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Public consultation and policy change in China's cyber governance

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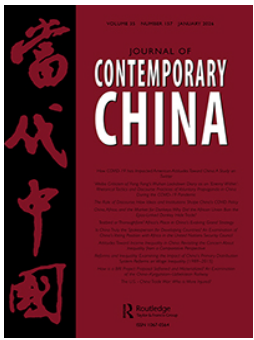
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Public Consultation and Policy Change in China's Cyber Governance

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ABSTRACT

This article theorizes how public consultation in China shapes policy change. It shows that, in the drafting of China's novel rules on Generative AI, public consultation led to a drastic regulatory U-turn and defied scholarly expectations. In response, this article shifts attention to the internal feedback mechanisms that shape how societal input is transformed into policy change. To map these factors, it uses natural language processing to compare drafts and final versions of official documents by the Cyberspace Administration of China (CAC). This analysis demonstrates that internal dynamics like bureaucratic complexity and policy preferences shape consultation's impact more than societal ones. In this case, consultation's function becomes to reveal and calibrate potentially competing logics within the system (security versus development) without fundamentally altering its priorities.

KEYWORDS

Consultative authoritarianism; cybergovernance; generative AI; China; policy processes

Introduction

Only 132 days after tech giant OpenAI released the revolutionary ChatGPT, the Cyberspace Administration of China (CAC) introduced a draft rule for generative artificial intelligence (AI). It was not only the extreme speed in formulating the document that attracted attention. The document was a blunt regulatory response to what might already be a revolutionary leap in technology. While experts called it 'unworkable',¹ it seemed clear that this draft was going to become reality soon. Scholars characterize the CAC as 'dominating' the cyber domain with a 'single-minded pursuit of security' and little interest in fostering development in the internet sector.² Previous studies of consultations for documents drafted by the CAC argue that the superior status of the CAC made it unlikely that other administrative organs could 'prevail' by inserting their own priorities in drafts.³ More broadly, they suggest that little room is left for revision after authorities release the draft for public comments.⁴ Thus, there appeared to be little reason to assume that this draft could be severely overhauled. In a *DigiChina* forum on the draft, not one of the 10 contributing experts explicitly raised the possibility that authorities might significantly overhaul the draft before promulgation.⁵

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¹'China's Draft Regulations on Generative AI, with Kendra Schaefer and Jeremy Daum' (*The China Project*, 11 March 2023) <<https://thechinaproject.com/2023/03/11/chinas-draft-regulations-on-generative-ai-with-kendra-schaefer-and-jeremy-daum/>> accessed 3 July 2024.

²Henry S Gao, 'Data Regulation with Chinese Characteristics' in Mira Burri (ed), *Big Data and Global Trade Law* (Cambridge University Press, 2021), 260, 266.

³Jinting Deng and Pinxin Liu, 'Consultative Authoritarianism: The Drafting of China's Internet Security Law and E-Commerce Law' (2017) 26 *Journal of Contemporary China* 679, 687–688. <<https://doi.org/10.1080/10670564.2017.1305488>>.

⁴*Ibid.*, 680.

⁵'How Will China's Generative AI Regulations Shape the Future? A DigiChina Forum' (*DigiChina*, 19 April 2023) <<https://digichina.stanford.edu/work/how-will-chinas-generative-ai-regulations-shape-the-future-a-digichina-forum/>> accessed 9 August 2025.

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Contrary to these expectations, the CAC published a profoundly overhauled version of these regulations just 64 days after the conclusion of the public notice-and-comment period. The final version relaxed many of its security-oriented requirements, such as excluding all forms of research and development and non-public-facing deployments from its scrutiny. The changes forced security-oriented concerns to yield to promoting development and innovation in the sector. Observers called some of the changes ‘drastic’.⁶

What happened in these two months that caused such a radical and unexpected U-turn? This article is concerned with this stark difference between scholarly expectations and practice. It takes the case of generative AI as a starting point and zooms out more broadly to understand how the public notice-and-comment (*gongkai zhengqiu yijian*) practice shapes the formulation of cyber policy by the CAC. It argues that, to date, scholarship on consultative mechanisms has primarily focused on its impact on state–society relations—the post-consultation shifts in opinion of a policy or state. This has created lacunae in understanding how consultations can generate policy change. In turn, this contributed to the stark contrast between expectations and practice on generative AI. Meanwhile, the CAC remains an opaque organization. This raises important questions about its role and functions, such as its working relationship with other regulators and possible divergences between them, as well as how the CAC itself generates policy suggestions or responds to social concerns.⁷

Next to providing insights about the CAC and the regulation of AI in China, this study also functions as a case study for understanding authoritarian consultation more broadly. Because the CAC is dominating cybergovernance in China with a single-minded pursuit of security, it is particularly illustrative as a worst-case scenario for frameworks of consultative authoritarianism. This further coincides with the mainstream view that under Xi Jinping’s leadership, top-down control over the bureaucracy has been strengthened. In this scenario, uniform and strictly-controlled policy preferences would intuitively limit the meaningful adoption of consultative mechanisms.

Furthermore, the CAC’s broad portfolio means it is a useful case for theorizing relationships. Policy domains it has responsibility over include securitized topics like online content management and data exports, but also those relating more to business-citizen relationships like personal information protection with arguably less uniform state preferences.⁸ Because the CAC covers so many domains in one single organization, any possible findings cannot be affected by external variation. This is crucial because the implementation of consultation differs greatly due to the availability of funds and resources, bureaucratic culture, and more.⁹ Focusing on only one bureaucratic actor makes it possible to eliminate such confounding factors when theorising relationships.

This article is structured as follows. The next section argues for shifting attention to the internal feedback mechanisms that shape policy formulation—how societal input is transformed into policy change. Subsequently, it reviews current debates on the CAC to develop a baseline reading of what this internal feedback mechanism could look like. Based on this review, it develops four hypotheses related to the impact of consultation on policy formulation. Subsequently, the article introduces data-driven methods to test these hypotheses, drawing from the field of Natural Language Processing (NLP). After introducing the results, it returns to the rules on generative AI to explore how these findings can explain the case. The article concludes with broader theoretical reflections. Altogether, it demonstrates that internal dynamics like bureaucratic complexity and policy preferences shape consultation’s impact more than societal ones. In this context, consultation’s function becomes to reveal and calibrate potentially competing logics within the system (security versus development) without fundamentally altering its priorities.

⁶Jeremy Daum, ‘Key Changes to Generative AI Measures’ (*China Law Translate*, 18 July 2023) <<https://www.chinalawtranslate.com/en/key-changes-to-generative-ai-measures/>> accessed 27 February 2025.

⁷Jamie Horsley and Rogier Creemers, ‘The Cyberspace Administration of China: A Portrait’ in Rogier Creemers, Straton Papagiannenas and Adam Knight (eds), *The Emergence of China’s Smart State* (Rowman & Littlefield, 2023), 25–26.

⁸*Ibid.*, 13–18.

⁹Quansheng Wang, ‘*xingzheng lifa gongkai zhengqiu yijian chengxu shiyong de fanwei tantao* [Discussion of the Applicable Scope of Soliciting of Public Opinion in Administrative Legislation]’ (*Eastern Legal Science*, 2014), 75.

Studying Consultative Mechanisms in China: Shifting Attention from Impacts on State–Society Relations to the Factors That Drive Policy Change

The notice-and-comment practice central to this article refers to the formal practice of releasing draft regulations or policies for public comments before they are finalized. The ‘public’ here can include citizens, but also companies both domestic and foreign and civil society. Typically, these drafts are in an advanced stage of the process, after internal deliberations have been finished. The practice closely aligns with the concepts of ‘consultative authoritarianism’¹⁰ and ‘consultative Leninism’.¹¹ It is distinct from deliberative processes, whereby citizens and the government collectively arrive at a policy decision,¹² and responsiveness, where the government responds to rather than actively solicits public opinion. Moreover, the public notice-and-comment period is not the only way for authorities to obtain public feedback; another mechanism is to invite selected stakeholders or experts to closed-door meetings.

Consultation can have a meaningful impact on policy and governance, all the while strengthening rather than weakening the stability of Party rule.¹³ Meaningful consultation can help authorities make policy more congruent with public opinion,¹⁴ generate legitimacy,¹⁵ address agency loss in policy implementation by better aligning central-local interests¹⁶ and gaining support from lower-level actors,¹⁷ address policy failure,¹⁸ or break bureaucratic stalemates.¹⁹ After the Legislation Law in 2000 formalized the right of citizens to participate in the legislative process,²⁰ the annual number of regulations released to the public skyrocketed.²¹

The CAC itself has solicited public comments on its draft rules since at least 2016. Following 2018’s State Council requirement to solicit public comments on virtually all major new regulations,²² the CAC has standardized this process further, with virtually all new regulatory documents including a public consultation phase (Figure 1). The CAC typically uses up to three different channels to collect public comments. In all cases, the CAC permits entities to (1) directly email or (2) send a letter to the responsible office. If the document is a legislative document, entities can also (3) submit their opinions through the *Legislative Opinion Collection* portal of the Ministry of Justice. Either way, it is a one-way process. There is no institutionalized mechanism that permits more deliberative exchanges with those submitting comments. The CAC does regularly host closed-door meetings with invited stakeholders, too,²³ but these typically occur separately from the public ‘notice and

¹⁰Jean-Pierre Cabestan, ‘The 10th National People’s Congress and After: Moving Towards a New Authoritarianism—Both Elitist and Consultative?’ (2003) *China Perspectives* 1. <<https://doi.org/10.4000/chinaperspectives.272>>; Jessica C Teets, ‘Let Many Civil Societies Bloom: The Rise of Consultative Authoritarianism in China’ (2013) *The China Quarterly* 19. <<https://doi.org/10.1017/S0305741012001269>>.

