Implementing the Food Safety Regulatory Reform in China: 
A Policy Capacity Perspective

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Paper for the 24th World Congress of Political Science, 23-28 July 2016, Poznań, Poland

Abstract

The paper assesses the analytical and managerial capacities at both organizational and systemic levels of China’s food safety regulatory system. Empirical data were collected from interviewing frontline regulatory officials and regulatees in 5 sub-districts and townships in Beijing concerning implementation of the recent regulatory reform. Our findings largely confirm existing research, but flag concerns about insufficient professionally trained law enforcers, dissatisfactory remuneration and prospect, and knowledge and psychological overload with miscellaneous regulatory tasks. The new food safety information system, citizen complaints, and abuse of the complaint system added to the offices’ heavy workload. Intermittent inter-agency coordination was found in enforcement, but coordination with other ministries as well as across regions needed improvement. Inspection equipment support (both quantity and quality) remained inadequate, though financial resource was generally sufficient and political-administrative accountability systems were well-established. Local courts were also able to maintain independence with strict interpretation of the Law. The findings provide lessons for improving the country’s food safety system.

*** Draft July 2015***

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Introduction
In recent years, food producers, sellers and caterers in China are facing increasingly stringent expectations under the country’s Food Safety Law (FSL) (adopted 2009, revised 2015). Much research has identified problems in implementing this latest regulatory focus, but as a recent literature review shows, there is a lack of systematic social science research looking into the black box of its implementation process and evaluating its impacts (FORWARD, 2014). In part, this is because new policy initiatives are continuously being developed under the leadership of the newly established China Food and Drug Administration in 2013. Differences in local political contexts, stages of development and policy innovations also hinder empirical efforts investigating the often “messy” outcomes of implementation.

The study assesses the analytical and managerial capacities at both organizational and systemic levels of China’s food safety regulatory regime by detailing dynamics in the implementation interface where the reform is actualized and behaviors of policy targets are regulated and modified. Specifically, we look into the operation of local regulatory offices and the challenges regulatory officials faced in practice. With that we seek to identify specific “capacity deficits” for better implementation of the latest policy.

Based on series of interviews with frontline regulatory officials and regulatees from 5 sub-districts and townships in Beijing, our findings largely confirm existing diagnoses, but flag concerns about insufficient frontline professional law enforcers, dissatisfactory remuneration and career prospect, and knowledge and psychological overload with miscellaneous regulatory tasks. The establishment of new food safety information system, required immediate follow-up and online reporting of citizen complaints, and frequent abuse
of the complaints system by “professional fake-fighters” added to the offices’ existing heavy workload. Inter-agency coordination was found in enforcement, but policy coordination with ministries outside CFDA and across regions needed improvement. Inspection equipment support (both quantity and quality) remained inadequate, though financial resource was generally sufficient, and political-administrative accountability systems were well-established. Local courts were also able to maintain their independence, interpreting strictly the stated legal requirements.

Albeit adopting a capacity angle, the paper does not preclude other problems at various levels of the food safety system. There are also likely some deeper structural factors and forces explaining the challenges and difficulties identified in implementation, for food safety is a highly complex policy problem, demanding cooperation of actors from different sectors (e.g. issues related to modernizing the food supply chains). The findings, nevertheless, shed light on how the food safety regulatory reform is implemented and supported on the ground, and provide insights for improving the overall system.

Below we first introduce some historical background of China’s food safety regulation and its corresponding governing systems. We then review the literature on China’s food safety, with focuses on analytical and managerial capacities of the regime at both organizational and systemic level. Empirical gaps are identified to guide our empirical investigation.

**Policy background**

The issue of food safety has been posing great challenges to China’s governance (Liu 2010). Series of food incidents, from Sanlu melamine-milk in 2008 to frozen meat national smuggling in 2015, have severely undermined people’s confidence in the country’s food safety system. Together with the rise of the new middle-class, food safety has become the
most worried public safety issue in China (He & Wang 2015). The Chinese government, in response, has been revising relevant laws, stepping up governmental effort to promote and regulate for food safety. The current administration, in particular, has adopted a series of profound reforms to reconstruct the food safety regime. Even President Xi has emphasized the significance of the issue in various occasions, connecting it with the legitimacy of the ruling Party. This party’s political commitment has set the tone for the recent amendment of the Food Safety Law.

