that "If there are relevant laws and administrative regulations stipulating that the monopolistic conducts prohibited by this Law shall be investigated and handled by the relevant departments or supervisory organs, the laws and regulations are to be applied." (Harris, 2006, pp.222-223) Article 44 therefore gave these sectoral regulators the initial authority to investigate and apply special sectoral regulations to alleged anti-competitive conduct in industries and sectors governed by such special laws and regulations (Harris, 2006, p.171). Article 44(2) further stipulated that "Only in the event that such organs fail to conduct an investigation may the Anti-Monopoly Authority initiate an investigation." Even under these circumstances, the Authority must "consult with the relevant sectoral and industrial organs of the State Council." (Harris, 2006, p.171)

Article 44 sparked serious concerns over the effectiveness of the law, as the sectoral regulators have strong interests in protecting the regulated businesses, particularly the big SOEs (Ng, 2018, p.220). There is also concern from other WTO members that with an important part of the Chinese economy outside of the scope of the AML, the law may be used to target non-

Chinese entities such as multinationals with large market shares in China (Harris & Yang, 2005; Harris, 2006, p.171). This would go against the wish of the MOFCOM, who is charged with promoting foreign trade and investment, and treats the multinational corporations in China as its major business clients.

The opposition to exemptions for certain regulated or monopoly industries resulted in a wholesome deletion of the former article 44 in later drafts. However, no explanation was provided regarding the relation between the AMEA and industry-specific regulators, or the relation between the AML and the sectoral laws and regulations (Ng, 2018, pp.221-222). The final law is entirely silent on this hotly debated issue. According to the Law Committee's report on the revision of the second review draft, a resolution of this potential jurisdictional conflict would wait until after the State Council decided the composition and structure of the AMEA (Jiang, 2007). The fact that some sectoral laws and regulations (such as the Regulation on Telecommunications and Law on Commercial Banks) authorized the sectoral regulators to investigate and punish certain anti-competitive practices has caused confusion, calling for a clear delineation of jurisdictions in the new antitrust law (Wang, 2008, pp.146-157). However, the question of who has the decisive authority over competition issues in regulated industries, and which law to apply (the AML or the sectoral laws and regulations) were left unanswered in the final law (Ng, 2018, p.222; Wang & Zhang, 2007).

4.4 Competing Policy Goals and Substantive Ambiguity

4.4.1 Industrial Policy vs. Competition Policy

Due to their divergent missions, resources and expertise, the government ministries involved in antitrust legislation took different views about the proper goals and enforcement

mechanisms of the AML (Harris et al., 2011; Ng, 2018; Wang, 2008). They fell into two camps: industrial policy coalition versus competition policy coalition. Charged with industrial planning and upgrading, the NDRC and the MIIC would argue that the AML should not work against the notion of "zuoda zuoqiang" (做大做强, creating and fostering national champions). Overseeing state-owned assets, the SASAC would contend that the AML should not prevent SOEs from strengthening competitiveness through mergers. Responsible for foreign trade and investment, the MOFCOM would prefer a competition law compatible with international norms to reassure other WTO members and multinationals in China. Due to its close relationships with local Chinese businesses and industries, SAIC would suggest using the AML to protect domestic entities against their foreign competitors.[62]

Their divergent policy preferences not only shaped jurisdictional disputes about who should be empowered to enforce the law, but also drove debates of how the law should be enforced. The tension between industrial policy considerations and competition policy goals led to considerable debate about a key enforcement standard: the thresholds to be used for concentration and merger notification (merger review threshold) (Ng, 2018, p.234; Hu, 2007). The 2004 draft contained specific merger notification thresholds. Article 28 stipulated that a prior notification shall be filed with the MOFCOM where a concentration of undertakings meets any of the following standards: "1) the value of the transaction involved in the concentration or the total assets exceeds RMB 3 billion, the total assets of one party undertaking of the concentration in China's domestic market or total turnover exceeds RMB 1.5 billion, and the amount of merger

[62] See 国家工商总局公平交易局和反垄断处[Fair Trade Bureau and Anti-monopoly Division of the State Administration for Industry and Commerce], 在华跨国公司限制竞争行为表现及对策[The Competition Restricting Conduct of Multinational Companies in China and Countermeasures] (2004) 5 工商行政管理[Biweekly of Industry and Commerce Administration] 42 at 43.

or acquisition transaction exceeds RMB 50 million; 2) the value of the transaction for the concentration exceeds RMB 200 million; 3) a party participating in a concentration already has a 20% market share in China ; 4) Concentration will cause a participating party to reach 25% market share in China." By setting relatively low bars for notification, the 2004 draft sent a clear message that it would impose a strict standard for merger review. Article 28 embodies the interests of the competition policy coalition and gives MOFCOM broad control over merger decisions. The strict merger review standard would undoubtedly provoke opposition from the industrial policy coalition, worrying that Chinese companies would be prevented from becoming bigger and stronger through mergers, as a low threshold would increase the likelihood of not being approved (Hu, 2007).

Modifications of the notification thresholds provision in later drafts reflect an effort to balance the competing interests. The 2006 draft loosened the standard by including only one circumstance where notification is required: "all parties participating in a concentration have worldwide turnover in the previous year exceeds RMB 12 billion, and one of the parties has total turnover in China in previous year exceeding RMB 800 million." (Wang, 2008, p.139) Article 17 further provided exemptions for banking, insurance and other special industries from application of this standard, stipulating that "the State Council can set alternative notification standards for these industries." The adjusted threshold, however, did not end the dispute. Instead, policy debate intensified and spilled over into the public realm when the bill entered the NPC for review (Hu, 2007; Ng, 2018, p.234). It is likely that unsatisfied with the "balanced" decision on the merger notification threshold (Article 17 of the 2006 draft), the competition policy coalition led by MOFCOM used the NPC arena to seek allies and mobilize support from those who were excluded from the State Council arena. In the end, no substantive solution was provided. The

final law deleted the former article 17, without specifying the level or type of the threshold to be used for merger notification (Hu, 2007; Ng, 2018, p.235). Again, this thorny problem was deferred to the State Council arena for further discussion. In addition, a principle-like, vaguely contradicting pronouncement – article 7 – was added to the final law, serving as a superficial attempt to facilitate compromise between the competing policy coalitions to progress the law (Ng, 2018, p.231). Article 7(1) serves to reassure the industrial policy coalition by stating that "the industries controlled by the State-owned economy and concerning the lifeline of national economy and national security or the industries lawfully enjoying exclusive production and sales, the State shall protect these lawful business operations conducted by the business operators therein, and shall supervise and control these business operations and the prices of these commodities and services provided by these business operators, so as to protect the consumer interests and facilitate technological advancements"; while article 7(2) helps to allay concerns of the competition policy coalition by stipulating that "The business operators mentioned in the previous paragraph shall operate according to law, be honest, faithful and strictly self-disciplined, and accept public supervision, and shall not harm the consumer interests by taking advantage of their controlling or exclusive dealing position." (Ng, 2018, p.231) Despite its effort to smooth concerns of both sides, article 7 is nevertheless too vague to provide any practical guidance. These vague, aspirational statements, particularly in the absence of clear policy instructions, are subject to conflicting interpretations by various interested parties, "so long as an enforcement action could be said to serve one of the policy goals cited" (Harris & Yang, 2005, p.89).

4.5 Post-promulgation Stage: Delay and Fragmentation

The vague AML provided bureaucratic stakeholders with bargaining and interpretative space, resulting in delay of administrative regulation and fragmentation of departmental rule.

The makeup of the AMEA was deferred to the State Council for a decision. Though the legislative record hinted that NDRC, SAIC and MOFCOM would share the regulatory space, how to divide the antitrust authority continued to be a thorny problem. Instead of taking the initiative to work out the arrangement of the enforcement structure, the State Council delegated the three ministries to separately draft rules of their own duties, internal organization and staffing with respect to the AML enforcement (三定方案, hereafter San-Ding Rules), which are subject to inter-ministry review and leadership approval.[63] The decisional process involves intense bargaining between the three AML stakeholders and coordination efforts from the level above ministry, which spans more than one year on the State Council floor.[64] The San-Ding Rules for SAIC was released by the State Council a few days before AML's entry into force, while the AML duties for MOFCOM and NDRC were not spelled out until the law took effect.[65] Though a tripartite division of enforcement powers is ultimately confirmed by the three San-Ding Rules, there remains some uncertainty as to the precise allocation of responsibilities. For example, the division that NDRC and SAIC oversee price-related and non-price-related conduct respectively is not well-defined, since some cartels and abuses of a dominant position are likely to have both components and may fall under the jurisdiction of both agencies (Harris et al., 2011, p.281). The promulgated San-Ding Rules define each of their antitrust responsibilities in general terms and no guidance has been provided regarding the specific basis for distinguishing price-related

[63] See Wang Qishan may be appointed director of the Anti-Monopoly Commission, supporting rules are ready to be introduced [王岐山或任反垄断委员会主任 配套细则伺机出台]. (2008, August 2). *China Economic News* [中国经济网]. Retrieved from https://business.sohu.com/20080802/n258541735.shtml
[64] Ibid.
[65] Ibid.

conduct within NDRC's jurisdiction from other monopoly conduct that fall within SAIC's jurisdiction (Harris et al., 2011, p.280). The uncertainty and indeterminacy will create both overlapping and underlapping decision points (Gersen, 2006), which each of the ministries can exploit to their advantage.

Out of more than forty implementation regulations that were studied and drafted during the legislative stage, only one – Provisions on the Standard for Declaration of Concentration of Business Operators (hereafter the Provisions) – was promulgated by the State Council, on the day AML came into force (Liu, 2018). Policymaking of the Provisions resembles the AML legislative process, where a draft of 19 articles and 2171 words providing clear definitions, exceptions, standard, procedures and punishment against non-compliance was cut into a regulation with only 5 articles and 497 words.[66] It can be speculated that as a drafter and the enforcer of the Provisions, MOFCOM would prefer to have these implementation details inscribed in the State Council decree so as to bind other ministries, particularly the SASAC and industry regulators that have control over merger decisions in sectors and industries they oversee. The inter-agency review process, however, allowed these powerful stakeholders to water down MOFCOM's proposal. On one hand, the Provisions empowered MOFCOM to conduct anti-monopoly review and investigation of concentrations. On the other hand, the lack of implementation details created room for the industrial policy coalition to keep exerting influence over merger decisions through sectoral laws and regulations. Except the Provisions, no other implementation regulations were passed in the form of administrative regulation. The executive leadership either failed to or stopped trying to resolve issues such as the application of AML in

[66] Merger review threshold is lowered [“经营者集中”申报门槛降低]. (2008, August 5). *Oriental Morning Post* [东方早报]. Retrieved from http://finance.sina.com.cn/roll/20080805/10482361407.shtml

regulated industries and the relation between AMEAs and industry regulators. When the State Council was mired in gridlock and policy ambiguity remained, bureaucratic actors resort to a unilateral approach, resulting in the antitrust regulations promulgated in the form of departmental rule. The three AMEAs – NDRC, SAIC and MOFCOM – enacted numerous rules respectively on price-related monopoly conduct, non-price-related conduct, and merger review. On the other hand, industry regulators such as the MIIT keeps relying on sectoral-specific laws and regulations to promote industrial policy objectives (Ng, 2018). The delay of State Council decrees, coupled with continued ambiguity, allowed bureaucratic stakeholders to adopt their preferred policies at the cost of regulatory coherence.

The AML case reveals dynamics consistent with the proposed theory. The intense bureaucratic conflicts, coupled with international pressure to pass the AML, resulted in increased amount of ambiguity in the articulation of jurisdictional and substantive provisions in the drafting process. Unlike the MOFCOM-provided draft that was relatively clear in wording, addressed many critical issues and provided detailed instructions for application, the law finally promulgated lacks many of these qualities. Statutory ambiguity allows the competing actors to engage in policy bargaining and adopt their preferred interpretations in the post-promulgation stage, which enables policy power-sharing with units holding divergent preferences. Although the case study only relates to one law, it demonstrates mechanisms consistent with the theoretical framework and therefore helps to build the theory. Is the AML case representative of the population of interest? Chapter 5 addresses this question.

Chapter 4, in part, is currently being prepared for submission for publication of the material. The dissertation author was the sole author of this paper.

Chapter 5 Quantitative Analysis I: The Causes of Statute Ambiguity

What explains ambiguity in Chinese national statutes? I argue that statute ambiguity facilitates compromise between conflicting bureaucratic actors in the legislative process and helps overcome gridlock. Chapter 4 exemplifies the causal mechanism through a qualitative case study of the Anti-monopoly Law. In this chapter, I employ a quantitative method with large collections of legislative texts to systematically evaluate the proposed argument.

5.1 Data

In order to build a data set of laws to investigate statutory ambiguity in China, I start with 294 national statutes (165 laws, 75 amendments, 54 revisions) passed by NPC or NPCSC between 1993 and 2021. This excludes bills that were not listed on the legislative plans of the 8th-13th NPCSC, and bills for which the NPCSC deliberation reports could not be collected. In this chapter, I analyze ambiguity in the context of a core law enforcement mechanism: administrative sanction. Coders read all of the 294 bills in order to identify those containing administrative sanction articles. Administrative sanction, as used here, refers to any penalty, order or other means of enforcement imposed by administrative agencies upon an individual or entity for violating a law's provisions. In China, civil and criminal sanctions are enforced by the court and are excluded in this analysis.

My choice to limit the quantitative analysis to administrative sanctions, so defined, was guided by two considerations. First, this limitation would allow me to achieve consistent measures of ambiguity. Any administrative sanction article involves a comparable range of enforcement actions and pertains to the same type of delegation. Second, this limitation would allow me to capture two theoretically important dimensions of ambiguity. The theoretical

discussion in Chapter 2 and case analysis in Chapter 4 suggest that bureaucratic discord over bill content revolve around two aspects: 1) the jurisdictional aspect that concerns who shall implement a law, and 2) the substantive aspect that concerns what to do to implement a law. Administrative sanction embodies both elements. Administrative sanction articles are expected to prescribe punishable acts, penalties incurred and implementing bodies. Such information captures both the "who" and "how" questions, allowing me to construct measures of jurisdictional ambiguity and substantive ambiguity. I address this issue further below when I describe the data and how they were coded.

Of the 294 statutes, 208 contained administrative sanction articles. Each law was read in full in order to code the variables described below, which required identification of detailed information about the policy content and the articles governing implementation of the administrative sanction commands of each statute. To do so, I first developed a coding protocol with examples of application that capture the ambiguity variables described below.[67] Next I recruit a team of research assistants to read and code each law independently of each other. After they completed coding, they checked each other's work for inconsistencies. Then we together spent time adjudicating these inconsistencies.