¹¹Steve Tsang, ‘Consultative Leninism: China’s New Political Framework’ (2009) 18 *Journal of Contemporary China* 865. <<https://doi.org/10.1080/10670560903174705>>.

¹²Jonathan Stromseth, Edmund Malesky and Dimitar Gueorguiev, *China’s Governance Puzzle: Enabling Transparency and Participation in a Single-Party State* (Cambridge University Press 2017), 159.

¹³e.g., Baogang He, ‘Deliberative Culture and Politics: The Persistence of Authoritarian Deliberation in China’ (2014) 41 *Political Theory* 58. <<https://doi.org/10.1177/0090591713509251>>.

¹⁴Dimitar Gueorguiev, *Retrofitting Leninism: Participation without Democracy in China* (Oxford University Press, 2021), 99–100.

¹⁵Wenjie Yan, ‘Where Is the Deliberative Turn Going? A Survey Study of the Impacts of Public Consultation and Deliberation in China’ (2018) 12 *International Journal of Communication* 2661, 2677.

¹⁶Stromseth, Malesky and Gueorguiev, (n 12), 157–59.

¹⁷Yoel Kornreich, ‘Authoritarian Responsiveness: Online Consultation with “Issue Publics” in China’ (2019) *Governance* 547, 548–50. <<https://doi.org/10.1111/gove.12393>>.

¹⁸Stromseth, Malesky and Gueorguiev, (n 12), 259–64.

¹⁹Yoel Kornreich, Ilan Vertinsky and Pitman B Potter, ‘Consultation and Deliberation in China: The Making of China’s Health-Care Reform’ (2012) *The China Journal* 176, 182–92. <<https://doi.org/10.1086/666583>>.

²⁰Rory Truex, ‘Consultative Authoritarianism and Its Limits’ (2017) 50 *Comparative Political Studies* 329, 335. <<https://doi.org/10.1177/0010414014534196>>.

²¹Stromseth, Malesky and Gueorguiev, (n 12), 174.

²²Jamie P Horsley, ‘China Implements More Participatory Rulemaking Under Communist Party’ (*The Regulatory Review*, 15 March 2018) <<https://www.theregreview.org/2018/03/15/horsley-china-implements-participatory-rulemaking/>> accessed 8 January 2024.

²³Deng and Liu, (n 3).

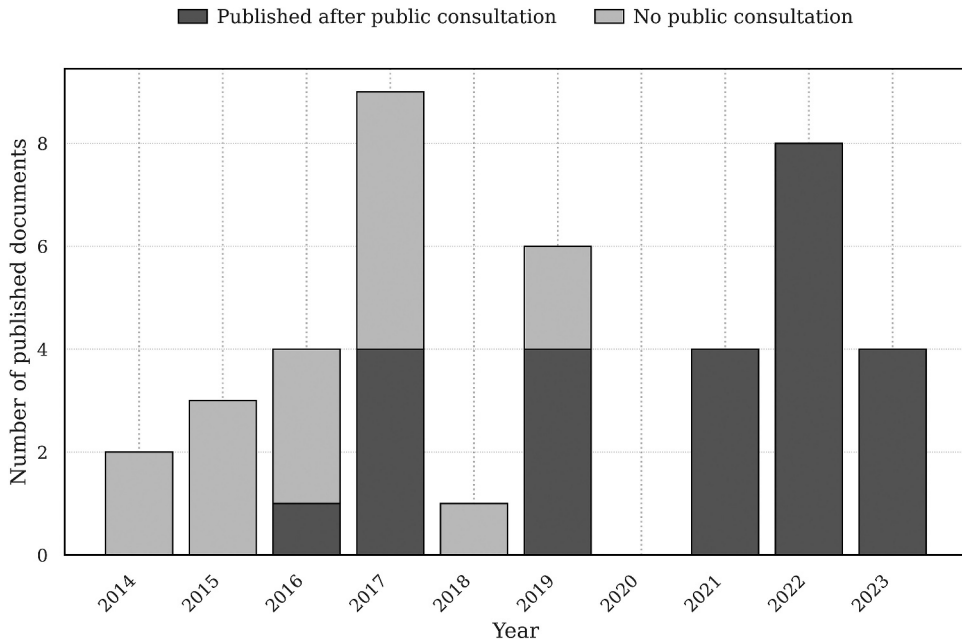


Figure 1. Documents issued by the CAC per year, subdivided by whether they have featured a notice-and-comment period.

comment’ periods studied here. There is usually only one round of public comments before finalization.

Despite their expansions, authorities use consultative mechanisms inconsistently and unevenly. Research has highlighted how some authorities used consultation when the backing of a project was uncertain, but ignored it when it was guaranteed.²⁴ Certain localities used consultation out of necessity to address policy failure, while others used it only superficially to improve their image.²⁵ In some cases, consultation sees meaningful negotiation and compromise, whereas in others, consultation remains formalistic or performative.²⁶ Sometimes, bureaucracies only support deliberations insofar as they align with their preferences, such as by exclusively inviting like-minded scholars.²⁷

The uneven and inconsistent application of consultative mechanisms raises important questions. How and under what circumstances China’s authorities translate societal input into policy change, and what factors shape this? Unfortunately, answers are limited. Researchers note that while authorities are making wider use of the notice-and-comment period, additional research remains necessary to conclude whether this brings more than just a veneer of transparency to policymaking.²⁸ The example of generative AI from the introduction further illustrates that current theories do not always reliably explain policy practice. For example, scholars suggest that the notice-and-comment period has little impact on the outcome of the policy-making process²⁹ and argue that especially central organs appear less responsive to public comments.³⁰ The CAC’s case defies these

²⁴Stromseth, Malesky and Gueorguiev, (n 12), ch 7.

²⁵*Ibid.*, 260–68.

²⁶Deng and Liu, (n 3), 683.

²⁷Kornreich, Vertinsky and Potter, (n 19).

²⁸Steven J Balla and Zhoudan Xie, ‘The Durability of Governance Reform: A Two-Wave Audit of Notice and Comment Policymaking in China’ (2023) 2023 *Regulation & Governance* 549. <<https://doi.org/10.1111/rego.12477>>.

²⁹Deng and Liu, (n 3).

³⁰Steven J Balla and others, ‘Notice the Comment? Chinese Government Responsiveness to Public Participation in the Policymaking Process’ (2024) 38 *Governance* 2. <<https://doi.org/10.1111/gove.12901>>.

expectations, meaning that there is an insufficient understanding of the factors that drive policy change.

These challenges are rooted in epistemological and methodological constraints. Epistemologically, the majority of studies in this field are concerned with state–citizen relationships, such as those that seek to establish theoretical and causal links between consultation and regime or policy legitimacy.³¹ Much less attention is dedicated to the processes of policy formulation and policy change. For instance, Deng and Liu note how ‘few studies have examined the drafting stage’³² while Yan argues that the ‘impacts of deliberation have most often [focused] on participants’ post-discussion shifts in opinion’.³³ That is to say, studies principally focus on whether or not citizens perceive policies more positively after consultation, but not how consultation has exactly influenced the policy. Consultation can improve the legitimacy of the policy without actually resulting in any changes to the policy.³⁴ Simultaneously, improving legitimacy is only one of several objectives of public consultation. Hence, a limited focus on citizen-state relationships risks ignoring other important aims, such as enabling effective policy change.

Methodologically, the few studies that do focus on the policy formulation process exclusively use small-scale, qualitative case studies or comparisons. This has made it difficult to theorize more broadly about questions like what factors shape the adoption of consultation as well as the subsequent impact on the policy itself. This difficulty also stems from the fact that the aforementioned studies address widely different fields (from health care to cyber-policy to land redistribution), regions (from Sichuan to Jiangsu), or types of consultation (closed-door versus public), which makes reliable comparisons difficult. The inherent diversity of the CAC’s agenda can help address this while eliminating confounding features like differing bureaucratic cultures.

Finally, the ongoing expansion of consultative mechanisms in contemporary China raises new questions for scholarship. In studying consultative authoritarianism, studies have primarily differentiated between cases where authorities do and do not adopt consultation.³⁵ As noted above, however, authorities now require consultation for all legislative documents (including departmental rules). This means that this dichotomy no longer holds. The question is no longer about when authorities adopt consultation, but what factors shape how societal input is used and processed within the system.