Historically, China’s first food safety-related law was the Food Hygiene Law (Trial Version), passed in 1982. After its trial implementation for 13 years, the Law was revised and promulgated in 1995. The Law, focusing on the food catering sector, was too narrow to cover all the stages in the production and circulation process. Moreover, the penalties then were relatively lenient with intentional food adulterations. The outbreak of Sanlu melamine-milk scandal exposed the Law’s many limitations, which brought about a new wave of legislative effort. Subsequently, a new Food Safety Law was passed by the Standing Committee of National People’s Congress in 2009, replacing the original one. Notable features of this first comprehensive food safety law in contemporary China include abandoning the notorious reputation system which exempted some food products from inspection, and markedly increasing the penalties for food fraud.

Rapid development of the food industry and heightened consumer demands for higher quality of life soon required further reforms. To better coordinate government efforts, the State Council has reorganized its food regulatory system in 2013 and established the China 3

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3 For examples, in December 2013, President Xi asserted that if the Chinese Communist Party is not able to manage well food safety, most Chinese people will question the party’s qualification to rule in the long run. In May 2015, Xi announced that food safety strategy should be included into the country’s national security strategy, stressing that China’s food safety governance system should be built on a basic principle of “four-strictest”: strictest safety standards, strictest regulation, strictest penalty and strictest accountability.
Food and Drug Administration (CFDA) by centralizing food-related regulatory functions earlier shared by various other agencies (more below). Later in 2015, a major amendment of the Food Safety Law was passed by the National People’s Congress, and the revision process took over one and a half years since CFDA first submitted its revised draft to the State Council in October 2013.

This revised Food Safety Law of 2015, deeply influenced by the strong political commitments of the current administration, is deemed the most stringent food safety law in China’s history. For example, the amended Law has raised the minimum penalty substantially from 2,000 to 50,000 RMB for any misconduct in food safety. Second, to enhance formula products safety and quality in the Chinese market, a strict registration system has been established to evaluate its safety and nutrition. Any manufacturing and sale of separated or individual packing products are strictly prohibited to avoid possible pollution. Third, to fight against the issue of excessive pesticide residues, any highly toxic pesticides for vegetable and fruit are now prohibited, even if it risks reducing agricultural products.

Last but not least, the new Law seeks to regulate some emerging sectors in the industry. For example, all genetically modified food are now expected to be labeled explicitly; license is required to sell food products on cyberspace; third-party online platforms such as Alibaba and Jingdong Mall shall have a lawful obligation to ensure that food manufacturers and sellers on their platform possess the corresponding qualifications, or otherwise they will be responsible for any misconduct as complained by the consumers.

Overall, the passage of Food Safety Law in 2015 is a milestone for China’s food safety governance. Its stringent requirements reflect the political leaders’ commitment to food safety. How and how far these various new requirements are enforced on the ground remain yet an empirical question. It is in this context we review the existing literature on China’s food safety with the analytical lens of policy capacity.
Literature review

The literature has taken various angles and approaches to analyze the policy problem. Some with an overview from farm to fork, others focus on mapping the evolution of the food safety laws and its related regulations, national and provincial. Some focused on the supply chains of various major foods, such as crops, horticulture, slaughter pork, beef. There are also focused analyses on some major food industries and food incidents.

This study contributes to the literature by adopting a policy capacity perspective. Recent literature in public policy, management and governance has been paying more attention to the importance of capacity in policy. There has been a reviving interest in research on capacity and its role in policy, development and governance (Fukuyama, 2013). Ramesh and Howlett (2015) stress that while debates abound on which mode of governance (or their hybrid) is superior, policy makers and public managers should be concerned about the critical “capacity deficits” in different ways of policy delivery. The list of issues covered in the capacity angle is quite comprehensive. It includes, for example, political capacity of public mobilization, authority of the legal system, analytical capacity in the policy process, managerial skills and knowledge for coordination, and managing human and financial resources, and corresponding administrative supports.