5.2 Measuring Ambiguity of Administrative Sanctions

5.2.1 Jurisdictional ambiguity

As discussed, jurisdictional ambiguity captures the level of ambiguity regarding who will receive the power to implement administrative sanction commands. I create a variable

[67] See the Appendix.

jurisdictional ambiguity. For each law, I identify and count each separate administrative sanction article, resulting in a sum of the number of sanction articles. For each sanction article in each law, coders recorded whether governmental entity responsible for implementing each command is clearly defined. *Jurisdictional ambiguity* is 0 when a sanction article delegates implementation to: a) a specifically named entity, or b) multiple named entities, each responsible for enforcing different tasks (penalties).[68] *Jurisdictional ambiguity* is 1 when whom to implement a command is uncertain. This happens when a sanction article contains delegation to: a) unnamed entity(ies), such as "relevant authority(ies)," "other authority(ies)," or "authority(ies) designated by the State Council/local people's government," b) multiple named entities, for enforcing the same penalty(ies), c) named entity(ies) together with/or some unnamed entity(ies). I then calculated the *jurisdictional ambiguity ratio*, which is the sum of *jurisdictional ambiguity* values in each law, divided by the total number of administrative sanction articles in each law. Higher values indicate higher levels of jurisdictional ambiguity for administrative sanctions.

$$Jurisdictional\ ambiguity\ ratio = \frac{Sum\ of\ jurisdictional\ ambiguity\ values}{Number\ of\ administrative\ sanction\ articles}$$

5.2.2 Substantive ambiguity

Substantive ambiguity captures the level of ambiguity regarding what penalty(ies) shall be imposed upon the violating party. I create a variable *substantive ambiguity*. Coding took two

[68] An administrative sanction article may require two or more named government agencies to each carry out a different penalty command. For example, article 80 of the 2019 Vaccine Administration Law requires that where the produced or sold vaccine falls under counterfeit drugs, or the produced or sold vaccine falls under inferior drugs, the medical products administration of the people's government shall confiscate the income and impose a fine, and the public security organ shall detain the person in charge. *Jurisdictional ambiguity* is 0 in this context. This should be distinguished from cases where an article requires two or more named government agencies to implement a same penalty command. For example, article 90 of the 2021 Yangtze River Protection Law requires that where this Law is violated by transporting acutely toxic chemicals by water or other dangerous chemicals of which the transportation by inland river is prohibited under the provisions issued by the state in the Yangtze River Basin, the local transport department or maritime safety agency shall order the violator to take corrective actions, confiscate its illegal income, and impose a fine. Jurisdictional ambiguity is 1 in this case. See also the Appendix.

steps. First, coders read each administrative sanction article and recorded whether certain type of penalty is provided. According to the Administrative Penalty Law, common forms of penalties include: 1) rectification order; 2) warning; 3) fine, confiscation of illegal gains/property; 4) suspension or revocation of license; 5) suspension of production and business, closure of business; 6) administrative detention.[69] Coders refer to this menu to identify any type of penalty. Second, coders recorded whether such penalty, if provided, is mandatory. A sanction article may specify certain types of penalty but provide them as options, granting the enforcement agency(ies) discretion over whether, when and which to apply. *Substantive ambiguity* is 0 if a sanction article is mandatory that it requires the enforcement agency impose the prescribed type(s) of penalty for a conduct that violates the law. *Substantive ambiguity* is 1 if a sanction article contains any command that does not prescribe any particular form of penalty, or the penalty provided is optional. This measurement did not take into account portions of the command amplifying the scope or range of a penalty, such as the time limit for rectification, the amount of fines, the calculation of illegal gains, the days of detention, etc. Though such information captures other dimensions of substantive ambiguity for sanctions, it complicates the measurement and coding process. For reasons of simplicity, coding of the *substantive ambiguity* variable did not consider a penalty's scope, range and other high-dimensional information. It also did not take into account materials stipulating procedural requirements of implementing the sanction command, such as case-filing, evidence collection, and legal review. Administrative procedures as such do not contain substantive information about what penalty shall be imposed

[69] This is not intended as an exclusive list since the Administrative Penalty Law also allows "other administrative penalties as prescribed by laws and administrative regulations". The list is therefore used as a reference for coding.

in each sanction command. As discussed in Section 2.2 in Chapter 2, procedural elements often do not involve the interests at stake and are not at the center of bureaucratic policy contestation.

I then calculated *substantive ambiguity ratio*, which is the sum of *substantive ambiguity* values in each law, divided by the total number of administrative sanction articles in each law. Higher values indicate higher levels of substantive ambiguity for administrative sanctions. In the Appendix, I provide further discussion of how we coded administrative sanction articles with examples. Figure 5.1 shows the density curves of jurisdictional ambiguity ratio and substantive ambiguity ratio.

$$Substantive\ ambiguity\ ratio = \frac{Sum\ of\ substantive\ ambiguity\ values}{Number\ of\ administrative\ sanction\ articles}$$

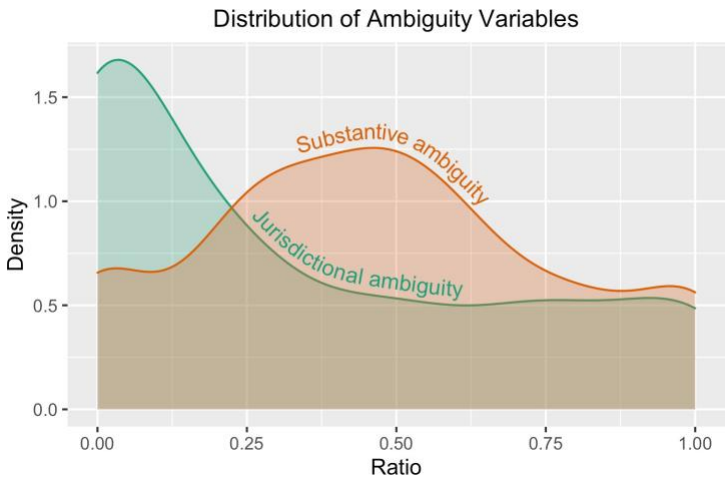

Figure 5.1: Distribution of ambiguity variables

5.3 Measuring Bureaucratic Policy Conflict

Identifying bureaucratic discord in lawmaking requires substantive understanding of the legislative process for each statute. However, the pre-NPC stage is often too opaque to reliably discern where each actor stands on a given law. Considering the distinct difficulty in directly

measuring this concept at scale, I rely on two proxy variables: *bureaucratic units* and *comments-article ratio*.

5.3.1 Bureaucratic Units

I adopt Truex (2020)'s measurement strategy and use a loose proxy for the number bureaucratic actors involved in the process of lawmaking. The idea is based on the bureaucratic-centered account of regime elites in Chapter 2. When more bureaucratic actors are involved in formulating and reviewing a bill, each aiming to promote their own mission and policy agenda, the more contentious the legislative process will be. I use information in the explanations of draft laws presented to the NPC/NPCSC and the Law Committee's reports on revision and deliberation results to create a variable *bureaucratic units*. *Bureaucratic units* is the number of different bureaucratic units (functional bureaucracies and territorial administrations at the ministerial-provincial level) that participated in drafting, deliberation, revision and made comments (Truex, 2020). Bills for which such information could not be collected were excluded (41), leaving 167 bills ultimately included for analysis.

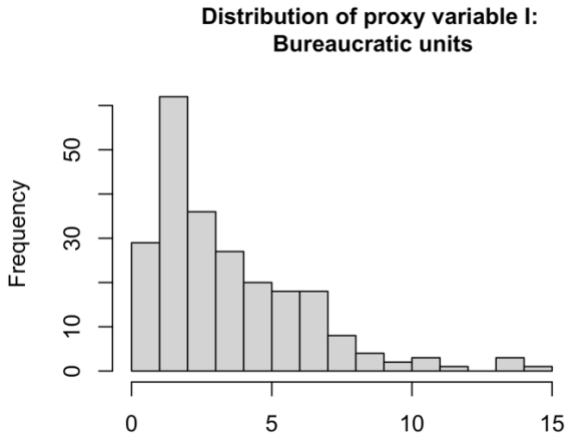

Figure 5.2: Distribution of bureaucratic units

5.3.2 Comments-article ratio

To complement *bureaucratic units*, I develop another proxy variable that captures the level of bureaucratic debate on the legislative floor, *comments-article ratio*. The idea is that the more bureaucratic actors are unsatisfied with the content of an introduced bill, the more comments they will make during the course of NPC/NPCSC review. I thus count the total number of different bureaucratic comments recorded in the Law Committee's reports for each bill. As longer drafts are subject to more comments than shorter texts (Noble, 2020), I divide the number of bureaucratic comments by the number of articles of introduced draft for each bill, generating the *comments-article ratio*. Figure 5.2 and Figure 5.3 show the distributions of *agencies* and *comments-article ratio.*

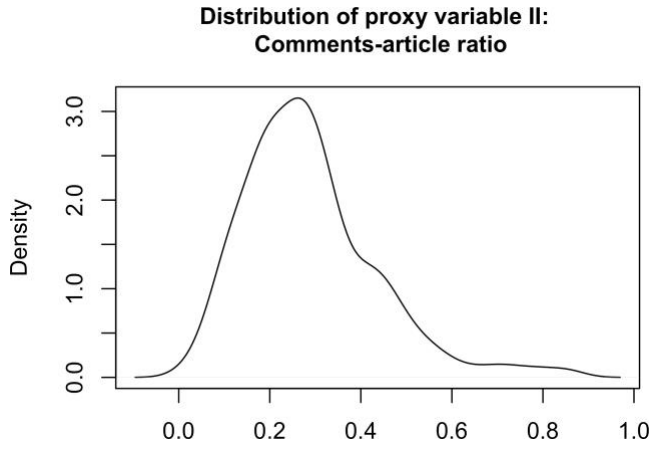

Figure 5.3: Distribution of comments-article ratio

5.4 Control Variables

What other factors may drive variation in the amount of ambiguity? One alternative explanation is that statutory vagueness can result from a lack of time. The idea is that the less time spent on writing a piece of legislation, the more likely the law will end up being vague. I therefore include the length of time it took for a bill to pass as a control. *Total days* is calculated as the number of days between a law's first entry into an NPCSC Legislative Plan and its

subsequent passage. *NPC days* captures the length of time a particular bill is considered on the NPC floor, which is calculated as the number of days between bill introduction into the NPC/NPCSC and its subsequent passage. However, it bears noting that the length of time itself is driven by a large variety of factors, such as policy complexity, urgency of the issue, legislator scrutiny, as well as the time taken by bureaucratic debate, bargaining and negotiation in the lawmaking process. Previous work studying lawmaking in China do find that bureaucratic division can lead to legislative delay (Truex, 2020; Yu & Yang, 2022). As the length of time could be correlated with the explanatory variable, including *total days* and *NPC days* may cause problems when interpreting the results. I thus assess multicollinearity with Variance Inflation Factors (VIF) to identify potential correlation between these variables and the strength of that correlation. I find that the VIF for the two variables capturing the amount of time spent are about 1.4, which indicates some moderate correlation, but not enough to be overly concerned.[70]

In terms of issue urgency, Truex (2020) finds that heightened citizen attention could speed up the legislation. My case study research shows that the regime also faces pressure from international audience to signal resolve and commitment through legislation. Regardless of where and how these external pressures of legislation arise, I expect them to appear on the party agenda to be officially stamped as "priority." *Party agenda* equals to 1 if legislation of a law was mentioned in the documents released by the Party Central Committee or its General Office (中发文, 中办发文), and 0 otherwise. Bills included in the apex party documents are likely to move

[70] VIFs start at 1 and have no upper limit. A value of 1 indicates that there is no correlation between this independent variable and any others. VIFs between 1 and 5 suggest that there is a moderate correlation, but it is not severe enough to warrant corrective measures. VIFs greater than 5 represent critical levels of multicollinearity where the coefficients are poorly estimated, and the p-values are questionable. See https://www.statisticshowto.com/variance-inflation-factor/

faster in the legislative process. I also control for other legislative characteristics. *NPC committees*, the number of NPC special committees participated in deliberation. *Organizational sponsor* is the organ submitting the bill for deliberation or the drafting unit provided in the NPCSC legislative plans. In addition, I include a number of law characteristics. *Word length* is the number of words a passed law has. *Legislation type* is 1 if the passed bill is a new law, and 0 otherwise (amendments or revisions). *Year* is the year of enactment. The nature of policy areas a law oversees may also affect my ambiguity measures. I assign each law a policy code and include a set of 8 *policy area* dummy variables. Finally, I include a political-institutional variable: *NPC term*. Figure 5.4 shows the distribution of *policy area*.

Table 5.1: Descriptive statistics

	Mean	SD	Min	Max
Ambiguity Variables				
Jurisdictional Ambiguity Ratio	0.32	0.36	0	1
Substantive Ambiguity Ratio	0.47	0.31	0	1
Explanatory Variables				
Bureaucratic Units	4.35	2.75	1	15
Comments-article Ratio	0.29	0.15	0.02	0.85
Legislative and Bill Characteristics				
Total Days	1606.97	1831.23	0	9997
NPC Days	268.45	276.56	4	2022
Party Agenda	0.26	0.44	0	1
NPC Committees	0.94	0.46	0	2
Word Length	7698.93	4381.54	1003	30363
Administrative Sanctions	9.68	10.34	1	84
Legislation Type (Law)	0.54	0.50	0	1
Year	2009	8.68	1993	2021
NPC term	10.82	1.75	8	13

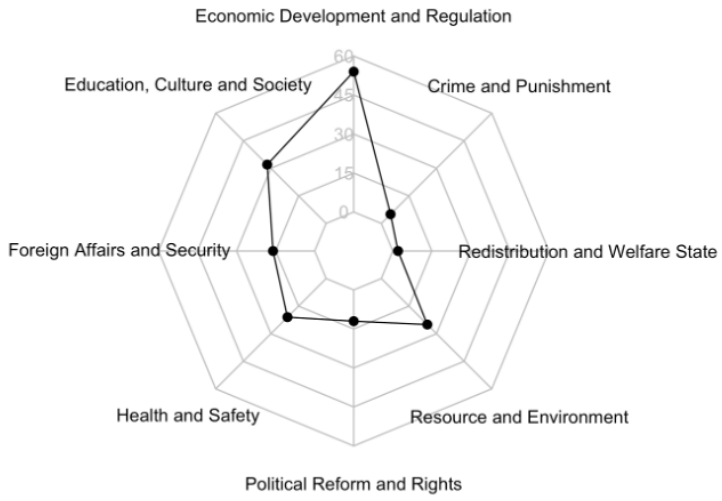

Figure 5.4: Distribution of policy areas

5.5 Results

Descriptive statistics are presented in Table 5.1. My dependent variables measuring ambiguity are binomial proportions, and I analyze them using logistic regression models, with weights equal to the number of administrative sanction commands. Table 5.2 shows the results with jurisdictional ambiguity variable. The four models test the jurisdictional ambiguity hypothesis. Table 5.3 shows the results with substantive ambiguity variable. The four models test the substantive ambiguity hypothesis. In both tables, model (1) and model (3) present regression results with only the independent variable (*Bureaucratic units* or *Comments-article ratio*) testing the ambiguity hypotheses. Model (2) and model (4) include coefficients with standard errors for control variables.

Bureaucratic units (log) is significant in both tables, indicating that the more bureaucratic agencies involved in the lawmaking process, the more ambiguous it is regarding who will carry out sanctions and what particular penalty shall be imposed. *Comments-article ratio* is also

significant, indicating that the more comments relative to draft length, the more ambiguous it is regarding who will carry out sanctions and what penalty shall be imposed. Overall, the main results are consistent with the proposed argument.

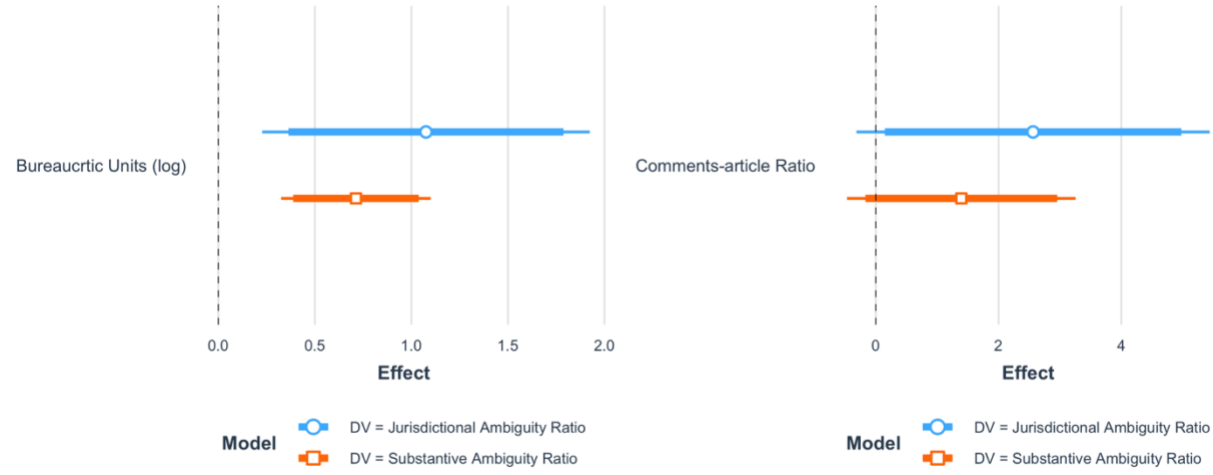

Figure 5.5: Effect of bureaucratic conflict on statute ambiguity

Notes: Included in the regressions are control variables discussed in Section 5.4. X-axis refers to the estimated effect. 95% (90%) confidence intervals constructed are in thick (thin) lines.