Conceptually, this indicates the need to shift attention from the post-consultation impacts on state–society relations (for example, whether consultation enhances legitimacy) to the internal dynamics that determine how consultation produces policy change. I refer to the latter as the internal feedback mechanism, shown schematically in [Figure 2](#). It (non-exhaustively) comprises the interests, practices, power relations, and formal constraints through which societal input is interpreted, reframed, and incorporated into bureaucratic decision-making. Rather than merely filtering feedback, the mechanism transforms and translates consultation into concrete change according to institutional logics and policy priorities.

Conceptualising the Internal Feedback Mechanism of the CAC: More Questions Than Answers

First and foremost, conceptualising these internal feedback mechanisms of the CAC requires an understanding of its bureaucratic structure, interests, and working relations with other stakeholders. The CAC has come to ‘dominate’ internet governance over other ministries like the Ministry of

³¹Truex, (n 20); Gueorguiev, (n 14); Stromseth, Malesky and Gueorguiev (n 12).

³²Deng and Liu, (n 3), 680.

³³Yan, (n 15), 2664.

³⁴Gueorguiev, (n 14), 99.

³⁵Gueorguiev, (n 14); Stromseth, Malesky and Gueorguiev, (n 12), ch 7.

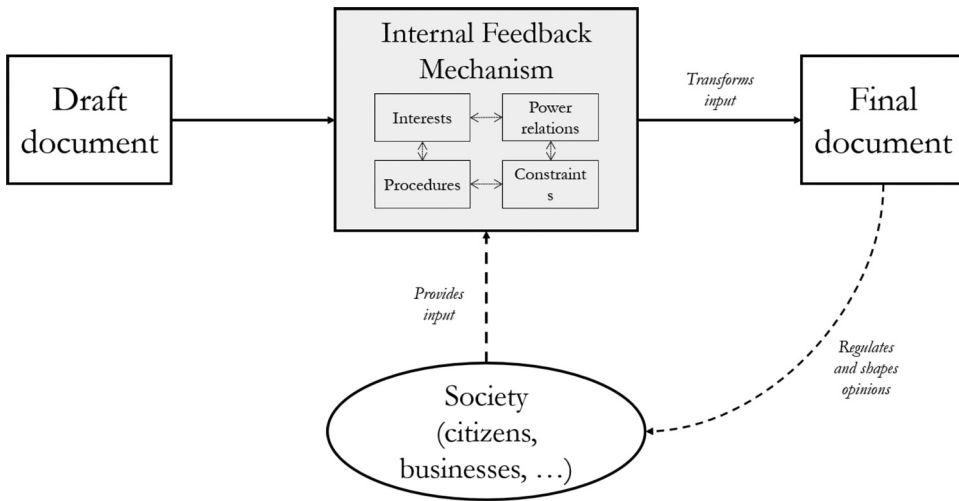


Figure 2. Model of the consultative process and the internal feedback mechanism.

Industry and Information Technology and the Ministry of Public Security.³⁶ The drafting of the Cybersecurity Law appears to confirm this assessment, where directly contradictory interests among the bureaucracy were shoved aside by a dominant CAC.³⁷ Nevertheless, some researchers question whether bureaucratic complexities have now all been resolved by the CAC's more powerful status.³⁸ Others again suggest that the CAC, as a 'single-minded' security watchdog, has no interest in promoting the development of the digital sector in China.³⁹ This is notable as the very purpose of the CAC's establishment was to unify the regulation of cyberspace and achieve a balance between security and development in the domain.⁴⁰

The CAC, however, remains a remarkably opaque organization. It is functionally a Party institution under the control of the Central Propaganda Department, does not have a public inventory of responsibilities and internal structure (the *bianzhi*), yet uses its State 'nameplate' to issue regulations and conduct enforcement. It appears to rely on its Party identity to enhance its political authority over that of ministries under the State Council, while it follows administrative law when acting as a regulator to enhance its legitimacy.⁴¹ This raises important new questions about the role and functioning of the CAC, such as its working relationship with other regulators and possible divergences between them, as well as how the CAC itself generates policy suggestions or responds to social concerns.⁴²

The regulations on generative AI raise a crucial question about these assessments. If the CAC is the dominant actor and does not care at all about stimulating development, how is it possible that these regulations were so significantly amended, especially to avoid kneecapping development? The changes were not just a matter of finetuning details to make implementation more feasible. They overturned core principles from the draft, such as excluding entire subsets of generative AI from the regulations' purview. Here, too, there might be explanatory factors missing in the current literature.

³⁶Gao, (n 2), 260–261.

³⁷Deng and Liu, (n 3), 694–695.

³⁸Horsley and Creemers, (n 7), 25.

³⁹Gao, (n 2), 266.

⁴⁰Horsley and Creemers, (n 7), 25–26.

⁴¹Ibid., 19–20.

⁴²Ibid., 25–26.

Hypothesising the Internal Feedback Mechanisms of the CAC

The current literature suggests several lines of inquiry for further addressing these questions. These principally relate to internal priorities, societal contention, and bureaucratic complexity. First, as hypothesized by Gueorguiev, authoritarian policymakers solicit public feedback on topics and dimensions where they have more wiggle room.⁴³ However, this claim has never been empirically tested nor been subjected to large-scale analysis: only individual anecdotes exist. For example, Deng and Liu argue that one of the reasons few opposing views were considered in the drafting of the *Cybersecurity Law* was that the Party's leadership saw the fundamental principles in the law as non-negotiable.⁴⁴ Conversely, documented cases involving major successes in public consultation above involve fields like health care reform,⁴⁵ e-commerce,⁴⁶ the privatization of state-owned businesses,⁴⁷ and environmental issues.⁴⁸ In some of these fields, the state may have less of an overt policy preference. This may be because they relate as much to business–society relations than to the power of the state. Alternatively, authorities may see such fields as technical processes amenable to technical solutions, rather than political problems that require a political response—over which the CCP strictly guards its monopoly. This leads to Hypothesis 1:

H1: Topics where the CAC has less overt policy preferences witness greater change during the public consultation process.

Another factor could be the degree of societal contention for a topic. In the literature's first large-scale study of the link between contention and consultation, Zhang, He and Wu demonstrate that topics with greater social conflict will see greater adoption of public hearings (another form of consultation).⁴⁹ Social conflict, in this context, includes both contention *amongst* the people and *between* individuals and the state. Various studies have identified that some authorities use consultation as a way to reduce potential unrest in response to their political decisions.⁵⁰ Yet, this does not automatically indicate that authorities also *implement* public input on their policies more earnestly when there is substantial societal contention. As noted above, some researchers suggest the opposite may be true. This means that it is crucial to investigate Hypothesis 2:

H2: Documents in a more socially contentious domain witness more change.

Other plausible explanations focus more on bureaucratic factors. That bureaucratic complexity can lead to greater policy change during the policy formulation process has already been demonstrated in the context of China's National People's Congress.⁵¹ As noted above, too, Chinese agencies have regularly utilized consultative processes to manage inter-bureaucracy conflict. In such cases, public consultation can break stalemates and lead to changes to the text from one draft to another. The CAC, too, has been involved in multiple turf wars, such as with the Ministry of Public Security over online content management and data regulation.⁵²

⁴³Gueorguiev, (n 14), 101–102.

⁴⁴Deng and Liu, (n 3).

⁴⁵Kornreich, Vertinsky and Potter, (n 19); Kornreich, (n 17).

⁴⁶Deng and Liu, (n 3).

⁴⁷Gueorguiev, (n 14), 88–92.

⁴⁸Stromseth, Malesky and Gueorguiev, (n 12), 255–65.

⁴⁹Kaiping Zhang, Baogang He and Jinjin Wu, 'Double Trouble? Effects of Social Conflict and Foreign Investment on Consultative Authoritarianism in China' (2021) 27 *Contemporary Politics* 371. <<https://doi.org/10.1080/13569775.2021.1884376>>.

⁵⁰e.g., Baogang He and Mark E Warren, 'Authoritarian Deliberation: The Deliberative Turn in Chinese Political Development' (2011) 9 *Perspectives on Politics* 269. <<https://doi.org/10.1017/S1537592711000892>>.

⁵¹Jiying Jiang, 'Not Just Rubber-Stamping: Understanding the Amending Role of the Chinese Legislature with Bill Text Reuse' (2024) *Democratization*. <<https://doi.org/10.1080/13510347.2023.2301351>>.

⁵²Horsley and Creemers, (n 7), 24.

Nevertheless, the above literature on the CAC suggests that the CAC's power dwarfs that of other regulators in the cyber domain. The literature thus far has assessed the consultative processes behind only one document drafted by the CAC: the Cybersecurity Law. This case indicated that other regulators were barely able to influence any content of the law.⁵³ As a result, it would be more reasonable to hypothesize that while there may be *some* effect related to bureaucratic complexity, this effect would be limited in practice. Anything to the contrary would suggest that the CAC's power is far from absolute and that bureaucratic competition between the CAC and other administrative organs is far from over. Ultimately, this leads to Hypothesis 3:

H3: The bureaucratic complexity surrounding a new document has limited impact on the formulation of documents led by the CAC.