This study assesses the analytical and managerial capacities at the organizational and systemic level of China’s food safety regulatory system (more below). The goal here is to look into the implementation interface where the regulatory reform is actualized, and find out the organizational and systemic capacities of the system in terms of 1) its coordination mechanisms, 2) information exchange and public sharing channels, 3) the authority of the laws, regulators, and the adjudicating system, as well as 4) personnel and financial resources and their corresponding support. We review below the literature based on these categories.
Coordination of regulatory tasks

Ensuring food safety in various parts along the food chain presents complex policy problems. In China, the tasks of regulating for food product quality, distribution, and catering were shared by the State Administration of Quality Supervision, Inspection and Quarantine (SAQSIQ), State Administration for Industry and Commerce (SAIC), and State Food and Drug Administration (SFDA) respectively.

Setting incentives for cooperation aside (more below; see Tam & Yang 2005; Yan 2012), one obvious capacity issue concerns the successful coordination among these agencies. Observers had long criticized such a “fragmented”, multi-agency regulatory regime (Li, Qi & Liu 2010; Pei et al 2011). Ambiguous assignment of responsibilities, the literature argues, would create “blind spots” in the inspection process, and “buck-passing” among the departments (Ni & Zeng 2009), especially between SAIC and SFDA over the commercial activities of food caterers (Wang 2013; also Chen 2009), and over the task of communicating with the public (Balzano 2012). This earlier division of labor of the food safety system called for the establishment of a stronger, independent agency (Li, Qi & Liu 2010).

In 2013, the State Council underwent a major reorganization. All major inspection tasks are now transferred to the newly established China Food and Drug Administration (CFDA). Also, the existence of a high-level Food Safety Committee under the State Council in charge of overall regulation, coordination and oversight on food safety (Li, Qi & Liu 2010; Wang 2013) might have resolved some of earlier problems of coordination. Nevertheless, it is still unclear how coordination may be achieved within the new CFDA.

Moreover, there remains the need for coordinating with other ministries, and with local governments across geographical regions, exacerbated by the rapid change of the food industry (Garret & Wilkes 2014; FORHEAD 2014). Currently, the responsibilities of setting
food safety standards and assessing food safety risks rest with the National Health Family Planning Commission (formerly Ministry of Health), while the safety of agricultural products was under the purview of the Ministry of Agriculture. Detailed plans of cooperation, division of labor and information sharing need be worked out with these departments.

Meanwhile, there is yet an established way fostering inter-regional coordination (Lu & Wu 2014). This is especially the case as China’s government system allows different local governments to derive innovative enforcement strategies and institutional arrangements in implementing central government policies based on local situations. Local FDA offices and officers may find it hard to work with their counterparts in other regions.

**Information exchange and public sharing**

Establishing information systems on food quality and safety incidents is key to an effective food safety system (Ni & Zeng 2009). Research has found that there exists a national monitor network (set up by the former Ministry of Health since 2002) on food safety, with 1196 monitoring sites (2012 figure) covering all provinces (73% cities and 25 counties) (Chung & Wong 2012). Yet earlier fragmentation of regulatory power might have hindered the information flow across different agencies (Tam & Yang 2005).

The information capacity of the system has much enhanced since the enactment of the 2009 Law. Though it is not mandated by the Law itself, later implementation methods and announcements, derived the State Council, highlight the importance of information sharing among agencies and with the administration. Later, the revised 2015 Law mandates the inter-agency and inter-regional sharing of food safety information, but again its implementation, and therefore effectiveness, is yet to be observed.

Meanwhile, steady improvement is observed in terms of the public sharing of food safety information. The 2009 Law mandates local food and drug administrations to publicly
release food safety information, which is then posted onto local or national FDA websites. However, the Law does not specify the frequency and coverage of such release. Information availability thus varies greatly across regions (for example, weekly reporting in Beijing and monthly in Guangzhou, while more infrequent in other regions). While research has found that most provinces have developed their food safety nets, only incomplete information may be found.

Human resource management

Few research has been conducted on the management of human resources of the food regulatory system. Studies tend to focus on the aggregate picture. In terms of demand, Ellis & Turner (2008) argue that the country’s huge number of small farms and food producers presents great challenges to regulation. According to the State Administration of Quality Supervision, Inspection and Quarantine, a national investigation (except Tibet) contacted successfully 448,153 enterprises found that 352,815 of them has less than 10 persons (78.7% of the investigated), while 223,297 are not fully-licensed (49.8%) and 164,149 have no license at all (36.6%).