Party agenda is significant in both tables, suggesting that a spot on the party agenda is positively associated with higher level of jurisdictional ambiguity and substantive ambiguity of administrative sanction delegations. *Word count* (log) is also significant. The negative coefficients suggest that longer bills contain more details and are thus less likely to contain vague statements about who and how to implement administrative sanction commands.

Table 5.2: Bureaucratic conflict and jurisdictional ambiguity

	Dependent Variable: *Jurisdictional Ambiguity Ratio*			
	Conflict=Bureaucratic units (log)		Conflict=Comments-article ratio	
	(1)	(2)	(3)	(4)
Bureaucratic Conflict	1.169***	1.075***	2.802***	2.496**
	(0.112)	(0.135)	(0.371)	(0.486)
Party Agenda		0.550**		0.618***
		(0.146)		(0.153)
Total Days (log)		0.104*		0.006
		(0.036)		(0.036)
NPC Days (log)		0.067		−0.135
		(0.072)		(0.079)
NPC Committee (log)		−0.341		0.543
		(0.299)		(0.320)
Word Count (log)		−1.027**		−0.421*
		(0.148)		(0.204)
Legislation Type: Law		−0.181		−0.001
		(0.147)		(0.153)
Year		0.006		0.027*
		(0.010)		(0.011)
Policy Fixed Effects		√		√
Term Fixed Effects		√		√
Observations	167	167	135	135
Note:				*p<0.05; **p<0.01; ***p<0.001

Table 5.3: Bureaucratic conflict and substantive ambiguity

	Dependent Variable: *Substantive Ambiguity Ratio*			
	Conflict=Bureaucratic units (log)		Conflict=Comments-article ratio	
	(1)	(2)	(3)	(4)
Bureaucratic Conflict	0.816***	0.713***	1.506***	1.334**
	(0.080)	(0.125)	(0.361)	(0.450)
Party Agenda		0.498***		0.497***
		(0.136)		(0.144)
Total Days (log)		0.005*		−0.043
		(0.029)		(0.031)
NPC Days (log)		0.021		−0.098
		(0.064)		(0.070)
NPC Committee (log)		−0.155		0.206
		(0.275)		(0.297)
Word Count (log)		−0.650***		−0.516*
		(0.128)		(0.182)
Legislation Type: Law		0.042		0.167
		(0.133)		(0.142)
Year		0.002		0.014
		(0.009)		(0.010)
Policy Fixed Effects		√		√
Term Fixed Effects		√		√
Observations	167	167	135	135
Note:				*p<0.05; **p<0.01; ***p<0.001

The quantitative analyses allow me to establish cross-bill patterns in legislative text outcomes that reflect my argument's logic in more diverse cases. These results provide a broader context for the AML case analyzed in Chapter 4, suggesting that the causal mechanisms proposed are not unique to this selected bill. Proxy variables measuring bureaucratic division in lawmaking all contribute to my measures of statute ambiguity, which are consistent with the proposed theory that bureaucratic policy conflict results in final laws being vague on jurisdictional matters as well as substantive issues. Also, it is worth noting that both division variables have larger effect size on the jurisdictional ambiguity variable than on the substantive

ambiguity variable, indicating a stronger relationship between bureaucratic conflict and the amount of jurisdictional ambiguity. There are two possible explanations. First, bureaucratic conflicts in lawmaking are mostly turf battles and less about policy substance. The need to reconcile this type of disputes results in a higher level of jurisdictional ambiguity. Second, elite conflicts in lawmaking revolve around both turf issues and substantive policy matters. But political actors have a larger stake in fighting for policy turfs and are less willing to make concessions on jurisdictional issues than on policy substance. In other words, jurisdictional disputes are more likely to cause bureaucratic impasse in the legislative process. The desire to pin down jurisdictional details can antagonize potential losers within the system and instigate further turf battles, making the law harder to pass. But the difficulty in distinguishing different types of bureaucratic conflict at scale has limited my ability to systematically evaluate these two possible mechanisms. At last, readers should keep an important caveat in mind when interpreting the results. The variables developed to measure statute ambiguity do not constitute a comprehensive assessment, given that they are constructed using administrative sanction articles of each statute. This leaves out other provisions of a law and is done for reasons of analytical simplicity and consistency.

Chapter 5, in part, is currently being prepared for submission for publication of the material. The dissertation author was the sole author of this paper.

Chapter 6 Quantitative Analysis II: The Consequences of Statute Ambiguity

How does statute ambiguity affects the post-promulgation policymaking process? I argue that in China, ambiguity in law will increase the likelihood of delay of administrative regulations and fragmentation of departmental rules. At the end of Chapter 4, I provide some suggestive evidence through a qualitative exploration of the post-legislative policy processes of the AML. In this chapter, I employ a quantitative approach using data sets of implementation regulations and rules to evaluate the proposed argument.

6.1 Delay of Administrative Regulations

6.1.1 Data

As discussed in Chapter 3, administrative regulations are enacted by the highest state administrative organ, the State Council. They are secondary legislation and shall be subordinate and complementary to national statutes enacted by the NPC and its Standing Committee. One of the major purposes of administrative regulations is to enforce national statutes. In addition, administrative regulations could be enacted to exercise the functions and powers of the State Council as set out in article 89 of the Constitution. Article 89 of the Constitution contains a wide range of broadly defined areas of activities that the State Council oversees, allowing the State Council to enact administrative regulations that cover almost all aspects of political, social and economic life in China. I start with 1047 administrative regulations enacted between 1993 and 2017 that we collected from the pkulaw website (www.pkulaw.cn), a comprehensive repository of Chinese laws and regulations. To identify administrative regulations that were developed to enforce national statutes and to create consistent measures, I focus on administrative regulations with a pattern of "for the implementation of 'xxx Law' " in their titles. These include

administrative regulations that are named “Regulation for the Implementation of ‘xxx Law’ ”(xx 法实施条例), “Measures for the Implementation of ‘xxx Law’ ”(xx 法实施办法) and “Detailed Rules for the Implementation of ‘xxx Law’ ”(xx 法实施细则). It bears noting that these administrative regulations are considered comprehensive regulations to implement their respective statutes. Yet not all administrative regulations with the purpose to implement statutes are titled as such. Some might not contain law names in their titles because they are developed to implement certain provisions of statutes. For the purpose of analytical simplicity and consistency, here I only include these “comprehensive” implementation regulations and exclude the “partial” ones. Using the pattern “for the implementation of ‘xxx Law’ ,” I identify 78 administrative regulations promulgated to comprehensively enforce national statutes. Of the 78 administrative regulations, I matched each regulation to a national statute using information in its title and its enacting date. As the regulation data contains new regulations as well as amended ones, there are cases where more than one regulation match the same statute. That is to say, not every amendment of regulation follows the amendment of statute. In such cases, I compared the enacting dates of the statute and the regulations and kept the earlier regulation. For example, both the 2000 amendment of and the 2005 amendment of the “Detailed Rules for Implementation of Statistics Law” are matched to the 1996 amendment of the Statistics Law. According to the chronological order, the 2005 amendment of the ‘Detailed Rules for Implementation of Statistics Law” were excluded. This leaves 62 administrative regulations ultimately included for analysis.[71]

[71] This approach does not capture cases where a statute requires the State Council to enact an administrative regulation to comprehensively implement the statute, but the State Council never enacted one. Readers should keep this caveat in mind when interpretating the results.

Measuring velocity. The outcome of interest is administrative regulation velocity – time taken for an administrative regulation to pass. I consider the promulgation date of the matched statute as the starting point. I develop two measures to capture this outcome of interest. The first is *Duration*. I calculated the number of days between the passage of matched statute and the passage of administrative regulation and then converted it into year format. *Duration* is the number of years for a regulation to pass. Figure 6.1 shows the distribution of *Duration*. The second is *Delay*. *Delay* is 1 if the regulation is not passed one year after the matched statute takes effect, and 0 otherwise.

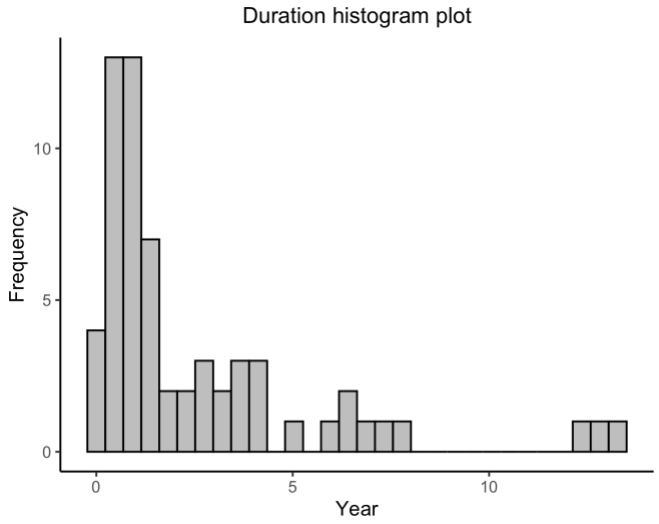

Figure 6.1: Distribution of duration

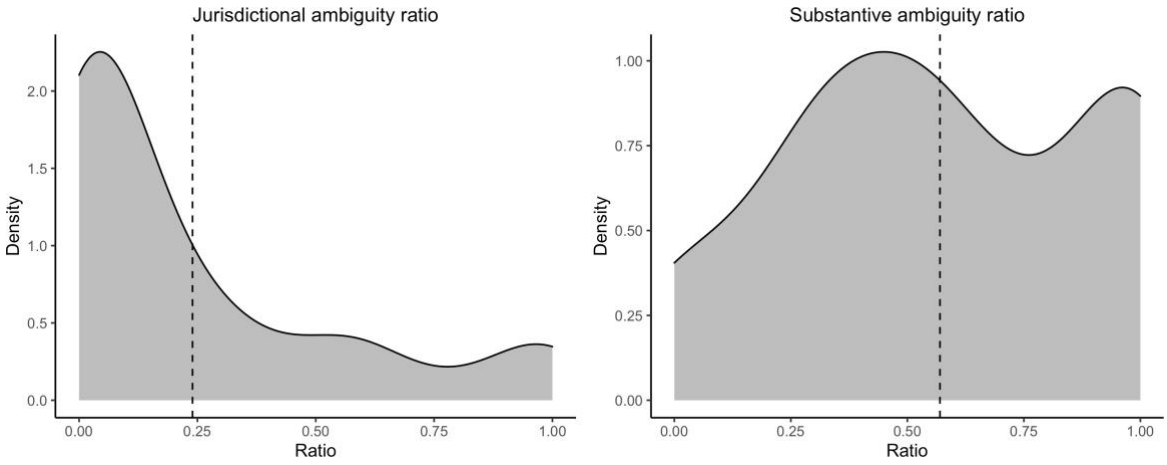

Figure 6.2: Distribution of statute ambiguity variables

Notes: Included are 62 statutes matched to the administrative regulations that were promulgated to comprehensively implement statutes.

***Independent and control variables*.** The explanatory variables are levels of statute ambiguity. Figure 6.2 displays the density curves for jurisdictional ambiguity ratio and substantive ambiguity ratio of the 62 matched statutes. I consider other factors that might affect regulation velocity. It is likely that Party or State Council leadership prioritizes certain implementation regulations, accelerating their velocity. I create two measures to take prioritization into account. The first is *Party agenda*, which is 1 if a regulation is mentioned in any document released by the Party Central Committee or its General Office (中发文, 中办发文) before its passage, and 0 otherwise. The second is the *State Council plan*, which is 1 if a regulation is listed as a category I project in an annual legislative plan of the State Council, and 0 otherwise. In addition, regulation characteristics and matched statute characteristics may be associated with regulation velocity. *Regulation word length* and *Law word length* are the number of words a regulation has and its matched statute has respectively. *New regulation* is 0 if a regulation is an amended version and 1 otherwise. *New law* is 0 if a matched statute is an

amended version and 1 otherwise. *Law year* is the year of enactment of the statute. The nature of policy areas regulated in a regulation may also be associated with the length of time taken to pass an implementation regulation. I assign each regulation a policy code and include a set of 9 policy area dummy variables denoted as *Policy area*. Descriptive statistics are presented in Table 6.1.

Table 6.1: Descriptive statistics: administrative regulations promulgated to implement laws, 1993-2017

	Mean	SD	Min	Max
Administrative regulation velocity				
Duration (year)	2.52	3.07	0.04	13.31
Delayed	0.47	0.50	0	1
Prioritization				
Party agenda	0.05	0.22	0	1
State Council plan (category I)	0.37	0.49	0	1
Administrative regulation characteristics				
Regulation word count	2209.55	1049.18	940	4655
New regulation	0.55	0.50	0	1
Statute ambiguity				
Jurisdictional ambiguity ratio	0.24	0.31	0	1
Substantive ambiguity ratio	0.57	0.33	0	1
Statute characteristics				
Law word count	5960.06	3626.09	1194	14557
New law	0.29	0.46	0	1
Law year	2002.76	8.22	1993	2016

6.1.2 Results

The two dependent variables measuring administrative regulation velocity come in different forms. *Duration* is continuous while *Delay* is categorical (binary). I thus analyze the former using ordinary least squares regression and the latter using logistic regression. Table 6.2 presents the main results of OLS models with *Duration* and Table 6.3 presents the main results of logistic models with *Delay*. For both tables, jurisdictional ambiguity is significant with the expected sign in all models, and the magnitude of the effect is somewhat reduced by inclusion of the controls. Higher levels of jurisdictional ambiguity in law are associated with slower pace of

producing administrative regulations. This indicates that due to statute ambiguity, jurisdictional disputes unresolved in the NPC/NPSC arena (re)open in the State Council arena and delay the passage of administrative regulations. Figure 6.3 and Figure 6.4 visualize the correlations. While substantive ambiguity of statutes is insignificant in Table 6.2 and Table 6.3, suggesting that my measure of the level of substantive ambiguity is not associated with the velocity of administrative regulations.

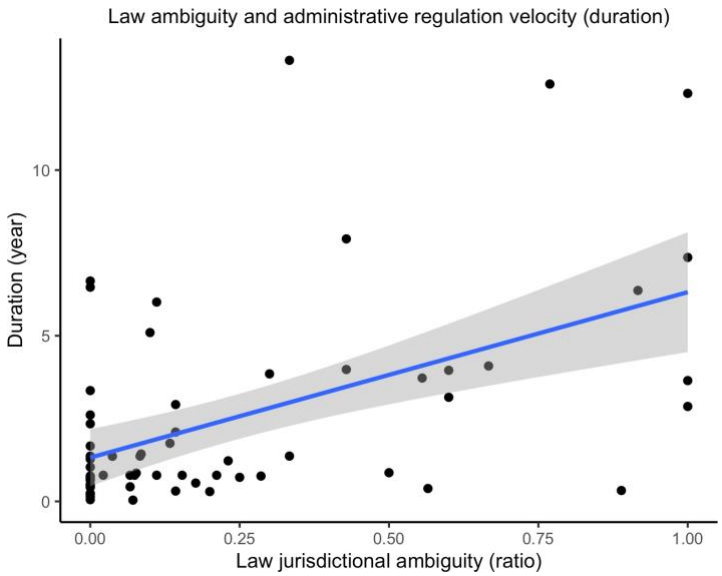

Figure 6.3: Law ambiguity and administrative regulation (duration)

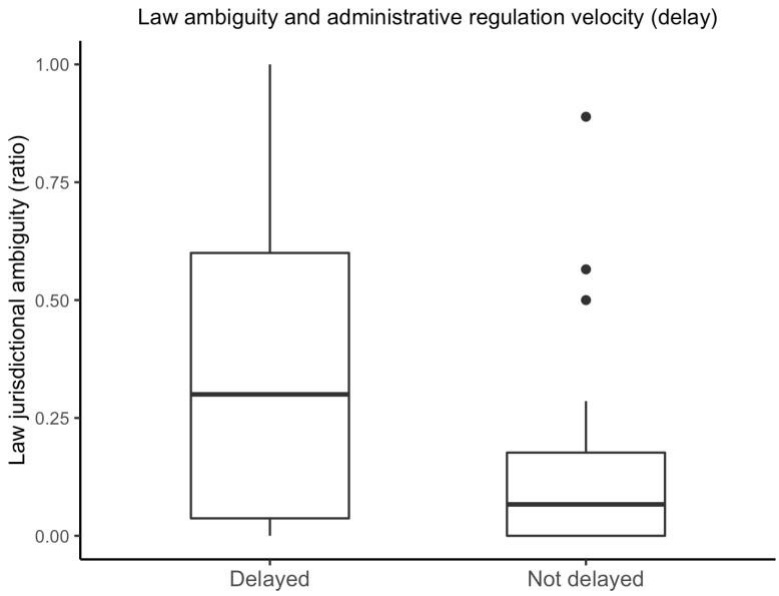

Figure 6.4: Law ambiguity and administrative regulation velocity (delay)

Model (2) and (4) in both tables also include coefficients with standard errors for control variables. Neither *Party agenda* nor *State Council plan* is significant, suggesting that inclusion on the Party or State Council agenda is not associated with faster passage of administrative regulations. Regulation and law characteristics such as word length (logged), type of legislation, and year of enactment are also insignificant.