The final factor of interest, seldom explored in the literature, is the nature of the policy itself. The CAC engages with incredibly innovative sectors, such as generative AI. In this sector, developments are extremely rapid, while there are few operational mechanisms to build upon. The CAC also operates in sectors where the basic management mechanisms had already been established before the CAC's founding. These include the management of online news outlets or the real-name registration system. Hence, although the literature has not yet debated this in detail, it is not unreasonable to expect that the CAC might prove more open to public feedback on newer topics or where the management mechanisms are still new. After all, the CAC would likely have its own learning curve in dealing with newer, more innovative fields. This leads to the final hypothesis:

H4: Documents engaging with a new field of technology or introducing entirely new management mechanisms witness more change.

Methods

To assess these hypotheses, this article deploys a mixed-method analysis that combines text-as-data⁵⁴ approaches with a qualitative case study using process tracing.⁵⁵ The timeframe for this analysis is from 2014, when the State Council formally empowered the CAC as chief responsible for all online content management work, until the end of 2023—the latest year with complete data at the time this research was conducted.⁵⁶

State Council regulations formally require a 30-day public solicitation of comments for legislative documents like administrative regulations (*xingzheng fagui*)⁵⁷ and departmental rules (*bumen guizhang*).⁵⁸ However, the CAC has also systematically opened administrative normative documents (*xingzheng guifanxing wenjian*) for public comment since 2019. This is notable, as the State Council only requires public comments on 'major administrative decision-making' and formal requirements for these are generally less strict than for other categories of documents.⁵⁹ Thus, the author retrieved these three categories of documents retrieved from the official website of the CAC. Policy documents

⁵³Deng and Liu, (n 3).

⁵⁴Justin Grimmer, Margaret E Roberts and Brandon Stewart, *Text as Data* (Princeton University Press, 2022).

⁵⁵David Collier, 'Understanding Process Tracing' (2011) 44 PS: Political Science & Politics 823. <<https://doi.org/10.1017/S1049096511001429>>.

⁵⁶All data and code for analysis is available via <https://github.com/zongtihuoguoguan/CAC-Policy-Consultation-2024/tree/main> or via DOI: 10.5281/zenodo.18030870.

⁵⁷Legally, administrative regulations must be promulgated by the State Council. However, the CAC has still led drafting and collection of public comments on several of these (2). Hence, they are still included in this article.

⁵⁸Horsley, (n 22).

⁵⁹Jamie P Horsley, 'An Overview of China's State Council Major Decision-Making Regulations' (*China Law Translate*, 29 April 2024) <<https://www.chinalawtranslate.com/en/an-overview-of-chinas-state-council-major-decision-making-regulations/>> accessed 7 January 2025.

are never released for public comment by the CAC and hence were not included in the study. A manual search then supplemented this dataset with the draft versions of these documents, if available. In total, this yielded 49 finalised documents and 33 drafts, of which eight had not (yet) been promulgated at the time of research, for a total of 25 draft-final pairs.⁶⁰

Formally, only the State Council can promulgate administrative regulations. However, the CAC has still led the drafting and collection of public comments on several of these. This is because the CAC only has the legal authority to develop departmental rules that are within its scope of authority as stipulated by higher-level authorities. Technically, this does not prevent it from formulating rules that effectively expand its scope of authority where the division of labour is yet unclear. However, where the regulatory issue explicitly involves domains beyond the CAC's formal scope of authority, the CAC either needs to work together with other agencies or work through the State Council to formulate administrative regulations. Hence, this article also studies these. The author assigned documents drafted by the CAC but later issued by the State Council a dummy variable of five co-issuers, as administrative regulations are never co-issued but by nature indicate interdepartmental involvement.

To measure the degree of change between the public draft and the final version of a document, this article calculates the string similarity between the two versions,⁶¹ using cosine similarity and Jaccard similarity metrics. Cosine similarity is one of the most widely used similarity metrics in NLP and measures the cosine of the angle between two vectors (arrays containing the word counts of two documents).⁶² However, this renders it insensitive to differences in length: if two texts use similar vocabulary, the cosine similarity will be high even if they differ greatly in length. Jaccard similarity is defined as the size of the intersection between two texts (unique words that both texts have in common) divided by the size of the union (all unique words in both texts). This means it is more sensitive to unique concepts being introduced in or removed from a text. As each metric requires a different interpretation, this article displays the results for both metrics as proof of robustness. Both metrics are expressed on a scale from 0 to 1, with 0 denoting no similarity and 1 denoting exact similarity.

The author manually classified each article in two ways, as described in Table 1. First is the topical orientation.⁶³ Second is the likelihood that the CAC has overt policy preferences before consultation. Here, 'high' refers to highly sensitive or securitized topics like critical information infrastructure, censorship, and administrative provisions that govern the functioning of the CAC itself. Because they either affect domains directly related to the Party's view of comprehensive national security or have the potential to constrain the CAC's actions, the CAC is likely to have relatively strong preferences in mind. 'Moderate' degrees of policy preferences refer to topics deemed politically sensitive but where there are also major developmental or geopolitical interests that may conflict with security, such as in the case of artificial intelligence and data exports. 'Low' refers to topics that primarily pertain to business–citizen relationships, and where the CAC is likely to have less of a policy preference.

Furthermore, the author manually classified each topic according to the expected degree of social contention for a topic (high or low). Because the CAC never shares the comments received on its documents with the public, it is impossible to say with certainty whether a topic is socially contentious or not. Hence, it is necessary to make assumptions about what citizens would find contentious. The classification in Table 1 assumes that the topic of consumer protection is socially contentious, given the wide range of personal data infringements and product safety scandals that have occurred on the internet. AI and algorithms are socially contentious due to the widespread concerns surrounding deepfakes and the potential negative impacts of generative AI. That online

⁶⁰As a brief by-note, the documents studied here exclusively originate from the state identity of the CAC. While the CAC also issues documents through its party identity (the *Zhongyang Wangxinban*), these have never been opened for public comments. This leaves the functioning of the CAC's party 'nameplate' veiled in mystery.

⁶¹Jiang, (n 51), called this the 'text reuse approach'.

⁶²Grimmer, Roberts and Stewart, (n 54), 72.

⁶³Derived from Horsley and Creemers, (n 7).

Table 1. Overview of topical classifications.

Topic	Description	Example	Degree of policy preference	Degree of social contention
AI and algorithms	Emerging software in the field of artificial intelligence, algorithms, and blockchain. Differentiated from content control since these technologies also have industrial or commercial applications.	Provisions on the Management of Deep Synthesis Information Services (2023)	Moderate	High
Consumer protection	Related to the protection of personal information in cyberspace; protection of vulnerable groups like minors.	Scope of necessary personal information for common types of apps (2021)	Low	High
Cybersecurity and critical infrastructure	Cybersecurity of critical infrastructure and online applications.	Measures for the Security Review of Network Products and Services (2017)	High	Low
Data exports	All documents related to data exports.	Measures for the Security Assessments of Data Exports (2021)	Moderate	Low
Online content regulation	(Political) control over the production and distribution of online content, including real-name registration or the behaviour of search engines.	Provisions on the Governance of the Online Content Ecosystem (2019)	High	High
Administrative provisions	Related to the administration of the CAC itself; what the CAC can and cannot do as a regulatory body.	Provisions on the Procedures for Administrative Enforcement of the Cyberspace Department (2023)	High	Low

content management could be contentious is witnessed in the many controversies that occur when articles are pulled from websites, hot topics online are censored, and so on. Especially, regulatory changes like the real-name registration system have proved controversial.⁶⁴

Finally, for identifying documents in new domains (H3), this article uses three guidelines. First, many documents are principally implementing extant procedures from a higher-level authority. This indicates that the CAC is not treading entirely new ground, at least where these references are to specific provisions. Inversely, an absence of concrete references to higher-level authority may indicate novelty. Second, authorities label some documents as ‘for trial implementation’ (试行) or ‘provisional’ (暂行). Both indicate that authorities see this domain as relatively novel and lacking established management mechanisms. Third, some technologies or topics may not have appeared in regulatory documents before. Based on these features, this article uses a binary ‘novel’ versus ‘not novel’ classification to assess this hypothesis. Table 2 displays documents classified as novel with a brief individual motivation. In total, it covers 8 out of 25 documents that have completed the process from draft to final version.

Results

This section presents the results of the statistical analyses related to the impact of public consultation on policy formulation. It addresses each of the four hypotheses in turn.