While interpreting the results, readers should bear in mind that it only provides a preliminary quantitative evaluation of the velocity argument. First, for reasons of analytical simplicity and consistency, I limit the study to a particular type of administrative regulations (法律实施条例、办法、细则) to construct consistent measures of velocity. As discussed above, not all administrative regulations developed to enforce statutes contain law names in their titles. This limitation leaves out the “partial” implementation regulations. Second, unpassed administrative regulations are not considered. It is likely that some efforts were under way to

formulate an implementation regulation but it never got passed due to impasse. As there is generally no information available for unpassed regulations given the opacity of the State Council policy process, I limit the analysis to only passed regulations. Third, the explanatory variables developed to measure statute ambiguity are not comprehensive measures. As discussed in Chapter 5, the jurisdictional and substantive ambiguity ratios are constructed using administrative sanction articles. This is done for reasons of analytical simplicity and consistency, but they do not constitute a comprehensive assessment of the amount of ambiguity of a law.

Table 6.2: Statute ambiguity and administrative regulation velocity (duration)

	Dependent Variable: Duration (year)			
	Ambiguity = jurisdictional ambiguity ratio		Ambiguity = substantive ambiguity ratio	
	(1)	(2)	(3)	(4)
Statute ambiguity	4.994***	4.729**	0.496	0.370
	(1.102)	(1.097)	(1.295)	(1.513)
Party agenda		−2.378		−2.655
		(1.847)		(2.078)
State Council plan		0.484		0.575
		(0.838)		(1.012)
Regulation word count (log)		1.111		0.629
		(1.306)		(1.526)
New regulation		−0.588		−0.800
		(0.858)		(1.063)
Law word count (log)		−0.247		−0.397
		(0.858)		(0.911)
New law		0.307		1.348
		(1.154)		(1.443)
Law year		−0.023		−0.002
		(0.054)		(0.069)
Policy Fixed Effects		√		√
Observations	62	62	62	62
R^2	0.255	0.443	0.003	0.316
Note:				*p<0.05; **p<0.01; ***p<0.001

Table 6.3: Statute ambiguity and administrative regulation velocity (delay)

	Dependent Variable: Delay			
	Ambiguity = jurisdictional ambiguity ratio		Ambiguity = substantive ambiguity ratio	
	(1)	(2)	(3)	(4)
Statute ambiguity	0.635**	0.589*	−0.068	−0.231
	(0.193)	(0.253)	(0.207)	(0.222)
Party agenda		−0.390		−0.417
		(0.278)		(0.305)
State Council plan		0.075		0.120
		(0.130)		(0.148)
Regulation word count (log)		−0.141		−0.172
		(0.202)		(0.224)
New regulation		−0.215		−0.262
		(0.133)		(0.156)
Law word count (log)		−0.045		−0.058
		(0.110)		(0.134)
New law		−0.034		0.048
		(0.178)		(0.212)
Law year		−0.014		−0.011
		(0.008)		(0.010)
Policy Fixed Effects		√		√
Observations	62	62	62	62
R^2	0.154	0.506	0.002	0.424
Note:				*p<0.05; **p<0.01; ***p<0.001

6.2 Fragmentation of Departmental Rules

6.2.1 Data

As discussed in Chapter 3, departmental rules are enacted by State Council departments. They are the most pervasive form of national level legislation. Their legal status is lower than national statutes and administrative regulations. According to article 80(2) of the Legislation Law, the purpose of departmental rules is to enforce statutes or administrative regulations,

decisions, and orders of the State Council. Unlike administrative regulations promulgated to implement statutes, departmental rules generally do not contain law names in their titles. Instead, a departmental rule provides law information in its first article if it is enacted to implement a particular statute or certain provision of a statute. I start with 9685 departmental rules enacted between 1993 and 2017 collected from the pkulaw website. To capture the particular type of departmental rules developed to enforce statutes for my analysis, I identify rules that contain a law name in their first article. I first produce a list of law names for statutes promulgated between 1993 and 2012. I then extract the first article of each departmental rule. I use the list of law names to search for matches in the first articles and identify departmental rules that include such a match. To ensure the measurement is consistent across rules and laws, I limit my focus to new laws and matched single-issued departmental rules that cite a new law within five years from that law's date of promulgation. I exclude amendments of law and departmental rules that are issued jointly by two or more departments. This leaves 121 laws with their matched 2164 departmental rules ultimately included in my analysis.[72] The goal is to examine whether the level of statute ambiguity affects the level of fragmentation of departmental rulemaking and the unit of analysis is law.

***Measuring fragmentation*.** Using this data, I develop two measures of fragmentation. The first is *Enacting agencies count*. For each included law, I produce a list of matched departmental rules (rules that cite the law in their first articles) and count the number of different enacting agencies of these rules, generating the *Enacting agencies count*. The second is *Enacting agencies concentration*. Are departmental rules enacted to implement a particular law dominated

[72] Laws without any matched departmental rule or with matches that do not fall into the stated category (e.g. departmental rules not issued within the five-year period) are included and labeled as zero.

by one or two agencies, or are there relative dispersion and competition among enacting bodies? I calculate the Herfindahl-Hirschman Index (HHI) across enacting agencies using the matched departmental rules for each law. HHI has been used extensively in economics to parse out market share held by various companies and to measure market concentration. Here is a "policy market" where the State Council departments compete to influence policy in the post-legislative stage. For each law, HHI is calculated by squaring the matched departmental rule share of each enacting agency and then summing the resulting numbers. The ones with zero departmental rules are thus excluded, leaving 95 laws with valid HHI values. The lower the HHI, the more dispersed the enacting agencies are and the more competitive the "policy market" is. I then divide the HHI value by 1000 for each law and generate the *Enacting agencies concentration*. Figure 6.5 shows the distribution of *Enacting agencies count* and *Enacting agencies concentration*.

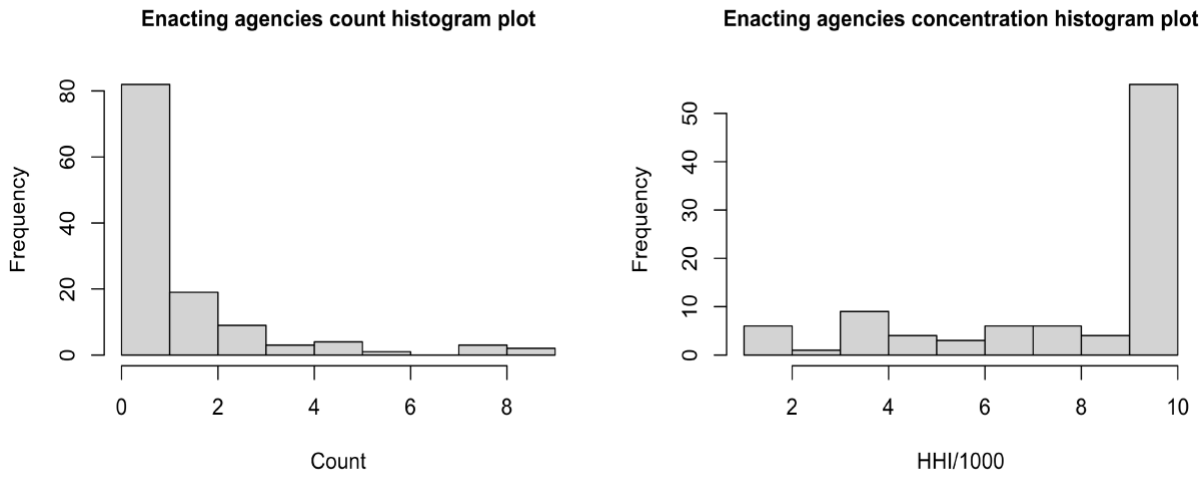

Figure 6.5: Distribution of fragmentation variables

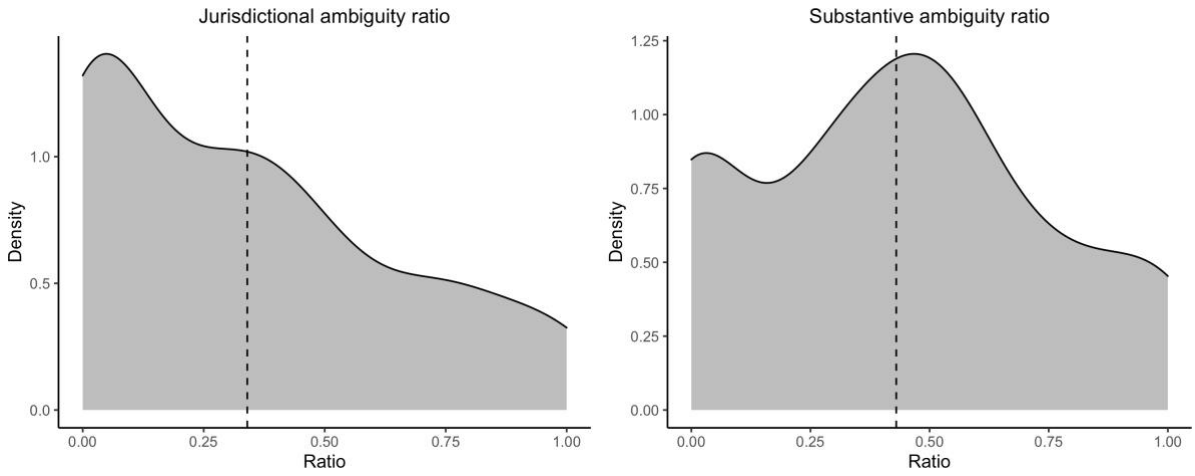

Figure 6.6: Distribution of statute ambiguity variables

Notes: Included are 121 statutes matched to the departmental rules enacted to implement statutes.

***Independent and control variables*.** The explanatory variables are levels of statute ambiguity. Figure 6.6 displays the density curves for jurisdictional ambiguity ratio and substantive ambiguity ratio of the 121 included statutes. I consider other factors that might be associated with fragmentation of departmental rules. Fragmentation could simply be a result of delegation to multiple named agencies provided by a law. I count the number of different agencies delegated to make rules and the number of different agencies delegated to impose penalty for each included law, generating *Agencies delegated to make rule* and *Agencies delegated to impose penalty* respectively. I also control for *Agencies delegated to make rule and impose penalty*, which is a count of different agencies delegated to make rule and impose penalty for each included law. In addition, I count the number of *rulemaking and sanction delegations* provided by each law. Other law characteristics include *Law word length*, *Law year* and *Policy area*. Descriptive statistics are presented in Table 6.4.

Table 6.4: Descriptive statistics: departmental rules enacted to implement new laws (within 5 post-law-promulgation years), 1993-2017

	Mean	SD	Min	Max
Fragmentation of departmental rules				
Enacting agencies count	1.62	1.87	0	9
Enacting agencies concentration (HHI/1000)	7.95	2.84	1.25	10
Statute ambiguity				
Jurisdictional ambiguity ratio	0.33	0.31	0	1
Substantive ambiguity ratio	0.44	0.31	0	1
Statute characteristics				
Agencies delegated to make rule	0.73	0.83	0	6
Agencies delegated to impose penalty	1.43	1.13	0	6
Agencies delegated to make rule and impose penalty	2.38	1.80	0	12
Rulemaking and sanction delegations	12.56	10.24	1	58
Law word length	5906.22	3246.52	1194	20285
Law year	1999.13	6.16	1993	2012

6.2.2 Results

The two dependent variables measuring departmental rule fragmentation, *Enacting agencies count* and *Enacting agencies concentration* are continuous, and thus I analyze them using ordinary least squares regression. Table 6.5 and Table 6.6 present the main results of OLS models with *Enacting agencies count* and *Enacting agencies concentration* respectively. For both tables, statute jurisdictional ambiguity is significant with the expected sign in all models, and the magnitude of the effect remain strong after inclusion of the controls. Higher levels of jurisdictional ambiguity in law are associated with more fragmented departmental rulemaking: more enacting agencies and more dispersion among them. This suggests that statute ambiguity over jurisdictional division creates more room for bureaucratic stakeholders to pursue a unilateral path of decision-making and thus fragmenting the post-legislative policy process. Figure 6.7 and Figure 6.8 visualize the correlations. While statute substantive ambiguity is insignificant in both

tables, indicating that my measure of statute substantive ambiguity is not associated with the level of departmental rule fragmentation.

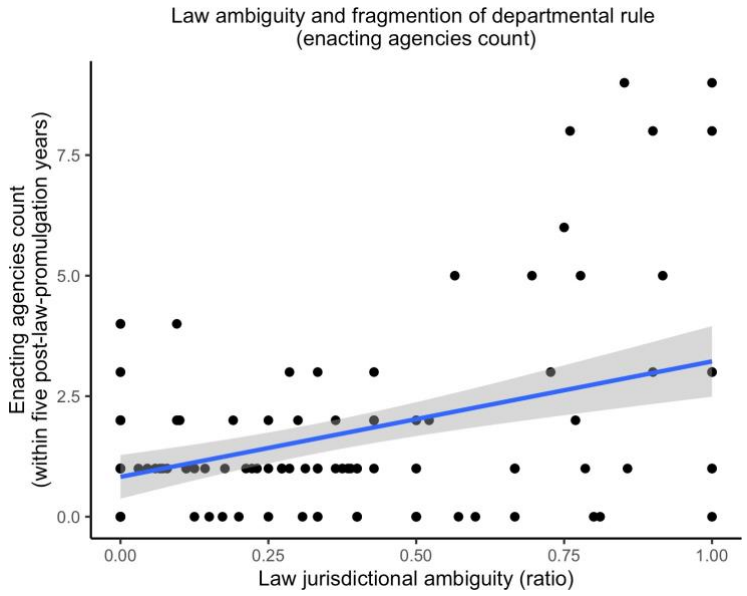

Figure 6.7: Law ambiguity and fragmentation of departmental rule (enacting agencies count)

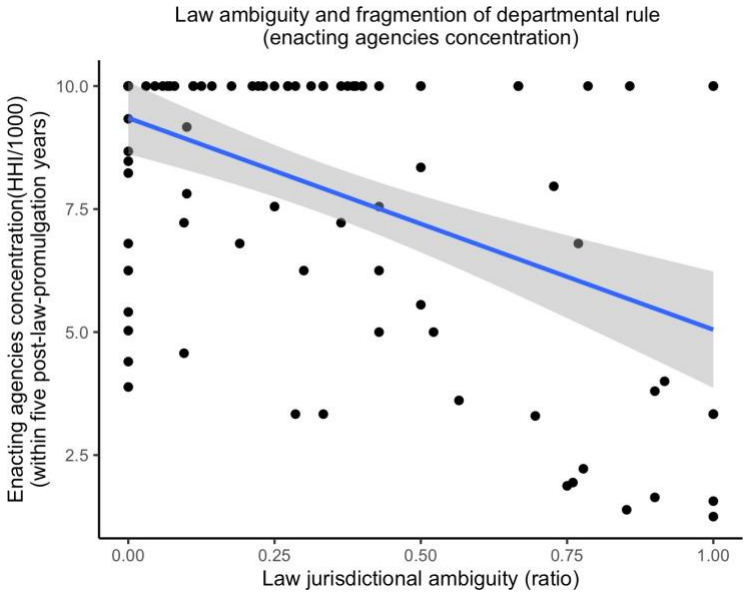

Figure 6.8: Law ambiguity and fragmentation of departmental rule (enacting agencies concentration)

Table 6.5: Statute ambiguity and fragmentation of departmental rules (enacting agencies count)

	Dependent Variable: Enacting agencies count			
	Ambiguity = jurisdictional ambiguity ratio		Ambiguity = substantive ambiguity ratio	
	(1)	(2)	(3)	(4)
Statute ambiguity	2.856***	3.596***	1.176	0.291
	(0.736)	(0.753)	(0.779)	(0.899)
Agencies delegated to make rule		−0.150		−0.754
		(0.633)		(0.698)
Agencies delegated to impose penalty		1.727**		1.264
		(0.668)		(0.750)
Agencies delegated to make rule and impose penalty		−0.920		−0.836
		(0.608)		(0.684)
Rulemaking and sanction delegations		−0.015		−0.007
		(0.031)		(0.036)
Law word length		1.410*		1.332*
		(0.565)		(0.659)
Law year		−0.069		−0.059
		(0.043)		(0.048)
Policy Fixed Effects		√		√
Observations	121	121	121	121
R^2	0.111	0.356	0.019	0.215
Note:				*p<0.05; **p<0.01; ***p<0.001

Table 6.6: Statute ambiguity and fragmentation of departmental rules (enacting agencies concentration)

	Dependent Variable: Enacting agencies concentration			
	Ambiguity = jurisdictional ambiguity ratio		Ambiguity = substantive ambiguity ratio	
	(1)	(2)	(3)	(4)
Statute ambiguity	−4.592***	−4.617***	−0.507	0.994
	(0.811)	(0.926)	(1.010)	(1.146)
Agencies delegated to make rule		0.828		2.239**
		(0.735)		(0.826)
Agencies delegated to impose penalty		−1.285		−0.595
		(0.787)		(0.901)
Agencies delegated to make rule and impose penalty		−0.189		−0.438
		(0.684)		(0.788)
Rulemaking and sanction delegations		0.015		0.032
		(0.034)		(0.041)
Law word length		−1.777**		−2.202**
		(0.668)		(0.781)
Law year		0.056		0.058
		(0.053)		(0.062)
Policy Fixed Effects		√		√
Observations	95	95	95	95
R^2	0.254	0.471	0.003	0.310
Note:				*p<0.05; **p<0.01; ***p<0.001

Model (2) and model (4) in Table 6.5 and Table 6.6 include coefficients with standard errors for control variables. *Law word length (log)* is significant in both tables, indicating that longer laws are associated with higher level of fragmentation of departmental rules. *Agencies delegated to impose penalty* is significant in model (2) in Table 6.5, *Agencies delegated to make rules* is significant in model (4) in Table 6.6. Other control variables such as *Agencies delegated to make rules and impose penalty*, *Rulemaking and sanction delegations*, and *Law year* are insignificant.

Readers should keep several caveats in mind when interpreting the results. First, for reasons of analytical simplicity, I limit the study to only new statutes and single-issued departmental rules enacted to implement these statutes within a particular time period. This

leaves out amendments of law, jointly-issued departmental rules and rules enacted beyond the stated time frame. Second, I only control for rule-making and administrative sanction delegations and the number of different named agencies who received these delegations. This is guided by the judgment that rule-making and sanction are two major types of delegations and it would allow me to achieve consistent measures across laws. This unavoidably leaves out other types of delegations such as licensing and holding adjudications. The number of agencies delegated to implement these functions may also be associated with the level of departmental rule fragmentation. Third, as said, the explanatory variables developed to capture the amount of statute ambiguity are not comprehensive measures. The jurisdictional and substantive ambiguity ratios are constructed using administrative sanction articles, which do not take into account the level of ambiguity of other provisions in a law.

6.3 Discussions

The quantitative analyses provide systematic evidence consistent with my expectations of the post-legislative policy processes. I find that ambiguity of jurisdictional elements in law increases the likelihood of delay of administrative regulations and fragmentation of departmental rules. First, results in Section 6.1 suggest that jurisdictional ambiguity allows room for continued persuasion, debate and bargaining in the State Council arena, encouraging bureaucratic actors to engage in a "second campaign," where jurisdictional division is expected to be spelled out in the administrative regulation. The findings imply that departments have a larger stake in fighting for policy turfs and are less willing to make concessions on jurisdictional issues than on policy substance, contributing to delay of administrative regulations. Second, results in Section 6.2 suggest that jurisdictional ambiguity in law allows various departments concerned to pursue a

less costly, unilateral path of policymaking – departmental rulemaking – to promote their own independent agendas. The fragmentation of departmental rules enabled by jurisdictionally vague laws constitutes a unique mechanism of policy power sharing within the State Council arena. This particular post-promulgation mechanism, coupled with the opportunity to rejoin the battle to define how vague law provisions will be interpreted in administrative regulations, illustrate why statute ambiguity, though not ideal, is an acceptable outcome to stakeholders fighting over policy turfs in the lawmaking process.

What are the normative implications concerning the consequences of statute ambiguity? Whether laws should be written in an ambiguous fashion has been a subject open to debate. One camp emphasizes the advantages and virtues of ambiguity. Some researchers studying legislative-executive relations in the United States argue that the Congress deliberately creates ambiguous delegations because of the many benefits they generate. Ambiguity about who should regulate produces duplicative delegations, which spurs competition and innovation among agencies that improve regulatory efficiency and effectiveness (Biber, 2012; Busch, Kirp, & Schoenholz, 1999; Gersen, 2006; Landau, 1969; Stephenson, 2011; Ting, 2003). Also, fragmentation of implementation authorities resulted from ambiguous delegations (as demonstrated in Section 6.2) is said to lower congressional monitoring costs by creating a system of interagency "fire alarms," which mitigates the risk of bureaucratic drifting and regulatory capture (Bradley, 2011, p.778; Farhang & Yaver, 2016, p.404; Freeman & Rossi 2012, p.1138). Second, scholars studying Chinese laws and policies argue that vagueness enables flexibility in interpretation and implementation, which enhances the regime's adaptive capacity (Ang, 2016; Guo, 1988; Keller, 1994). The Chinese government is able to leverage such flexibility to respond to rapid political and economic changes. In addition, China is a vast country with wide regional

disparities. Geographically speaking, coastal provinces and inland regions face different governance problems and it is difficult to implement a one-size-fits-all solution. Through broad and often very vague guidelines, central leaders in Beijing empower local states to adapt policy in light of their local conditions and experiment with various governance strategies within their jurisdictions (Ang, 2016).

The other camp argues that ambiguity in legislation has imposed great costs on society. Statute ambiguity grants excessive latitude for policy implementers to construct the law in accordance with their own interests, which has become an area of great concern to the regulated entities and individuals, particularly those in the private sector. As shown in Section 6.1, jurisdictional ambiguity in legislation encourages delay of administrative regulations, which makes government regulation inefficient. Results in Section 6.2 does not provide direct evidence that ambiguity or fragmentation undermines legal consistency and regulatory coherence. But previous works studying Chinese statutes and regulations show that unclear delineations of regulatory authority and vague drafting in national laws exacerbate the problems of implementing authorities issuing conflicting regulations, shirking responsibilities, and more regulatory capture, which have imposed additional costs on the regulated (Hand, 2013; Li, 2015). My analysis of the post-legislative policy processes in the State Council improves our empirical understanding of the legislative cause of implementation problems in China. Nevertheless, only focusing on the process of making administrative regulations and departmental rules, this chapter does not provide a comprehensive analysis of how ambiguity in legislation shapes implementation processes and outcomes, not to mention adjudicating among contending perspectives. This study is more about why some laws end up vague than whether they should end up that way. The findings of this chapter are primarily intended to demonstrate the logic of

my argument that a vague law is acceptable for competing bureaucratic stakeholders because it creates bargaining and interpretative space in the post-legislative stage of policymaking. I cannot say statute vagueness is decidedly good or bad. But my findings do provide important empirical context for the normative debate, indicating that jurisdictional ambiguity in national laws increases the risk of policy delay and fragmentation when implementation regulations and rules are drafted in the State Council arena.

Chapter 6, in part, is currently being prepared for submission for publication of the material. The dissertation author was the sole author of this paper.

Chapter 7 Conclusion

7.1 Summary

Research on legislative politics has identified a number of factors to explain statutory ambiguity, but such findings are limited almost exclusively to democratic cases (Epstein & O'Halloran, 1999; Farhang & Yaver, 2016; Huber & Shipan, 2002; Lewis, 2003; Marisam, 2011; Martin & Vanberg, 2011; Vakilifathi, 2019). Scholars that study China's policy processes highlight the adaptive logic (Ang, 2016; Heilmann, 2008; Heilmann & Perry, 2011) and the legislative norm (Chen & Zhang, 1981; Guo, 1988; Keller, 1994) behind vague wording. However, these works tend to assume away the political dynamics of policymaking, either treating the central government as a unitary actor with coherent preferences or failing to address the credible commitment problem in authoritarian politics.

Building on the classic fragmented authoritarianism framework (Lieberthal & Lampton, 1992; Lieberthal & Oksenberg, 1988; Mertha, 2009) and core theories of authoritarian politics (Boix, 2003; Gandhi, 2008; Gandhi & Przeworski, 2006; Svolik, 2012), this study has proposed an alternative account of authoritarian lawmaking by considering elite struggle over policy. Chapter 2 develops this theory. The core argument is that statutory ambiguity allows regime leaders to navigate competing interests of bureaucratic stakeholders, facilitate compromise in the legislature and overcome gridlock. For the competing bureaucracies, ambiguity serves a "second-best" solution as it avoids locking in "hostile" rules and creates room for bargaining and maneuvering when implementation regulations and rules are drafted. I further argue that statute ambiguity is a double-edged sword. It helps incentivize bureaucratic elite loyalty but runs the risk of delaying and fragmenting post-legislative policymaking at the cost of regulatory coherence.

I assess these ideas using the Chinese case. Chapter 3 provides a detailed analysis of law and lawmaking in China. In this chapter, I discuss the sources and structure of Chinese laws as well as the three arenas and the six stages of lawmaking in China. I demonstrate that bureaucratic actors possess de facto veto powers in the inter-ministry review phase and bureaucratic policy disputes can "spillover" from the cabinet table (the State Council arena) to the legislative floor (the NPC arena).

The empirical analysis contains three stages. In Chapter 4, I conduct a qualitative case study of the Anti-monopoly Law from the pre-legislative, legislative to post-legislative stages to illustrate the plausibility of the proposed theory. The protracted inter-ministry disputes over delegation, scope and enforcement standard of the AML, coupled with international pressure to enact antitrust legislation, resulted in increased amount of ambiguity in the articulation of jurisdictional and substantive provisions in the drafting process. Unlike the ministry-provided draft that was relatively clear in wording, addressed many critical issues and provided detailed instructions for application, the law finally promulgated lacks many of these qualities. The vague AML facilitates the competing ministries to pursue their independent agenda and enforcement priority through unilateral policy-making, making the antitrust regulatory regime inefficient, ineffective and incoherent.

Chapter 5 and Chapter 6 adopt a quantitative approach. Chapter 5 presents a statistical analysis of a large collection of legislative texts to investigate the causes of statute ambiguity. Using administrative sanction articles of 167 national statutes promulgated between 1993 and 2021, I develop two novel measures of statute ambiguity: jurisdictional ambiguity ratio that captures the level of ambiguity regarding who will carry out sanction, and substantive ambiguity ratio that captures the level of ambiguity regarding what particular penalty will be imposed. I

further create proxy variables for bureaucratic conflict using information in the NPCSC deliberation reports. I find that both jurisdictional and substantive ambiguities in final law are strongly and positively associated with the level of inter-ministry policy dispute in the legislative process. Chapter 6 presents a statistical analysis to investigate the consequences of statute ambiguity on post-legislative policymaking. Using datasets of law implementation regulations and rules, I find that statute jurisdictional ambiguity is associated with slower pace of administrative regulations and higher levels of departmental rule fragmentation.

7.2 Relevance and Significance

My dissertation is among the emerging scholarship of authoritarian legislatures, showing that policy processes in these institutions are shaped by "competing regime actors holding divergent preferences" (Lü et al., 2020; Magaloni & Williamson, 2020; Noble, 2020; Truex, 2020). This project also echoes Gandhi et al. (2020) that coups and purges are not the only manifestations of elite contestation in authoritarian states. Conflict in authoritarian regimes also occurs in "quieter, less dramatic, but no less important ways" (Gandhi et al., 2020). This study shows that authoritarian elites fight over policy at the cabinet and party table, on the legislative floor, as well as during the post-legislative stage of lawmaking.

My dissertation moves knowledge forward in three ways. First, this study extends the power-sharing framework to authoritarian policymaking. Despite the advances in the field of authoritarian institutions, much less evidence speaks to how policy is made under authoritarian rule, and how power is shared over policy decisions (Magaloni & Williamson, 2020; Noble, 2020; Remington, 2019). My work engages the emerging scholarship on authoritarian legislatures that uncover the political dynamics of lawmaking processes (Lü et al., 2020; Noble,

2020; Truex, 2020). I find that in China, statute ambiguity is an important channel through which policy power is shared among regime insiders. In the post-legislative stage of policymaking, bureaucratic stakeholders are able to exploit ambiguity to their advantage by adopting their preferred interpretations in the form of departmental rules. In so doing, the regime leader covertly shares policy influence among competing executive factions without creating losers.

Second, this study identifies a reconciliation mechanism of authoritarian elite struggle over policy. How do autocrats manage elite conflicts remains a crucial question to understand authoritarian rule, theoretically and empirically. Autocrats face survival challenges when they are "caught between powerful constituencies with incompatible policy demands" (Lovell, 2003, p.3), each aiming to maximize their own benefits at the cost of others. Despite their relevance to regime durability and stability, mechanisms through which autocrats appease conflicting stakeholders are insufficiently explored (Lieberthal & Oksenberg, 1988). My dissertation fills the gap. I theorize the value of ambiguity in authoritarian lawmaking and find that in China, statute ambiguity serves a vehicle for compromise among rival ministries on the legislative floor. Ambiguity in law allows room for competing bureaucracies to unilaterally expand their regulatory turfs and pursue their independent policy agenda through departmental rule-making. In so doing, the regime leader alters the nature of elite bargain over policy by shifting a zero-sum game to a positive-sum game.

Third, this study proposes a new lens to understand China's governance structure. Despite China's single-party rule, power to make and implement policy is diffused across a large number of party and government organs (Lieberthal & Lampton, 1992; Lieberthal & Oksenberg, 1988; Mertha, 2009). The fragmented nature of Chinese bureaucracy has been widely recognized, but there is far less understanding of why and how such fragmentation persists,

despite efforts to create coherent bureaucracies. My dissertation tackles these questions. I theorize the legal source of China's bureaucratically fragmented system and empirically test it. Ambiguity creates loopholes for inconsistent interpretations of law, which reinforces bureaucratic factionalism and structural fragmentation in the political system.

7.3 Generalizability and Limitation

This study conceptualizes and operationalizes authoritarian elites primarily in the bureaucratic sense. This analytical choice is guided by the judgement that bureaucratic organizational structure allows stable predictions over policy preferences and division. In the Chinese case, this leaves out division at the highest level, particularly those within the Politburo and its Standing Committee. Politics in this small ruling circle focuses on amoral, naked power rather than policy as an object of struggle, which does not help us yield clear predictions or insights about their particular policy preferences (Tanner, 1999). Tanner (1999) points out that "policy-related thinking at this rarified level of the system is often extremely vague" and policy goals proposed are often broadly defined (Tanner, 1995, p.48). Top-level leaders "may only very vaguely understand the policy options which are presented to them" given limitations of professional knowledge and expertise (Tanner, 1995, p.48). Still, it is very likely that politicians at this level serve as patrons of certain government agencies and provinces and advocate for the specific interests of their bureaucratic factions. It is also possible that they have their own policy preferences over a range of issues. But the Chinese system is too opaque to reliably discern where specific leaders stand on a given law (Truex, 2020, p.1483). There is generally no public record available of internal Party discussions on draft laws before they are submitted to the NPC.