Topics with More Overt Policy Preferences Witness More Change

Hypothesis 1 predicts that domains where the CAC has more overt policy preferences feature less meaningful consultation than less sensitive ones. Put differently, this might entail issues more closely related to the political security of the system. Figure 3 indeed indicates that lower political sensitivity

⁶⁴Jyh-An Lee and Ching-Yi Liu, ‘Real-Name Registration Rules and the Fading Digital Anonymity in China’ (2016) 25 Washington International Law Journal 1.

Table 2. Documents classified as pertaining to a novel field of policy.

Promulgation date	Title	Motivation for classification
2023/07/13	Provisional Measures on the Management of Generative Artificial Intelligence Services	First specialised regulations on generative AI worldwide, which is also a new technology.
2022/12/11	Provisions on the Management of Online Information Services for Deep Synthesis	First specialised regulations on deep synthesis worldwide, which remains a new technology.
2022/01/04	Provisions on the Management of Algorithmic Recommendations for Online Information Services	World's first attempt at regulating recommendation algorithms.
2021/08/20	Several Provisions on the Management of Automotive Data Security (for Trial Implementation)	Trial documents inherently indicate a degree of novelty and experimentation.
2021/03/20	Provisions on the Scope of Necessary Personal Information for Common Types of Mobile Internet Applications	First time a government organ created a scope of permitted personal information collection through whitelisting instead of blacklisting information collection.
2019/10/08	Provisions on the Online Protection of Personal Information of Minors	First specialized personal information protection regulations for children; precede the implementation of China's Personal Information Protection Law.
2019/01/10	Provisions on the Management of Blockchain Information Services	First regulations on new technologies like blockchain, which at this time was also a very new technology.
2017/05/02	Security Review Measures for Online Products and Services (for Trial Implementation)	Trial documents inherently indicate a degree of novelty and experimentation.

is associated with more significant changes between the draft and final version of a document. The median Jaccard similarity for low-sensitivity documents is 0.53 versus 0.78 for documents with high policy preferences. This picture is consistent when measured with cosine similarity.

This pattern is also repeated on a more granular topic level (Figure 4). The three topics that are associated with the least change are topics that authorities either consider paramount matters of national security (online content regulation and cybersecurity & critical infrastructure) or relate to the functioning of the CAC itself. Online content regulation, the CAC's largest portfolio, is also a mature field where most operational mechanisms had already been established well over a decade ago. Meanwhile,

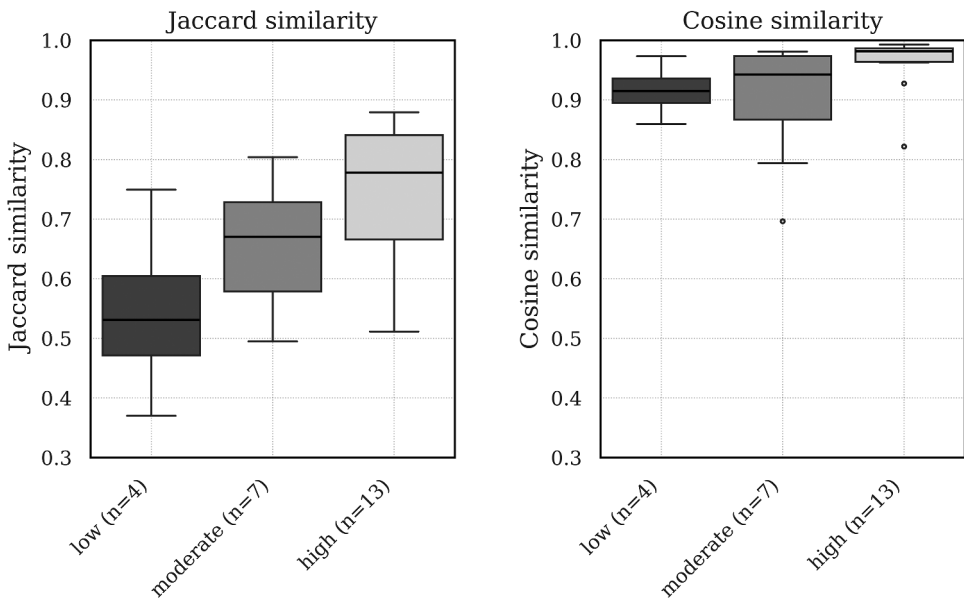


Figure 3. Similarity from draft to final version, by degree of policy preference.

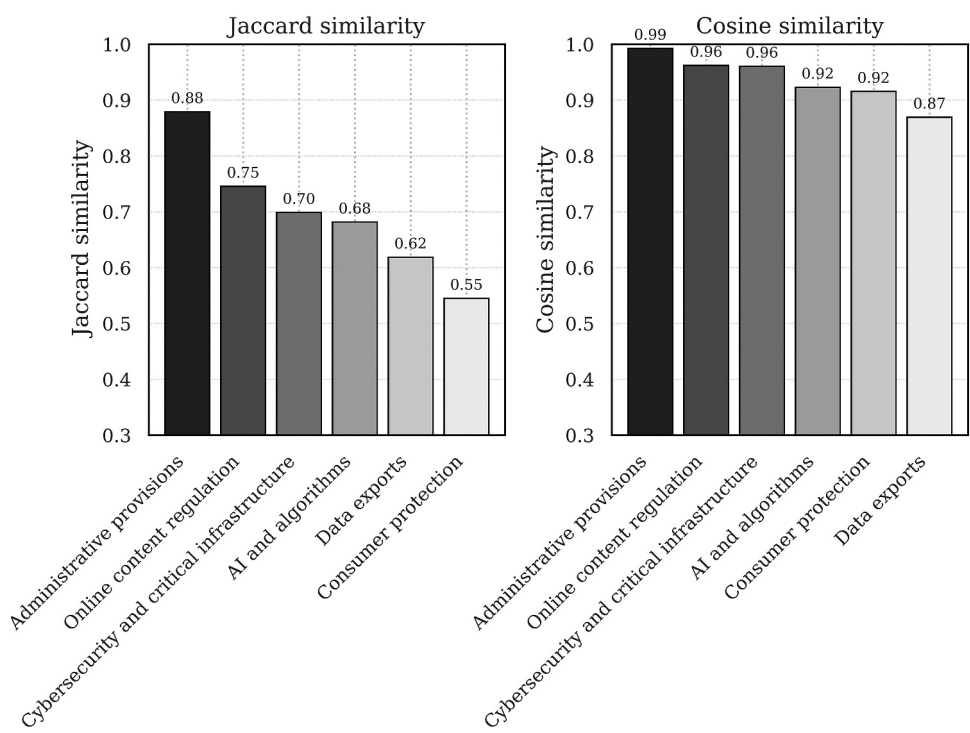


Figure 4. Average similarity from draft to final version by topic.

three topics are subject to more significant change. These are personal information protection, where the CAC has to negotiate complex interests between businesses and citizens and where policy practice is less mature; and AI and data exports, which are complex matters with a diverse range of interests.

The CAC Only Partially Considers Social Contention in Handling Public Comments

Hypothesis 2 suggests that topics with a greater degree of social contention will witness more meaningful adoption of consultation, as authorities may seek to use consultation to respond to or even leverage social contention. In the case of the CAC, however, there appears to be no substantive support for this hypothesis. Figure 5 plots the post-consultation change according to the degree of social contention one might expect for the documents formulated by the CAC. It shows that there is no meaningful difference between the two groups of documents.

Nevertheless, this picture changes from topic to topic. Online content management is by far the topic with the most documents in this corpus, yet also features some of the least change from draft to final version (Figure 4). In effect, contention related to online content management is contention against the state. Thus, there is no evidence that public consultation by the CAC is meaningful where it affects contention *against* the state. However, this picture changes when zooming in on topics with social contention and lively debates *in* society. Where contention does not directly target the state, as it does with debates on personal information protection, consultation correlates with significantly more change from draft to final version.