The NPCSC deliberation reports also do not record any policy-relevant comment from leaders at this level.

Considering this limitation, the argument proposed by this study is more likely to apply to country cases where bureaucracies are dominant actors in lawmaking and at the same time, divided over a range of issues. The Soviet Union and contemporary Russia, like China, are examples of such. They are bureaucratic authoritarian regimes in nominally communist, or formerly communist, countries (Noble, 2020, p.1444). Hough & Fainsod (1979) point out that in Communist regimes, "the strongest political actors below the leadership level are often vertical branches, not always regional officials." (Lü et al., 2020, p.1384) Huskey (1996, p.369) notes, for example, that "ministries not only govern Russia, they represent it – or at least its most powerful interests... Whereas in democratic countries political parties are the primary mediating institutions between the state and society, ministries perform that function in Russia." (Noble, 2020, p.1423) Remington (2001) provides evidence that government ministries were the principal sponsors of legislation in the Russian parliament (Lü et al., 2020, p.1387). Most recently, Noble (2020) finds that bill amendment in the Russian State Duma is driven by intra-executive disputes, noting that "the ambiguity of the final settlement signed into law reflects a compromise between executive actors without a clear victor." (p.1435) Future research on additional cases can further tease out this scope condition.

7.4 Directions for Future Research

This project opens up several avenues for further investigation into the causes and consequences of statute ambiguity. My dissertation provides some of the most extensive, detailed evidence of ambiguity in Chinese national statutes. I distinguish two types of statute ambiguity

in Chapter 2 and develop coding protocols to measure the two ambiguity types using administrative sanction delegations in Chapter 5. While efforts have been made to ensure measurement consistency across laws, it does not present a full picture of statute ambiguity. New coding schemes will need to be developed, but the same theoretical framework proposed in this study could be used to extend the ambiguity measure to include other types of delegations. In addition, to directly and systematically investigate what language and content were altered during the legislative process, future work can collect texts of introduced draft laws and passed laws and employ computational methods to study textual change during NPC deliberation and analyze the substantive importance of these changes. There is also more work to be done in measuring bureaucratic conflict variables. This analysis used information in the NPCSC deliberation reports to construct proxy measures of disputes in lawmaking. Future work could seek to develop and collect data on proxies for bureaucratic conflict exogenous to the legislative process. For example, the level of bureaucratic fragmentation in policy space that a law oversees prior to passage.

Future work should further explore the consequences of statute ambiguity when implemented by administrative and local actors. The law implementation stage is not the primary focus of this study, but it remains an area of the Chinese system needing additional scholarly inquiry. Chapter 6 presents some preliminary quantitative evidence of implementation regulations and rules, "the essential first step in actually implementing a law as policy" (Tanner, 1995, p.61). I find that jurisdictional statute ambiguity is associated with delay of administrative regulation and fragmentation of departmental rule. Still, little is known about the actual implementation of laws and how statute language shapes the implementation outcome, particularly at the local level. One one hand, this study suggests that vague laws may generate

implementation problems such as delay, inconsistencies and inefficiencies. On the other hand, prior works about China's policy process highlight the adaptive logic and argue that policy vagueness is desirable, particularly in the early years of the reform era. It allows policy innovation and flexible responses across localities, enhancing the adaptive capacity of the Chinese regime. Scholars can further study whether ambiguity in law has dual effects on implementation and their implications to regime survival and performance.

Appendix

Coding Protocol

In this Appendix, I illustrate my coding protocol with examples.

1. Jurisdictional Ambiguity

Jurisdictional ambiguity is 1 if implementation of a sanction command is delegated to:

(1) Unnamed entity

- Article 63 Where any advertisement is sent in violation of Article 43 of this Law, the relevant department shall order cessation of the violation of law and impose a fine of not less than 5,000 yuan nor more than 30,000 yuan on the advertiser. (Advertising Law, 2015)

- Article 119 Where a violator of this Law sprays extremely or highly toxic pesticides to trees, flowers and grasses or burns straws, fallen leaves or other materials producing smoke pollution in a densely inhabited area, the regulatory department designated by the local people's government at or above the county level shall order it to make a correction, and may concurrently impose a fine of not less than 500 yuan but not more than 2,000 yuan. (Atmospheric Pollution Prevention and Control Law, 2015)

(2) Multiple named entities for carrying out the same penalty(ies)

- Article 90 Where this Law is violated by transporting acutely toxic chemicals by water or other dangerous chemicals of which the transportation by inland river is prohibited under the provisions issued by the state in the Yangtze River Basin, the transport department or maritime safety agency of the people's government at or above the county level shall order the violator to take corrective actions, confiscate its illegal income, impose a fine of not less than 200,000 yuan but not more than two million yuan on the violator and a fine of not less than 50,000 yuan but not more than 100,000 yuan on each of the directly liable person in charge and other directly liable persons, and if the circumstances are serious, order suspension of business for consolidation, or suspend the relevant permit. (Yangtze River Protection Law, 2021)

(3) Named entity(ies) with/or unnamed entity(ies)

- Article 64 Any individual or entity that forms a non-state school without permission in violation of the relevant provisions of the state shall be ordered by

the administrative department of education or administrative department of human resources and social security of the local people's government at or above the county level in its locality, in conjunction with the public security department, civil affairs department, administrative department for industry and commerce, and other relevant departments, to stop running a school and refund the fees collected, and the founder shall be subject to a fine of not less than one time but not more than five times the illegal income; where an act in violation of public security administration is constituted, the public security organ shall impose public security administration punishment according to the law; and where a crime is constituted, the criminal liability shall be investigated for in accordance with the law. (Non-state Education Promotion Law, 2016)

Jurisdictional ambiguity is 0 if implementation of a sanction command is delegated to:

(1) A named entity

- Article 82 Where an entrusted technical support entity, in violation of the provisions of this Law, issues false technical appraisal conclusions, the nuclear safety supervision and administration department of the State Council shall fine it not less than 200,000 yuan nor more than 1000,000 yuan; confiscate its illegal income, if any; and impose a fine of not less than 100,000 yuan nor more than 200,000 yuan on the directly responsible person in charge and other directly liable persons. (Nuclear Safety Law, 2017)

(2) Multiple named entities, each responsible for enforcing different penalties

- Article 80 ...Where the produced or sold vaccine falls under counterfeit drugs, or the produced or sold vaccine falls under inferior drugs, and the circumstances are serious, the medical products administration of the people's government at or above the provincial level shall confiscate the income of the legal representative, the principal person in charge, the directly responsible person in charge, personnel on key positions and other liable persons, obtained from the entity during the period when the violation of law occurs, impose a fine of not less than one time but not more than ten times the income obtained, and prohibit them from conducting pharmaceutical production and business operation activities for life, and the public security organ shall detain them for not less than five days but not more than 15 days. (Vaccine Administration Law, 2019)

2. Substantive Ambiguity

Substantive ambiguity is 1 if a sanction command*:*

(1) Does not prescribe any particular form of penalty

- Article 119 ...Where a violator of this Law uses fireworks and firecrackers in a period or area prohibited by the local urban people's government, the regulatory department designated by the local people's government at or above the county level shall impose punishment according to law. (Atmospheric Pollution Prevention and Control Law, 2015)

- Article 52 Whoever, in violation of Article 35 of this Law, imports or exports wild animals or their products shall be punished by the Customs, inspection and quarantine department, public security authority, and oceanic law enforcement authority in accordance with laws, administrative regulations, and the relevant provisions issued by the state; or if the violation is criminally punishable, the offender shall be held criminally liable in accordance with the law. (Wild Animal Conservation Law, 2016)

- Article 114 ...Where a violator of this Law uses any high-emission non-road mobile machine in an area where the use of high-emission non-road mobile machinery is prohibited, the environmental protection administrative depart- ment and other relevant departments of the urban people's government shall impose punishment according to law.

(2) Penalty(ies) prescribed is/are optional

- Article 75 A construction enterprise which does not perform its obligations pertaining to maintenance or default on these obligations in violation of the stipulations of this Law shall be ordered to correct itself, may be imposed fine penalties and shall assume the liabilities of compensation for losses incurred from quality defects such as ceiling or wall leaking and cracks during the term of maintenance. (Construction Law, 1997)

- Article 28 Where a supervisory inspection department's performance of duties under this Law is interfered with or its investigation is refused or impeded, the supervisory inspection department shall order the violator to take corrective action, and may impose a fine of not more than 5,000 yuan on the violator which is an individual or a fine of not more than 50,000 yuan on the violator which is an entity, and the public security authority may impose a public security administration punishment on the violator. (Anti-Unfair Competition Law, 2017)

- Article 45 Where any other department (including subordinate entities) at the corresponding level or the government at the lower level commits the acts against

the budget or other acts of government revenues and expenditures against the provisions of the State, the auditing organ, the people's government or the competent authorities shall, within the scope of its statutory authorities and in accordance with the laws and administrative regulations, take the following measures in light of the specific situation: 1)ordering it to pay the money that should be turned over within the time limit; 2)ordering it to return the occupied state-owned assets within the time limit; 3)ordering it to refund the unlawful proceeds within the time limit; 4)ordering to handle the matter in accordance with the relevant provisions on the unified national accounting system; and 5)other measures.

Substantive ambiguity is 0 if a sanction command is*:*

(1) A mandatory requirement that particular form of penalty(ies) shall be imposed

- Article 100 Where a charitable organization falls under any circumstance prescribed in Article 98 or 99 of this Law and has illegal income, the civil affairs department shall confiscate the income; and impose a fine of not less than 20,000 yuan but not more than 200,000 yuan on the directly responsible person in charge and other directly liable persons. (Charity Law, 2016)

References

Allison, G. T. (1969). Conceptual models and the Cuban missile crisis. *The American Political Science Review, 63*(3), 689–718.

Allison, G. T. (1971). *Essence of decision: Explaining the Cuban missile crisis*. Boston : Little, Brown and Company.

Ang, Y. (2018). Domestic flying geese: Industrial transfer and delayed policy diffusion in China. *The China Quarterly, 234*, 420–443.

Ang, Y. Y. (2016). *How China escaped the poverty trap*. Ithaca, NY: Cornell University Press.

Ang, Y. Y. (2019, May 22). Demystifying belt and road. *Foreign Affairs*. Retrieved from https://www.foreignaffairs.com/articles/china/2019-05-22/demystifying-belt-and-road

Atiyah, P. S., & Summers, R. S. (1987). *Form and substance in Anglo-American law: A comparative study of legal reasoning, legal theory and legal institutions*. Oxford: Clarendon Press.

Biber, E. (2012). The more the merrier: multiple agencies and the future of administrative law scholarship. *Harvard Law Review, 125*(78), 78–83.

Bo, Z. (2007). *China's elite politics: Political transition and power balancing*. Singapore: World Scientific.

Boix, C. (2003). *Democracy and redistribution*. Cambridge: Cambridge University Press.

Boix, C., & Svolik, M. W. (2013). The foundations of limited authoritarian government: Institutions, commitment, and power-sharing in dictatorships. *The Journal of Politics, 75*(2), 300–316.

Bradley, K. (2011). The design of agency interactions. *Columbia Law Review, 111*(4), 745-794.

Brancati, D. (2014). Democratic authoritarianism: Origins and effects. *Annual Review of Political Science, 17*, 313–326.

Budget law revision entangled: Power struggle over power allocation between the National People's Congress, the People's Bank of China, and the Ministry of Finance [预算法修订纠结：人大、央行与财政部争夺权力配置]. (2014, May 14). *The Beijing News* [新京报]. Retrieved from http://finance.people.com.cn/n/2014/0514/c1004-25013841.html

Busch, C., Kirp, D., & Schoenholz, D. (1999). Taming adversarial legalism. *New York University Journal of Legislation and Public Policy, 2*, 179–216.

Bush, N., & Bo, Y. (2011). Adding antitrust to NDRC's arsenal. *CPI Antitrust Chronicle*, (2), 1–3.

Cai, D. (2003). *The Institution of the Chinese people's congress system* [中国人民代表大会制度]. Beijing: Law Press China [法律出版社].

Cao, K. (2007). An explanation of the Anti-Monopoly Law (draft) [关于《中华人民共和国反垄断法（修正草案）》的说明]. *Gazette of the NPC Standing Committee* [中华人民共和国全国人民代表大会常务委员会公报], (06), 523–529.

Carpenter, D. P. (2001). *The forging of bureaucratic autonomy: Reputations, networks, and policy innovation in executive agencies, 1862–1928*. Princeton, NJ: Princeton University Press.

Charap, S. (2007). Inside out: Domestic political change and foreign policy in vladimir putin's first term. *Demokratizatsiya: The Journal of Post-Soviet Democratization*, *15*(3), 335–352.

Chen, J. (2008). *Chinese law: Context and transformation*. Netherlands: Martinus Nijhoff Publishers.

Chen, J., Pan, J., & Xu, Y. (2016). Sources of authoritarian responsiveness: A field experiment in China. *American Journal of Political Science, 60*, 383–400.

Chen, L. (2017). Grounded globalization: Foreign capital and local bureaucrats in China's economic transformation. *World Development, 98*, 381–399.

Chen, S., & Zhang, H. (1981). *Basic theories of law* [法学基础理论]. Beijing: Beijing University Press [北京大学出版社].

Chen, S., Christensen, T., & Ma, L. (2019). Competing for father's love? The politics of central government agency termination in China. *Governance, 32*, 761–777.

Cheung, P. T. Y. (1998). Introduction: Provincial leadership and economic reform in post-Mao China. In P. T. Y. Cheung, J. H. Chung & Z. Lin (Eds.), *Provincial strategies of economic reform in post-Mao China: Leadership, politics, and implementation* (pp. xiii–xx). Armonk, NY: M. E. Sharpe.

Christensen, T., Lægreid, P., & Røvik, K.A. (2007). *Organization theory and the public sector: instrument, culture and myth*. New York, NY: Routledge.

Chu, C. (2017). Debating the functions of the NPCSC Legislative Affairs Commission [全国人大常委会法工委职能之商榷]. *China Law Review* [中国法律评论], (01), 191–198.

Corne, P. H. (2002). Creation and application of law in the PRC. *The American Journal of Comparative Law, 50*(2), 369–443.

Distelhorst, G., & Hou, Y. (2017). Constituency service under nondemocratic rule: Evidence from China. *The Journal of Politics, 79*, 1024–1040.

Dreyer, J. T. (2018). *China's political system: Modernization and tradition (10th ed.)*. Routledge.

Du, H. (2006, July 3). Anti-monopolistic conducts must be prohibited [垄断不反不行]. *People's Daily* [人民日报]. Retrieved from http://news.sina.com.cn/c/2006-07-03/07279356123s.shtml

Epstein, D., & O'Halloran, S. (1994). Administrative procedures, information, and agency discretion. *American Journal of Political Science, 38*(3), 697–722.

Epstein, D., & O'Halloran, S. (1996). Divided government and the design of administrative procedures: A formal model and empirical test. *The Journal of Politics*, *58*(2), 373–397.

Epstein, D., & O'Halloran, S. (1999). *Delegating powers: A transaction costs politics approach to politics under the separation of powers*. Cambridge University Press.

Fainsod, M. (1965). *How Russia is ruled.* Cambridge, MA: Harvard University Press.

Fair Trade Bureau and Anti-monopoly Division of the State Administration for Industry and Commerce. (2004). Competition restricting conduct of multinational companies in China and countermeasures [在华跨国公司限制竞争行为表现及对策]. *Biweekly of Industry and Commerce Administration* [工商行政管理], *5*, 42–43.

Fan, S., Wei, C., & Hu, T. (2018, June 25). The NPCSC Legislative Affairs Commission and its "invisible legislators". *NPC Observer*. Retrieved from https://npcobserver.com/2018/06/25/scholarship-highlight-the-npcsc-legislative-affairs-commission-and-its-invisible-legislators/

Fang, F. (2015). Comments on how to strengthen and improve CCP's leadership over legislative work [试论加强和完善党对立法工作的领导]. *People's Congress Studies* [人大研究], (06), 43–45.

Farhang, S., & Yaver, M. (2016). Divided government and the fragmentation of American law. *American Journal of Political Science*, *60*(2), 401–417.

Fewsmith, J. (2001). *Elite politics in contemporary China*. M.E. Sharpe.

Freeman, J. & Rossi, J. (2012). Agency coordination in shared regulatory space. *Harvard Law Review, 125*(5), 1131–1211.

Gailmard, S., & Patty, J. (2012). Formal models of bureaucracy. *Annual Review of Political Science, 15*(1), 353–377.

Gallagher, M., & Hanson, J. (2013). Authoritarian survival, resilience, and the selectorate theory. In M. Dimitrov (Ed.), *Why communism did not collapse: understanding authoritarian regime resilience in Asia and Europe* (pp. 185–204). Cambridge: Cambridge University Press.

Game theory of e-commerce law: Controversies over the details of the bill are far from settled [博弈电商法：围绕法案细则的争议远未平息]. (2019, September 9). *China News Weekly* [中国新闻周刊]. Retrieved from http://www.ce.cn/cysc/tech/gd2012/201809/09/t20180909_30248663.shtml

Gandhi, J. (2008). *Political institutions under dictatorship*. Cambridge: Cambridge University Press.

Gandhi, J., & Przeworski, A. (2006). Cooperation, cooptation, and rebellion under dictatorships. *Economics & Politics, 18*(1), 1–26.

Gandhi, J., & Przeworski, A. (2007). Authoritarian institutions and the survival of autocrats. *Comparative Political Studies, 40*(11), 1279–1301.

Gandhi, J., Noble, B., & Svolik, M. (2020). Legislatures and legislative politics without democracy. *Comparative Political Studies*, *53*(9), 1359–1379.

Gehlbach, S., & Keefer, P. (2012). Private investment and the institutionalization of collective action in autocracies: Ruling parties and legislatures. *The Journal of Politics*, *74*(2), 621–635.

Gersen, J. E. (2006). Overlapping and underlapping jurisdiction in administrative law. *Supreme Court Review, 1*, 201–247.

Gersen, J. E., & Posner, E. A. (2007). Timing rules and legal institutions. *Harvard Law Review, 121*, 543.

Grünberg, N. (2018). *The party-state order: essays on China's political organization and political economic institutions (doctoral dissertation)*. Copenhagen Business School.

Gu, A. (2009). Recall the work of the formulation of the 1982 Constitution [回忆八二宪法的制定工作]. *Secretarial Work* [秘书工作], (12), 43–45.

Guo, D. (1988). *China's legislative system* [中国立法制度]. Beijing: Renmin University Press [人民出版社].

Haber, S. (2008). Authoritarian government. In B.R. Weingast & D.A. Wittman (Eds.), *The Oxford handbook of political economy* (pp. 693–707). Oxford University Press.

Hainan free trade port law: Why was it established? What is its purpose? [海南自由贸易港法：为什么立？有什么用？]. (2019, September 9). *Outlook Weekly* [瞭望], (29). Retrieved from http://lw.xinhuanet.com/2021-07/20/c_1310071513.htm

Halpern, N. P. (1992). Information flows and policy coordination in the Chinese bureaucracy. In K. Lieberthal & D. Lampton (Eds.), *Bureaucracy, politics, and decision making in post-Mao China* (pp. 125–48). Berkeley: University of California Press.

Hand, K. J. (2013). Understanding China's system for addressing legislative conflicts: capacity challenges and the search for legislative harmony. *Columbia Journal of Asian Law, 26*(1), 139–266.

Harris, H. S. J. (2006). The making of an antitrust law: The pending anti-monopoly law of the people's republic of china. *Chicago Journal of International Law*, *7*(1), 169–229.

Harris, H. S., Jr., & Yang, K. L. (2005). China: Latest developments in antimonopoly law legislation. *Antitrust, 19*(2), 89–94.

Harris, H. S., Wang, P. J., Cohen, M. A., Zhang, Y., & Evrard, S. J. (2011). *Anti-monopoly law and practice in china*. New York: Oxford University Press.

He, L. (2012, November 5). Ministry of Environmental Protection raised objections to the first deliberation draft of amendment of the environmental protection law [环保部对环保法修订一审稿提 34 条异议]. *Caixin* [财新网]. Retrieved from https://china.caixin.com/2012-11-05/100456141.html

Heclo, H. (1978). Issue networks and the executive establishment. In A. King (Ed.), *The New American Political System* (pp. 413–422). Washington, DC: American Enterprise Institute.

Heilmann, S. (2008). From local experiments to national policy: The origins of China' s distinctive policy process. *The China Journal*, *59*, 1–30.

Heilmann, S. (2008). Policy experimentation in China's economic rise. *Studies in Comparative International Development*, *43*(1), 1–26.

Heilmann, S., & Perry, E. (2011). *Mao's invisible hand: The political foundations of adaptive governance in China*. Cambridge MA: Harvard University Asia Center.

Hough, J., & Fainsod, M. (1979). *How the Soviet Union is governed*. Cambridge, MA: Harvard University Press.

Hu, B. (2003, July 2). China unveils competition rules. *South China Morning Post*. Retrieved from https://www.scmp.com/article/420349/china-unveils-competition-rules

Hu, K. (2007). Report of the Law Committee of the National People's Congress on the revision of the anti-monopoly law [全国人大法律委员会关于《中华人民共和国反垄断法（草案）》修改情况的汇报]. *Gazette of the NPC Standing Committee* [中华人民共和国全国人民代表大会常务委员会公报], (06), 529–531.

Huang, H. (2013). Signal left, turn right: Central rhetoric and local reform in china. *Political Research Quarterly*, *66*(2), 293–305.

Huber, J. D., & Shipan, C. R. (2002). *Deliberate discretion: The institutional foundations of bureaucratic autonomy*. New York, NY: Cambridge University Press.

Huber, J. D., Shipan, C. R., & Pfahler, M. (2001). Legislatures and statutory control of bureaucracy. *American Journal of Political Science*, *45*(2), 330–345.

Huskey, E. (1996). The making of economic policy in Russia: Changing relations between presidency and government. *Review of Central and East European Law*, *22*, 365–387.

Jakobson, L. (2014, December 11). China's unpredictable maritime security actors. *Lowy Institute for International Policy*. Retrieved from https://apo.org.au/node/52070

Jakobson, L., & Manuel, R. (2016). How are foreign policy decisions made in China? *Asia & the Pacific Policy Studies*, *3*, 101–110.

Japanese Overseas Chinese News: Unraveling the enigma of China's "relevant departments" [新华侨报：解读中国“有关部门”缘何神秘]. (2005, March 25). *China News* [中国新闻网]. Retrieved from https://www.chinanews.com.cn/hb/news/2010/03-25/2189664.shtml

Jiang, J. (2023). Leading Small Groups, Agency Coordination, and Policy Making in China. *The China Journal*, *89*, 95–120.

Jiang, Q. (2007). Report of the Law Committee of the National People's Congress on the outcome of anti-monopoly law (second deliberation draft) deliberations [全国人大法律委员会关于《中华人民共和国反垄断法（草案二次审议稿）》审议结果的报告]. *Gazette of the NPC Standing Committee* [中华人民共和国全国人民代表大会常务委员会公报], (06), 532–533.

Jiang, Y. (2016). The domestic politics of China's financial reform. In K. Brødsgaard (Ed.), *Chinese politics as fragmented authoritarianism: Earthquakes, energy and environment* (pp. 181–203). Routledge. (China Policy Series).

Jing, C. (2017, March 15). Hubei delegation calls for the establishment of the Yangtze River Protection Law [湖北团代表联名呼吁加快制定《长江法》]. *Hubei Daily* [楚天都市报]. Retrieved from http://hb.ifeng.com/a/20170315/5463459_0.shtml

Kagan, R. A. (2001). *Adversarial legalism: The American way of law*. Cambridge: Harvard University Press.

Kan, K. (2014, May 20). Recalling several instances of "voting" by China's National People's Congress Standing Committee [记忆中全国人大常委会的几次“表决”]. *Legal Daily* [法制日报]. Retrieved from http://www.npc.gov.cn/npc/c234/201405/8a14a01b04a54435a1c869535f7fa52b.shtml

Kan, K. (2019). How was the "three-reading system" for legislation established? (Part 2) [阚珂. 立法“三审制”是怎样确立的？（下）]. *China People's Congress Journal* [中国人大], (20), 52－53.

Kaufman, H. (1976). *Are government organizations immortal?* Washington, DC: Brookings Institution.

Keller, R. A. (1994). Sources of order in Chinese law. *American Journal of Comparative Law, 42*(4), 711–749.

King, G., Pan, J., & Roberts, M. E. (2014). Reverse-engineering censorship in China: Randomized experimentation and participant observation. *Science, 345*(6199), 1–10.

Krehbiel, K. (2010). *Pivotal politics: A theory of U.S. lawmaking*. Chicago, IL: The University of Chicago Press.

Lampton, D. M. (1987). Chinese politics: The bargaining treadmill. *Issues and Studies, 23*(3), 11–41.

Lampton, D. M. (1992). A plum for a peach: Bargaining, interest, and bureaucratic politics in China. In K. Lieberthal & D. Lampton (Eds.), *Bureaucracy, politics, and decision making in post-Mao China* (pp. 33–58). Berkeley: University of California Press.

Landau, M. (1969). Redundancy, rationality, and the problem of duplication and overlap. *Public Administration Review*, *29*(4), 346–358.

Landry, P. (2008). *Decentralized authoritarianism in China: The communist party's control of local elites in the post-Mao era*. New York, NY: Cambridge University Press.

Laver, M. (2006). Legislatures and parliaments in comparative context. In B. Weingast & D. Wittman (Eds.), *The oxford handbook of political economy* (pp. 121– 140). Oxford University Press Oxford.

Lavertu, S., & Weimer, D. L. (2009). Integrating delegation into the policy theory literature. *Policy Studies Journal, 37*(1), 93–102.

Levine, M. E., & Forrence, J. L. (1990). Regulatory capture, public interest, and the public agenda: Toward a synthesis. *Journal of Law, Economics, & Organization, 6*, 167–198.

Lewis, D. (2003). *Presidents and the politics of agency design: Political insulation in the United States government bureaucracy, 1946–1997*. Palo Alto, CA: Stanford University Press.

Li, C. (2016). *Chinese politics in the Xi Jinping era: Reassessing collective leadership*. Washington: Brookings Institution Press.

Li, H., & Zhou, L. (2005). Political turnover and economic performance: The incentive role of personnel control in China. *Journal of Public Economics, 89*(9–10), 1743–1762.

Li, L. (2020, January 16). A quick guide to the new Commission on Comprehensive Governance according to Law (CCGAL). *The China Collection*. Retrieved from https://thechinacollection.org/quick-guide-newly-established-central-party-commission-rule-law/

Li, X. (2015). Economic analysis of regulatory overlap and regulatory competition: the experience of interagency regulatory competition in China's regulation of inbound foreign investment. *Administrative Law Review, 67*(4), 685–750.

Lieberthal, K. (2004). *Governing China: From revolution through reform (2nd ed.)*. New York, NY: W. W. Norton.

Lieberthal, K. G. (1992). Introduction: The "fragmented authoritarianism" model and its limitations. In *Bureaucracy, politics, and decision making in post-Mao China* (pp. 1–30). Berkeley: University of California Press.

Lieberthal, K., & Lampton, D. (1992). *Bureaucracy, politics, and decision making in post-Mao China*. Berkeley: University of California Press.

Lieberthal, K., & Oksenberg, M. (1988). *Policy making in China: Leaders, structures, and processes*. Princeton, NJ, Guildford: Princeton University Press.

Lim, B. K. (2017, November 20). Exclusive: China's backroom powerbrokers block reform candidates - sources. *Reuters*. Retrieved from https://www.reuters.com/article/china-congress-poll/exclusive-chinas-backroom-powerbrokers-block-reform-candidates-sources-idINDEE8AK00O20121121

Lindblom, C. E. (2017). Some limitations on rationality: A comment. In J. S. Hammond & R. L. Keeney (Eds.), *Rational decision* (pp. 224–228). Routledge.

Liu, J., & Wang, X. (2017, December 10). In your face: China's all-seeing state. *BBC News*. Retrieved from https://www.bbc.com/news/av/world-asia-china-42248056/in-your-face-china-s-all-seeing-state

Liu, M., & Tao, R. (2007). Local governance, policy mandates, and fiscal reform in China. In V. Shue, & C. Wong (Eds.), *Paying for progress in China: Public finance, human welfare, and changing patterns of inequality* (pp. 166–189). New York, NY: Routledge.

Liu, S. (2014). Legislative planning: Diminishment and reflection [立法规划之淡化与反思]. *Politics and Law* [政治与法律], *12*, 86–96.

Liu, S. (2017). Several important issues about CCP's leadership over lawmaking [党领导立法工作需要研究解决的几个重要问题]. *Legal Study* [法学], (05), 3–11.

Liu, X. (2018, September 10). Ten years of anti-monopoly enforcement, ten challenges (part 1) [反垄断十年十难（上）]. *The Paper* [澎湃新闻]. Retrieved from https://www.thepaper.cn/newsDetail_forward_2424841

Lorentzen, P. L. (2013). Regularizing rioting: Permitting public protest in an authoritarian regime. *Quarterly Journal of Political Science, 8*, 127–158.

Lorentzen, P. L. (2014). China's strategic censorship. *American Journal of Political Science, 58*, 402–414.

Lovell, G. I. (2003). *Legislative deferrals: Statutory ambiguity, judicial power, and American democracy*. New York: Cambridge University Press.

Lu, Q. (2013). Invisible legislators: The function and the legitimacy problem of Chinese legislative workers [隐性立法者——中国立法工作者的作用及其正当性难题]. J. *Zhejiang U. (Human. & Soc. Sci.)* [浙江大学学报（人文社会科学版）], (2), 74–80.

Lü, X., Liu, M., & Li, F. (2020). Policy coalition building in an authoritarian legislature: Evidence from China's national assemblies (1983-2007). *Comparative Political Studies, 53*(9), 1380–1416.

Lubman, S. (2006). Looking for law in China. *Columbia Journal of Asian Law, 20*(1), 1–92.

Lust-Okar, E. (2006). Elections under authoritarianism: Preliminary lessons from Jordan. *Democratization, 13*(3), 456–471.

MacLeod, C. (2009). Some skeptical of China's new Food Safety Law. Retrieved from http://abcnews.go.com/Business/story?id=6986268

Magaloni, B. (2008). Credible power-sharing and the longevity of authoritarian rule. *Comparative Political Studies, 41*(4–5), 715–741.

Magaloni, B., & Williamson, S. (2020). Legislatures and policy making in authoritarian regimes. *Comparative Political Studies, 53*(9), 1525–1543.

Malesky, E., & Schuler, P. (2010). Nodding or needling: Analyzing delegate responsiveness in an authoritarian parliament. *American Political Science Review, 104*(3), 482–502.

Manion, M. (1985). The cadre management system, post-Mao: The appointment, promotion, transfer and removal of party and state leaders. *The China Quarterly, 102*, 203–233.

Manion, M. (2014). Authoritarian parochialism: Local congressional representation in China. *The China Quarterly, 218*, 311–338.

Manion, M. (2015). *Information for autocrats: Representation in Chinese local congresses*. New York, NY: Cambridge University Press.

Marisam, J. (2011). Duplicative delegations. *Administrative Law Review, 63*(2), 181– 244.

Martin, E. M. (1997). An informational theory of the legislative veto. *Journal of Law, Economics, and Organization, 13*(2), 319–343.