More complex Bureaucratic contexts Feature More Post-Consultation Change

Hypothesis 3 suggests that although bureaucratic complexity can be a key factor in shaping the formulation of policy, the CAC’s consolidation of power in the cyber domain indicates that such

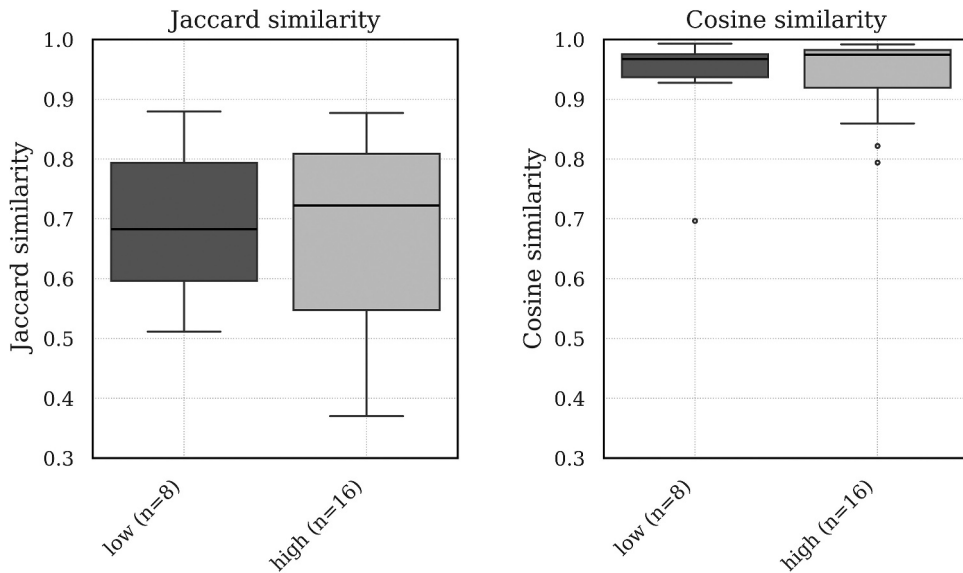


Figure 5. Post-consultation changes according to the degree of social contention.

bureaucratic complexity has greatly reduced. Hence, one might expect to see only a limited impact of bureaucratic complexity. In practice, however, there remains a clear negative correlation between the number of issuers and the post-consultation similarity ($r = -0.25$ for Jaccard similarity, $r = -0.38$ for cosine similarity). There is only one document that does not conform to this pattern: the *Cybersecurity Review Measures* (Wangluo Anquan Shencha Banfa) of 2022, which featured no less than 13 co-issuing agencies but was changed very little from draft to final version (possibly due to its intrinsic relationship to national security). These *Cybersecurity Review Measures* are arguably the type of policy where the central leadership offers the least wiggle room. Removing this outlier shows a far stronger correlation and a strong fit for the linear regression line for both types of similarity measurements (Figure 6).

Another indicator that more complex or large-scale policy initiatives lead to more significant changes is the breakdown by the legal type of documents. As noted in the methods section, the CAC has on several occasions drafted administrative regulations, which are the highest-authority non-law regulatory documents in the Chinese legal system that can only be formally promulgated by the State Council. This makes issuing them more complex than the departmental rules and administrative normative documents that the CAC can independently issue. Although the population size here is small, regulations indeed show significantly more substantive changes from the draft to the final version (Figure 7). Notably, the differences between departmental rules and administrative normative documents appear minor, despite the vastly different legal requirements.

The Novelty of a Regulatory Initiative or Technology Does Not Correspond with Greater Post-Consultation Change

It appears intuitive that the CAC would make fuller use of public consultation when it is working on regulation in more novel domains, either because the domain involves wholly new issues or issues that are new to the CAC, specifically (Hypothesis 4). Remarkably, this picture is not reflected in the data. Figure 8 distinguishes between the similarity scores for documents in novel and non-novel domains. Irrespective of the specific similarity metric, scores for novel and non-novel domains are broadly identical. This is surprising, especially when considering the case of the generative AI regulations from the introduction, where one might intuitively consider that the novelty of the

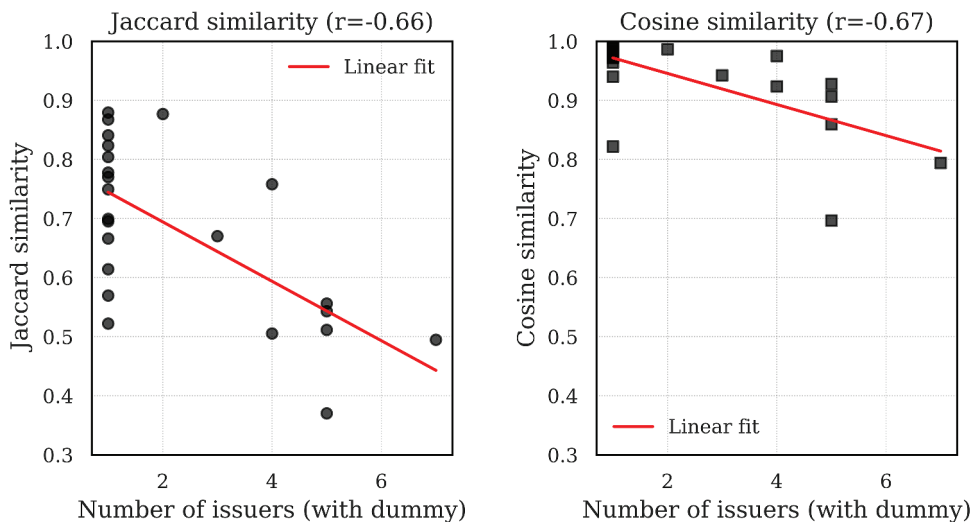


Figure 6. Scatterplot with linear regression line of the relationship between similarity and number of issuers (one outlier removed).

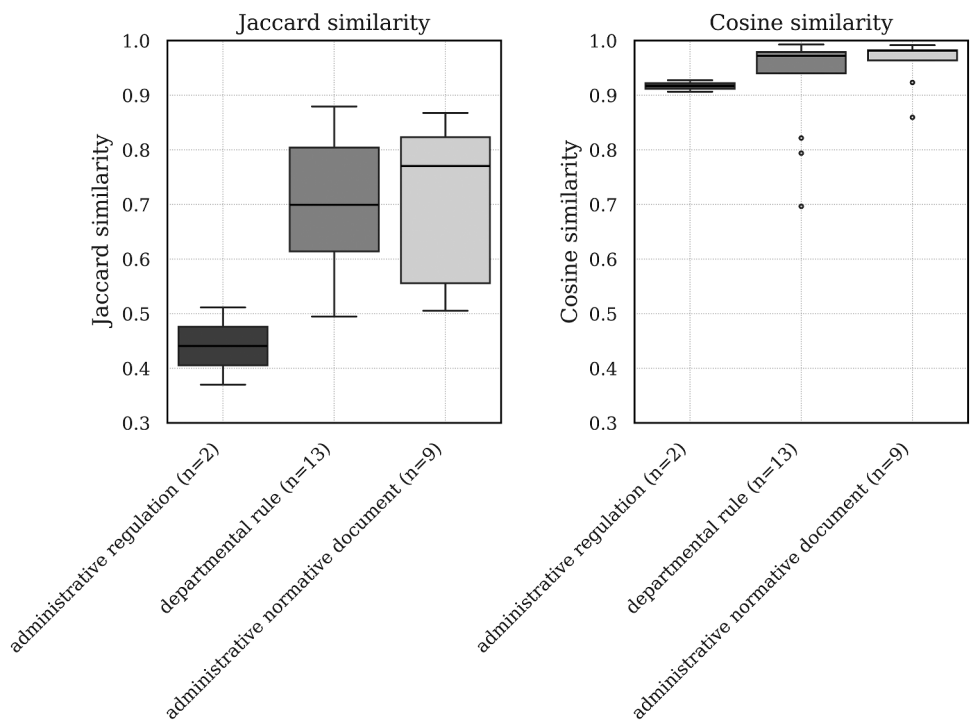


Figure 7. Boxplots of similarity by legal type of document.

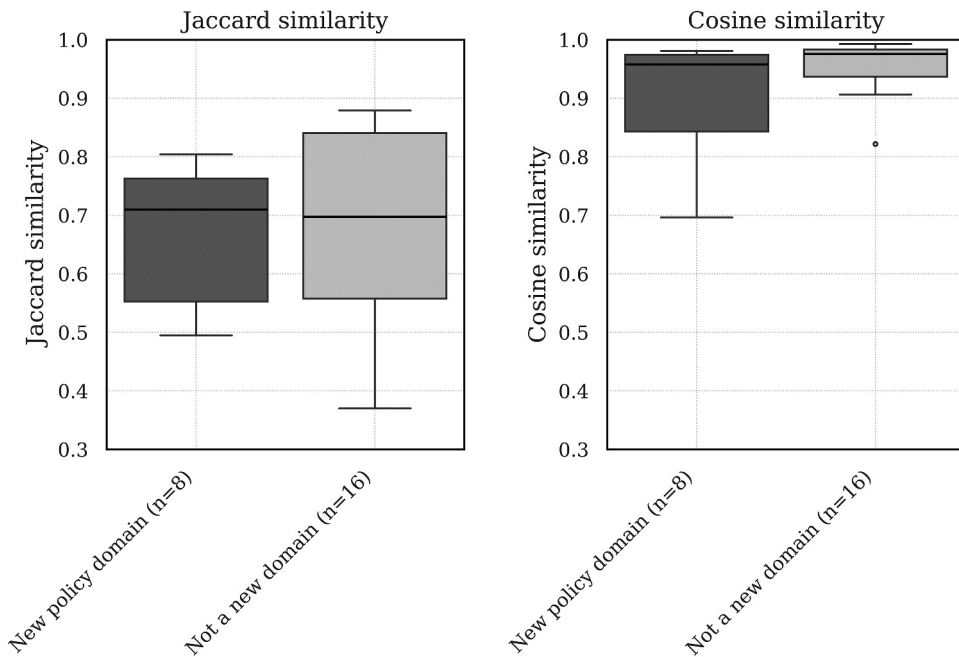


Figure 8. Similarity from draft to final version, distinguishing between documents involving novel and not-so-novel domains.

topic could have been a driving force behind the changes. This may still be the case, but Figure 8 illustrates that it might be more of an outlier than anything else.⁶⁵

Returning to China's Trailblazing Rules on Generative AI

This section demonstrates how the insights from the quantitative analysis above help understand the unique case of the CAC's rules on generative AI, while also providing a deeper understanding of the causal mechanisms at play. In 2023, China became the first country in the world to enact regulations on generative artificial intelligence. ChatGPT's release in November 2022 appears to have been the direct trigger. Before March 2023's draft, the term 'generative artificial intelligence' (*shengchanshi rengong zhineng*) had not appeared in any policy document by the CAC. Instead, the CAC had dedicated its previous efforts to issuing regulations on so-called 'deep synthesis' (*shendu hecheng*) technology—a subfield of GenAI that is used to generate deepfakes—as well as on recommendation algorithms for social media. Following these initial steps regulating AI, the forthcoming draft on GenAI would show that the CAC remained highly event-driven and content-focused.

Upon release, the draft *Provisions on the Management of Generative Artificial Intelligence Services* sparked concerns from the business community. It established primary entity responsibility (*zhuti zeren*)—meaning that whoever produces, hosts, or disseminates content is legally responsible for the information within—on the service provider for *all* content generated through the service. This essentially transplanted established management practices for online content regulation to the new technology. It meant the CAC would not judge a service provider on the *measures* that it takes to prevent the dissemination of undesired content, but rather on the outcome. For generative AI, this was an almost unworkable principle. A drawing of a dragon is fake in the sense that the dragon is

⁶⁵ One might even take this one step further and argue that the Generative AI regulations were not treading on entirely new grounds in the first place. Although the technology is brand new, the rules essentially built upon mechanisms that had been established by the provisions on deep synthesis and algorithmic recommendations, both from 2022.

fictional, but it can also be true as a representation of folklore.⁶⁶ In other words, whether or not something is ‘fake’ depends on how someone uses the generated output and can impossibly be judged in advance. Hence, experts in China published several critical articles of these regulations, which they also submitted to the CAC, recommending a softer approach to safeguard technological development.⁶⁷

The CAC quickly responded to these comments with a U-turn in July 2023’s final version. Specifically, the regulations no longer applied to all deployments of generative AI, but only to public-facing instances. This meant any research and development was formally excluded, as well as applications in industrial process automation. In this way, the CAC could allow development in many fields of GenAI to continue unimpeded while preserving its control over public discourse. Furthermore, the CAC also softened the primary entity responsibility mechanism to only require ‘sufficient measures’ to prevent the dissemination of undesired content. To make this requirement actionable, the technical standardization committee under the CAC’s purview (dubbed TC260) has now drafted requirements on how AI must be trained and ‘red-teamed’.⁶⁸ This, at least in principle, creates a way for the CAC to exercise its control without kneecapping innovation in the public-facing domain entirely.⁶⁹ The document was also downgraded to an interim (*zanxing*) version, indicating that the regulatory approach could still be subject to change as technological development evolves.

With these changes, the *Provisions* stand out in almost all metrics. They saw one of the shortest periods between the closing of the notice-and-comment period and the final publication at 64 days. Moreover, in terms of similarly metrics, it is the second most significantly amended document in the history of the CAC. Finally, it features the second-highest number of (co-)issuing agencies, with seven total agencies signing off on the final version. This means they align with some patterns from the data analysis—most notably the link between the number of issuing agencies and the degree of change. Still, it is notable that the document, despite the clear security-related concerns of the CAC, featured so much change in such a short period of time.

Although generative AI brings direct risks to China’s censorship apparatus, these interests compete with intense geopolitical competition and Xi Jinping’s goals to become a cyber great power (*wangluo qiangguo*). Businesses, for instance, could have argued that hindering their development of generative AI was as much of a security risk (losing ground vis-à-vis the United States technologically) as uncontrolled development. Businesses also appear to enjoy greater bargaining power than ordinary citizens do. During the drafting of the e-Commerce Law, for instance, internet companies directly submitted reports to the leadership, managed to gain their support, and had their practices absorbed in the draft.⁷⁰ Similarly, the concept of ‘deep synthesis’ introduced in other rules on AI was also the result of business lobbying.⁷¹ (Still, businesses’ influence is in flux, as witnessed in the tech rectification campaign.)

Second, time pressure created unique circumstances. Generative AI is one of the most rapidly developing fields in the world. The natural language capacities of artificial intelligence only gradually emerged with the invention of the so-called transformer model from 2017. Just three years later, research company OpenAI took the world by storm with its ChatGPT chatbot. Firms across the world

⁶⁶Jeremy Daum, ‘Overview of Draft Measures on Generative AI’ (*China Law Translate*, 14 April 2023) <<https://www.chinalawtranslate.com/en/overview-of-draft-measures-on-generative-ai/>> accessed 9 January 2024.

⁶⁷See, for instance, Xu Xu and others, ‘*guanyu shengchengshi rengong zhineng fuwu guanli banfa (zhengqiu yijian gao) de wu dian wanshan jianyi* [Five Suggestions for the Completion of the Measures for the Management of Generative Artificial Intelligence Services]’ (*shuzi jingji shehui* [Digital Economy and Society], 24 April 2023) <<https://archive.ph/8BJGb#selection-215.0-215.173>> accessed 9 January 2024.

⁶⁸A set of standardized practices to emulate an ‘attack’ on a digital system to find flaws and weaknesses.

⁶⁹*Quanguo xinxi anquan biao zhunhua jishu weiyuanhui* [TC260], ‘*Shengchanshi rengong zhineng fuwu anquan jiben yaoqiu (zhengqiu yijian gao)* [Basic Security Requirements for Generative Artificial Intelligence Services (Draft Version Soliciting Public Comments)]’ <<https://web.archive.org/web/20231013104204/https://www.tc260.org.cn/upload/2023-10-11/1697008495851003865.pdf>> accessed 13 October 2023.

⁷⁰Deng and Liu, (n 3).

⁷¹Matt Sheehan, ‘China’s AI Regulations and How They Get Made’ (*Carnegie Endowment for International Peace*, 10 July 2023). <<https://carnegieendowment.org/research/2023/07/chinas-ai-regulations-and-how-they-get-made>> accessed 1 March 2024.

are now seeking to leverage the technology in domains like medical diagnosis or industrial process automation. This meant that a quick response was necessary. The CAC did so not just by minimizing the time between the draft and final version, but also the time until the first draft.

In the end, the pressure from businesses to stay competitive in a field directly related to China's geopolitical agenda (reflecting the diversity of core interests within the system) meant the CAC had to add specificity to some of the *Provisions'* security-related articles, but its introduction of detailed requirements for model training suggests that it may not severely compromise the CAC's security agenda.

Discussion

Based on the evidence presented in this article, there is substantive support in favour of Hypothesis 1. Indeed, the degree of overt policy preferences is strongly linked to post-consultation change. There is less support for Hypothesis 2: There is no clear relationship between the degree of expected societal contention of a policy domain and post-consultation change. Instead of societal contention, bureaucratic complexity is linked to significant post-consultation change, but perhaps substantially more so than the current literature on the CAC might suggest. Hence, there is partial support for Hypothesis 3. Even in a worst-case scenario like the CAC, bureaucratic complexities appear to shape the outcomes of consultation. Finally, there is no clear support for Hypothesis 4: More novel regulatory or technological developments are not associated with greater change. This section reflects on the theoretical ramifications of these findings.

Consultations Generate and Calibrate Oscillations Between Security and Development

The CAC follows a single-minded pursuit of security in the cyber domain. Normally, this means clamping down on any emerging threats to the Party's control over the online sphere. The case of generative AI, however, is one of the first instances where the CAC exercised its authority in a field bound up with China's technological and geopolitical competitiveness. Here, 'security' and 'development' became interdependent: falling behind the United States in generative AI could itself constitute a security risk. In contrast, earlier regulatory actions—such as those on recommendation algorithms or deepfakes—had few developmental stakes and thus reflected a purer security logic.

While the CAC retains a security-first orientation, the meaning of 'security' evolves as new developmental imperatives enter the policy process. Economic and technological security are intrinsic elements of Xi Jinping's 'comprehensive national security' framework, yet their relative weight vis-à-vis political security or cybersecurity is fluid. This fluidity produces continuous oscillation between control and openness, visible in the sharp reversals from the restrictive 2023 draft on generative AI to its more permissive final version.⁷² The same pattern appears elsewhere, albeit not always directly induced by public consultation. 2022's *Measures for Data Export Security Assessments* created major obstacles for firms engaged in cross-border business, prompting the CAC to unveil new provisions in 2024 that effectively reversed many of those constraints.⁷³ These shifts suggest that the CAC has recognized that, paradoxically, over-securitization can harm security in other ways, but without fundamentally challenging the primacy of security in the CAC's agenda.