Martin, L. W., & Vanberg, G. (2005). Coalition policymaking and legislative review. *American Political Science Review, 99*(1), 93–106.

Martin, L. W., & Vanberg, G. (2011). *Parliaments and coalitions: The role of legislative institutions in multiparty governance*. Oxford, UK: Oxford University Press.

McCubbins, M. D., & Schwartz, T. (1984). Congressional oversight overlooked: Police patrols versus fire alarms. *American Journal of Political Science, 28*(1), 165–179.

McCubbins, M. D., Noll, R. G., & Weingast, B. R. (1987). Administrative procedures as instruments of political control. *Journal of Law, Economics, & Organization, 3*(2), 243–277.

Melnick, R. S. (1994). *Between the lines: Interpreting welfare rights*. Washington, DC: The Brookings Institution.

Merger review threshold is lowered [“经营者集中”申报门槛降低]. (2008, August 5). *Oriental Morning Post* [东方早报]. Retrieved from http://finance.sina.com.cn/roll/20080805/10482361407.shtml

Mertha, A. (2009). “Fragmented authoritarianism 2.0”: Political pluralization in the Chinese policy process. *The China Quarterly, 200*, 995–1012.

Miller, H. (2004, January 30). Hu Jintao and the party politburo. *China Leadership Monitor, 9*. Retrieved from https://www.hoover.org/sites/default/files/uploads/documents/clm9_lm.pdf

Ministry of Commerce. (2004). Notice on rectifying rules and regulatory documents containing provisions of regional blockade in market economic activities [关于清理在市场经济活动中实行地区封锁规定的通知]. Retrieved from https://www.pkulaw.com/chl/eb80fff150da3d3cbdfb.html?keyword=%E5%9C%B0%E5%8C%BA%E5%B0%81%E9%94%81%20&way=listView

Moe, T. (1990). Political institutions: The neglected side of the story. *Journal of Law, Economics, and Organization, 6*, 213–253.

Moe, T. M. (1987). An assessment of the positive theory of “congressional dominance.” *Legislative Studies Quarterly, 12*(4), 475–520.

Moe, T. M. (1989). The politics of bureaucratic structure. In J. E. Chubb & P. E. Peterson (Eds.), *Can the government govern?* (pp. 285–323). Washington, D.C.: Brookings Institution Press.

Myerson, R. B. (2008). The autocrat’s credibility problem and foundations of the constitutional state. *American Political Science Review, 102*(1), 125–139.

Naughton, B. (2015). The transformation of the state sector: SASAC, the market economy, and the new national champions. In B. Naughton & K. S. Tsai (Eds.), *State capitalism, institutional adaptation, and the Chinese miracle* (pp. 46–72). Cambridge: Cambridge University Press.

Naughton, B., & Tsai, K. (2015). *State capitalism, institutional adaptation, and the Chinese miracle*. Cambridge: Cambridge University Press.

Ng, W. (2018). *The political economy of competition law in China*. Cambridge: Cambridge University Press.

Noble, B. (2020). Authoritarian amendments: Legislative institutions as intraexecutive constraints in post-soviet Russia. *Comparative Political Studies, 53*(9), 1417– 1454.

Noble, B., Gandhi, J., & Svolik, M. (2020). Legislatures and legislative politics without democracy. *Comparative Political Studies, 53*(9), 1359–1379.

NPCSC. (2006). Anti-monopoly law (draft for npc review). Retrieved from https://pkulaw.com/

NPCSC. (2007). Anti-monopoly law of the people's republic of china. Retrieved frm http://www.gov.cn/flfg/2007-08/30/content_732591.htm

O'Brien, K. J. (1989). Legislative development and Chinese political change. *Studies in Comparative Communism, 22*(1), 57–75.

O'Brien, K. J. (1994). Agents and remonstrators: Role accumulation by Chinese people's congress deputies. *The China Quarterly, 138*, 359–380.

O'Brien, K. J., & Li, L. (1999). Selective policy implementation in rural China. *Comparative Politics, 31*(2), 167–186.

O'Brien, K. J., & Luehrmann, L. M. (1998). Institutionalizing Chinese legislatures: Trade-offs between autonomy and capacity. *Legislative Studies Quarterly, 23*(1), 91–108.

Owen, B. M., Sun, S., & Zheng, W. (2008). China's competition policy reforms: The anti-monopoly law and beyond. *Antitrust Law Journal, 75*(231), 231–265.

Paler, L. (2005). China's legislation law and the making of a more orderly and representative legislative system. *The China Quarterly, 182*, 301–318.

Pepinsky, T. B. (2009). *Economic crises and the breakdown of authoritarian regimes: Indonesia and Malaysia in comparative perspective*. Cambridge: Cambridge University Press.

Remington, T. F. (2001). *The Russian parliament: Institutional evolution in a transitional regime, 1989-1999*. Yale University Press.

Remington, T. F. (2019). Institutional change in authoritarian regimes: Pension reform in Russia and China. *Problems of Post-Communism, 66*(5), 301–314.

Reuter, O. J., & Robertson, G. B. (2015). Legislatures, cooptation, and social protest in contemporary authoritarian regimes. *The Journal of Politics, 77*(1), 235–248.

Schuler, P., & Malesky, E. (2014). Authoritarian legislatures. In S. Martin, T. Saalfeld, & K. Str.m (Eds.), *The Oxford handbook of legislative studies* (pp. 676–695). Oxford, UK: Oxford University Press.

Shang, M. (2005, April 27). China's competition policy and legislation in development [发展中的中国竞争政策与立法]. *Ministry of Commerce Website*. Retreived from http://tfs.mofcom.gov.cn/article/bc/200504/20050400081489.shtml

Shih, V. C. (2008). *Factions and finance in china: Elite conflict and inflation*. Cambridge: Cambridge University Press.

Shirk, S. L. (1992). The Chinese political system and the political strategy of economic reform. In K. Lieberthal & D. Lampton (Eds.), *Bureaucracy, politics, and decision making in post-Mao China* (pp. 60–93). Berkeley, CA: University of California Press.

Shirk, S. L. (1993). *The political logic of economic reform in China (vol. 24)*. Berkeley, CA: University of California Press.

Spokesperson Geng Shuang hosts regular press conference of the Ministry of Foreign Affairs on May 6th, 2019 [2019 年 5 月 6 日外交部发言人耿爽主持例行记者会]. Retrieved from https://www.fmprc.gov.cn/web/wjdt_674879/fyrbt_674889/201905/t20190506_7814709.shtml

Staton, J. K., & Vanberg, G. (2008). The value of vagueness: Delegation, defiance, and judicial opinions. *American Journal of Political Science, 52*(3), 504-519.

Steinberg, D. A., & Shih, V. C. (2012). Interest group influence in authoritarian states: The political determinants of Chinese exchange rate policy. *Comparative Political Studies, 45*(11), 1404–1433.

Stephenson, M.C. (2011). Information acquisition and institutional design. *Harvard Law Review, 124*(6), 1422–1484.

Stone, D. (2001). *Policy paradox: The art of political decision making*. W.W. Norton & Company.

Sun, Z. (2005). Departments jockeying for power behind the anti-monopoly law [《反垄断法》背后的部门“卡位”]. *China News Weekly* [中国新闻周刊], (8), 25–27.

Svolik, M. W. (2009). Power sharing and leadership dynamics in authoritarian regimes. *American Journal of Political Science*, *53*(2), 477–494.

Svolik, M. W. (2012). *The politics of authoritarian rule*. Cambridge, MA: Cambridge University Press.

Tan, Y. (2020). Disaggregating "China, Inc.": The hierarchical politics of WTO entry. *Comparative Political Studies, 53*(13), 2118–2152.

Tanner, M. S. (1995). How a bill becomes a law in China: Stages and processes in lawmaking. *The China Quarterly, 141*, 39–64.

Tanner, M. S. (1999). *The politics of lawmaking in post-Mao china: Institutions, processes, and democratic prospects*. New York, NY: Oxford University Press Catalogue.

Tanner, M. S., & Ke, C. (1998). Breaking the vicious cycles: The emergence of China's National People's Congress. *Problems of Post-Communism, 45*(3), 29–47.

The objectives of competition law and policy and the optimal design of a competition agency – China. (2003, January 9). *OECD Global Forum on Competition*. Retrieved from https://www.oecd.org/daf/competition/prosecutionandlawenforcement/2485968.pdf

The third draft of the asset appraisal law maintains the existing regulatory regime due to disagreement [意见分歧大 资产评估法三审稿维持现有管理体制]. (2015, August 27). *Caixin* [财新网]. Retrieved from https://economy.caixin.com/2015-08-27/100844182.html

The US-China Business Council. (2009). The PRC legislative process: Rule making in China. Retrieved from https://www.uschina.org/sites/default/files/prc_legislative_process.pdf

Thirty NPC deputies from the Shanghai delegation jointly proposed to formulate a finance law [上海代表团 30 名人大代表联名提交议案：建议制定《财政法》]. *The Paper* [澎湃新闻]. Retrieved from http://sh.sina.com.cn/news/zw/2018-03-06/detail-ifxipenn7440534.shtml

Ting, M. M. (2003). A strategic theory of bureaucratic redundancy. *American Journal of Political Science, 47*(2), 274–92.

Truex, R. (2014). The returns to office in a "rubber stamp" parliament. *American Political Science Review, 108*(2), 235–251.

Truex, R. (2016). *Making autocracy work: Representation and responsiveness in modern China*. Cambridge, UK: Cambridge University Press.

Truex, R. (2017). Consultative authoritarianism and its limits. *Comparative Political Studies, 50*, 329–361.

Truex, R. (2020). Authoritarian gridlock? Understanding delay in the Chinese legislative system. *Comparative Political Studies, 53*(9), 1455–1492.

Tsebelis, G. (1995). Decision making in political systems: Veto players in presidentialism, parliamentarism, multicameralism and multipartyism. *British Journal of Political Science, 25*(3), 289–325.

Tsebelis, G. (2002). *Veto players: How political institutions work*. Princeton, NJ: Princeton University Press.

Tullock, G. (1987). *Autocracy*. Amsterdam: Kluwers Academic Publishers.

Vakilifathi, M. (2019). Constraining bureaucrats today knowing you'll be gone tomorrow: The effect of legislative term limits on statutory discretion. *Policy Studies Journal, 47*(4), 978–1001.

van den Dool, A. (2019). *Never again: Legal change after public health crises in China*. Universiteit van Amsterdam.

van der Kamp, D., Lorentzen, P., & Mattingly, D. (2017). Racing to the bottom or to the top? Decentralization, revenue pressures, and governance reform in China. *World Development, 95*, 164–176.

Vannoni, M., Ash, E., & Morelli, M. (2021). Measuring discretion and delegation in legislative texts: methods and application to US states. *Political Analysis, 29*(1), 43–57.

VanSickle-Ward, R. (2010). The politics of precision specificity in state mental health policy. *State and Local Government Review, 42*(1), 3-21.

VanSickle-Ward, R. (2014). *The devil is in the details: Understanding the causes of policy specificity and ambiguity*. Albany: State University of New York Press.

Wang Qishan may be appointed director of the Anti-Monopoly Commission, supporting rules are ready to be introduced [王岐山或任反垄断委员会主任 配套细则伺机出台]. (2008, August 2). *China Economic News* [中国经济网]. Retrieved from https://business.sohu.com/20080802/n258541735.shtml

Wang, H. H., & Shi, S. Y. (2022). Comprehensive law-based governance in China? Legislating authoritarianism in the Xi Jinping era. *Journal of Contemporary East Asia Studies*, 1–19.

Wang, P. J., & Zhang, Y. (2007). New Chinese anti-monopoly law. *Jones Day*. Retrieved from https://www.jonesday.com/en/insights/2007/10/new-chinese-anti-monopolylaw

Wang, Q. (2012, November 12). Ministry of Environmental Protection's forceful involvemnt in the legislative game [环保部强势介入立法博弈]. *The New York Times Chinese Website* [纽约时报中文网]. Retrieved from https://cn.nytimes.com/china/20121112/cc12wangqiang/

Wang, X. (2003). China's entry into the WTO and formulation of the anti-monopoly law [入世与中国反垄断法的制定]. *Journal of Legal Studies* [法学研究], (02), 122–134.

Wang, X. (2004). Issues surrounding the drafting of China's anti-monopoly law. *Washington University Global Studies Law Review, 3*(2), 285–296.

Wang, X. (2008). Highlights of China's new anti-monopoly law. *Antitrust Law Journal, 75*(1), 133–150.

Wang, X. (2014). *The evolution of China's anti-monopoly law*. Cheltenham: Edward Elgar.

Wei, C. (2018, March 10). Demographics of the 13th NPC (updated). *NPC Observer*. Retrieved from https://npcobserver.com/2018/03/10/demographics-of-the-13th-npc/

Wessling, C. (2020, October 22). China's new export control law. *Mercator Institute for China Studies-China Essentials*. Retrieved from https://merics.org/en/briefing/chinas-new-export-control-law

Whitford, A. B. (2003). Adapting agencies: Competition, imitation, and punishment in the design of bureaucratic performance. In G. A. Krause & K. J. Meier (Eds.), *Politics, policy, and organizations* (pp. 160–185). University of Michigan Press.

Williams, M. (2018). *How language works in politics: The impact of vague legislation on policy*. Bristol, UK: Bristol University Press.

Wu, J. (2013). *Wu Jinglian: Voice of reform in China*. Cambridge, MA: The MIT Press.

Wu, W. (2022, Oct 16). What achievements have been made in the past decade in adhering to the rule of law comprehensively? [坚持全面依法治国，过去十年取得了哪些成绩？]. *The Beijing News* [新京报]. Retrieved from https://www.163.com/dy/article/HJQUPN0A0512D3VJ.html

Xi, J. (2022). Persisting in the path of socialist rule of law with Chinese characteristics to better promote the construction of the rule of law system with Chinese characteristics [坚持走中国特色社会主义法治道路 更好推进中国特色社会主义法治体系建设]. *China People's Congress Journal* [中国人大], (04), 6–9.

Xu, X. (2021). To repress or to co-opt? Authoritarian control in the age of digital surveillance. *American Journal of Political Science*, *65*(2), 309–325.

Yackee, J. W., & Yackee, S. W. (2010). Administrative procedures and bureaucratic performance: Is federal rule-making "ossified"? *Journal of Public Administration Research and Theory, 20*(2), 261–282.

Yackee, J., & Yackee, S. (2016). From legislation to regulation: An empirical examination of agency responsiveness to congressional delegations of regulatory authority. *Administrative Law Review*, *68*(3), 395–443.

Yang, H., & Yu, X. (2022). A reexamination of the factors influencing legislative efficiency in China: An empirical analysis based on the legislative planning of the standing committee of the National People's Congress (1991–2019) [中国立法效率影响因素的再审视——基于全国人大常委会立法规划的实证分析]. *China Law Review* [中国法律评论], (02), 60–76.

Yang, J. (2007). Report of the Law Committee of the National People's Congress on views regarding the revision of the anti-monopoly law (third deliberation draft) [全国人大法律委员会关于《中华人民共和国反垄断法(草案三次审议稿)》修改意见的报告]. *Gazette*

of the NPC Standing Committee [中华人民共和国全国人民代表大会常务委员会公报], (06), 533-534.

Yang, Y. (2004, September 17). Ministry sets up anti-monopoly office. *China Daily*. Retrieved from http://www.chinadaily.com.cn/english/doc/2004-09/17/content_375331.htm

Zhang, A. H. (2014). Bureaucratic politics and China's anti-monopoly law. *Cornell International Law Journal, 47*(3), 671–707.

Zhang, Q. (2016). Bureaucratic politics and Chinese foreign policy-making. *The Chinese Journal of International Politics, 9*(4), 435–458.

Zhao, I. (2019, May 8). Is it evasive or humorous? Geng Shuang's response on behalf of "relevant departments" sparks heated discussions [打太极还是耍幽默 耿爽“有关部门”回答引热议]. *ABC News*. Retrieved from https://www.abc.net.au/chinese/2019-05-08/geng-shuangs-relevant-authority-remark-triggers-debate/11090876