Consultation both generates and calibrates such oscillations. By opening an informational and political space for negotiation, the notice-and-comment process can inject competing logics into the bureaucratic feedback loop. The internal feedback mechanism then translates these into policy change, balancing them without fundamentally altering the system's priorities. This

⁷²Oscillation is a fundamental feature of China's policymaking process more broadly. See e.g. Ceren Ergenc, 'Experts and Policymakers in China's Urban Waste Governance' in Manjari Mahajan and Mark Frazier (eds), *Constrained Expertise in India and China: Knowledge and Power in Policymaking* (Amsterdam University Press, 2025).

⁷³Arendse Huld, 'China Adopts New Regulations to Facilitate Cross-Border Data Flows' (*China Briefing*, 26 March 2024). <<https://www.china-briefing.com/news/china-data-export-regulations-foreign-companies/>> accessed 13 February 2025.

conceptualisation builds on earlier research showing that deliberations can break bureaucratic stalemates.⁷⁴ Yet, the change this generates is not inherently linear: breaking a bureaucratic stalemate can also lead to a complete U-turn.

Internal Factors Trump external Ones in Shaping the Impact of Consultation

The factors of the internal feedback mechanism that most strongly correlate with the impact of consultation are internal (bureaucratic interests and internal complexity), rather than external (societal contention or the nature of the policy itself). Specifically, the degree to which the CAC has an overt policy preference and the extent to which bureaucratic complexities persist are notably correlated to post-consultation change (H1 and H3). Meanwhile, the degree of societal contention of a topic and the novelty of the regulation appear to matter less (H2 and H4). Altogether, this indicates that external factors only matter insofar as they align with the internal feedback mechanisms within the system.

This engages with a core line of debate from the aforementioned literature, namely that consultation can be a tool to help mitigate societal contention against the state. This article's finding does not fundamentally challenge this, but adds crucial caveats. Even where topics are societally contentious, it is far from a given that authorities adjust their policies accordingly. The core insight is that consultation can only be an effective means to mitigate societal contention if authorities are genuinely open to more diverse policy choices and the bureaucratic context is facilitative. This might be more plausible with questions such as wage and land disputes at the local levels that have been featured in the previous literature⁷⁵ than it is with tremendously securitized issues or with highly centralized policy domains. Ultimately, this demonstrates that there are inherent limitations to the efficacy or usefulness of consultation for bringing about policy change in contemporary China.

In this context, while it may seem self-evident that more overt policy preferences cause the CAC to pay less attention to public feedback, this is not that straightforward. The CAC having stronger policy preferences does not preclude taking public comments seriously if such suggestions would improve their capacity to implement them. The case of the data export rules from the previous section is such an example. These rules proved unenforceable to the extent that they caused mass paralysis amongst the local departments of the CAC who were charged with conducting data export assessments. In the first year or two, the CACs granted only a handful of data export licenses. Thus, the CAC may have been very well served by taking the concerns voiced by businesses more seriously.

Another implication is vis-à-vis the recent expansion of consultative mechanisms. As noted, much of the literature has focused on the differences between when authorities adopt consultation and when not. Authorities have now expanded consultation by formally requiring it for all laws, administrative regulations, and rules since 2018. While authorities previously primarily consulted the public on topics where they may have enjoyed greater wiggle room, they now have to consult the public on all new regulations. As a result, consultation now happens for topics that in the past may not have seen any consultation. The evidence from this article helps understand that this is not necessarily leading to a more comprehensive inclusion of societal input into the decision-making process. Simply implementing more consultation does not generate more inclusiveness or greater degrees of policy change if the internal feedback mechanisms do not change accordingly.

Even though the CAC's public consultations often remain performative, the article also shows that the CAC is unlikely to entirely disregard societal input. In certain fields, consultation appears to have a sizable influence on the outcome of the regulatory process. These findings challenge expectations from the literature. As noted, scholars have assumed that little room for change remains during the notice-and-comment period. While it is true that regulations are rarely completely binned after public feedback, the changes to the content can remain substantial. These substantial changes are

⁷⁴Kornreich, Vertinsky and Potter, (n 19).

⁷⁵Zhang, He and Wu, (n 49).

especially notable given the CAC's dominance over the cyber domain and the increasing centralization of power under Xi Jinping. Still, the CAC does so only when it advances its own agenda, not principally to accommodate societal concerns.

Conclusion

This article has emphasized the need for a shift in emphasis from understanding consultation through its impact on state-society relations to the factors that drive policy change. Its finding, that internal policy preferences and bureaucratic complexity trump external factors in bringing about policy change during consultation, further reinforces this argument. This helps grasp the case of generative AI central to this paper. In the case of policies that have not reached an internal consensus, the CAC remains open to input. After all, the CAC's power in the digital domain does not preclude it taking public comments seriously if they help it achieve its core goals. Despite the CAC's immense power, its control-oriented approach still needs to contend with interests in other domains that may affect security in less traditional ways. In this way, the CAC still has to accommodate the interests of other actors in the bureaucracy. In this context, the CAC oscillates between security and development in cases where maintaining security can require fostering development. The function of consultation becomes to reveal these tensions and calibrate between them without fundamentally altering the system's overall priorities.

A caveat to these findings is that it is not yet possible to establish the directions and strengths of the precise causal relationship at play here. This is because only relatively few documents have completed the notice-and-comment process from draft to final version (25). The CAC, here, stands in stark contrast to the thousands of documents available online for other administrative organs in China. To a large degree, the factors discussed here are co-constitutive, meaning it appears impossible to establish isolated cause-and-effect relationships. In other words, the purpose of this article is not to create a causal or deterministic model but to theorize about the different factors at play. Another caveat is that it is not certain that all changes made to a draft can be attributed to public comments. After all, closed-door negotiations may continue during the public notice-and-comment period too. Inversely, this article's conclusions about *public* consultation cannot be extended to closed-door consultations, which could remain more impactful.

Crucially, this article's conclusion that the effects of consultation on policy formulation are most outspoken in fields where the system has less overt policy preferences also means that the potential benefits of consultation remain largely constrained to those fields. Although the CAC implemented consultation systematically since 2019, there are no indications that its consultation has become more meaningful since. This also implies that the emergence of national security as the Party's new top priority⁷⁶ may reduce the overall benefits of consultation, as it leads authorities to have more clearly defined policy preferences. The literature on policy experimentation under Xi has already revealed such stricter policy preferences: experiments are subject to greater constraints, pressures and control from the top.⁷⁷ This will not halt the basic adoption of consultation, but we may see less post-consultation change in specific domains if authorities continue to impose more overt preferences on policy. As we have seen with data exports, this can make regulatory action less effective.

One question for further research is whether this may worsen the disenchantment citizens experience after participating in such consultative mechanisms.⁷⁸ It is already the case that authorities lament the paltry quality and quantity of comments they receive through the notice-and-comment periods.⁷⁹ This might lead to a negative downward spiral: authorities do

⁷⁶Howard Wang, "Security Is a Prerequisite for Development": Consensus-Building toward a New Top Priority in the Chinese Communist Party' (2023) 32 *Journal of Contemporary China* 525. <<https://doi.org/10.1080/10670564.2022.2108681>>.

⁷⁷Abbey Heffer and Gunter Schubert, 'Policy Experimentation under Pressure in Contemporary China' (2023) 253 *The China Quarterly* 35. <<https://doi.org/10.1017/S0305741022001801>>.

⁷⁸Anton Bogs, 'Participation Disenchants: How Online Political Participation Decreases Online Political Efficacy in China' (2024) *Regulation & Governance*. <<https://doi.org/10.1111/rego.12646>>.

⁷⁹See e.g. Wang, (n 9); Quansheng Wang and Lansong Huang, 'Wo guo fa'an gongkai zhengqiu yijian huiying jizhi de jianli yu wanshan [The Establishment of Response Mechanism for Soliciting Public Opinions in China]' (2015) 31 *Journal of Nantong University, Social Sciences Edition* 43.

not meaningfully address public comments, leading the public to grow disenchanted, leading to even less meaningful consultations in the future. But it could also be that society only chooses to engage with topics where the CAC is more receptive to public feedback. This, however, might make future U-turns more likely.

Another open question is to what extent the evidence that consultation often remains performative reflects the notice-and-comment mechanism working as intended. As authorities lament the lack of useful feedback from the notice-and-comment mechanism, the data also shows that it is difficult to imagine the CAC being open to fundamentally changing its approach in many of its domains. If the CAC truly wishes to make more effective use of this mechanism, it should extend the duration of the notice-and-comment period, publicize its drafts better, and provide post-consultation overviews of how it used public feedback. This would demonstrate its sincerity. Finally, authorities could solicit input at earlier stages of the process on sub-sections of the drafts.

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Data Availability Statement

All data and code for analysis are publicly available on the GitHub repository of the project: <https://github.com/zongtihuoguoguan/CAC-Policy-Consultation-2024>. It is also available via <https://doi.org/10.5281/zenodo.18030870>.