In terms of the larger system of food testing facilities, the State Council reported that, until the end of 2010, over 6,300 agencies (belonging to various government departments (agriculture, trade, hygiene, industry and commerce, quality inspection, grain, food and drug) possess food testing abilities (with nearly 1000 of them specialized in food testing), and together there were 64,000 workers (See also Jia & Jukes 2013, 242). Specifically for the diary sector, Pie et al. (2011, 417), in studying the melamine milk scandal, found 447 accredited laboratories hiring 1,000 chemists. Zhang (2013, citied in FORHEAD 2014: 42), meanwhile, identified the figure for the food and beverage industry as 10,000. The studies all
propose that the required number of staff for monitoring and testing should be significantly increase (in multiples).

With regard to the supporting system of personnel training, GFSF (2011, 55) believes that there exists a structural problem of insufficient training institutes, with only 70 vocational colleges offer education in food testing and related fields, and many of which began only recently after 2000 (see also FORHEAD 2014, 42). Pei et al. (2011, 415) also believes that the lack of trained personnel and corresponding training schemes in chemical and food science is a major shortcoming in the China’s food safety system.

Some researchers, nevertheless, doubt the necessity for recruiting only specialist with food-related background. Li, Qi & Liu (2010, 294), for example, suggest that expertise in laws and economics, aside from food professional, are also instrumental to regulatory work, and Balzano (2012, 71) argues that it may not be too difficult recruit related expertise after all, citing the case of Shanghai FDA which successfully recruited staff with university-or-above degrees (74.98% undergraduate; 14.98% master; 1.15% PhD).

Yet the State Council’s Food Safety Committee reiterated the importance of specialized knowledge in food safety regulation as it established a “food safety promotion education works programme (2011-2015)”, requiring 40-hour per year of compulsory training for food workers. Of course, the feasibility and effectiveness of the scheme remained to be tested questioned (Xinhuanet 2011; see Jia & Jukes 2013, 243).

Overall, the literature agrees that a much larger investment in human resource is needed to better implement the regulatory policy (FORHEAD 2014, 10), but little systematic study has been done to discuss about their management in the system and its impacts on the operation of local regulatory offices.

Financial resource management
Earlier literature relates chiefly the funding issue for food safety regulation to local
government protectionism, or the local regulators’ disincentive to regulate local businesses
which generate revenue directly (through business operations and taxation) and indirectly
(through granting illegally licenses to unqualified enterprises) to local bureaucrats (Tang &
Yang 2005; Ellis & Turner 2008). This is in part because economic development was a key
emphasis of the central governments back then, while many sub-national governments were
not affluent enough to deter businesses by introducing stringent regulations. Such local fiscal
arrangement has decreased effectiveness in local policy coordination and regulatory
inspection (Tang & Yang 2005; Ellis & Turner 2008, Liu 2010), given worries about
embarrassing some local businesses (Balzano 2012, 75). As Yan summarized (2012, 719),
due to the fragmentation and internal competition among regulatory agencies, the
developmental preference for employment and growth over safety and health, and,
more importantly, the corruption of government officials and the lack of rule of law,
the results of top-down initiatives for food-safety regulation are often ineffective and
unsatisfactory... and high-profile food scandals continued to surge.

Other research found more specific implications. For example, many cattle
slaughtered by households and smaller or remote abattoirs was not inspected because it was
deemed too expensive (Brown, Longworth & Waldron, 2002). Limited funding has also
undermined the purchase for sufficient inspection equipment, the hiring of inspectors, and the
number of inspect items covered (Bai, Ma, Gong & Yang 2005). Tight budget for local food
safety regulation was alleged to have caused the introduction of the Inspection Exemption
Certification policy, which was repealed after the melamine-milk scandal (Chung & Wong,
2012, 1-2).

The 2009 Law has resolved the problem of local protectionism. Ni & Zeng (2009)
considered the introduction a “breakthrough” that local government leaders are accountable
for food scandals happened in their jurisdiction. Yet the division of regulatory work between central and local governments remained to be clarified (Jia & Jukes 2013). While the Constitution states that local governments shall take the responsibility to implement the legislations (Jia & Jukes 2013), the responsibilities for implementation are shared among national, provincial, as well as other sub-national governments (Lam, Remais, Fung, Xu & Sun 2013).

Also, more resources and better testing equipment is reported to be available in some more affluent localities (e.g. special measures targeting imports in Shanghai, rapid testing equipment in Beijing), but worries remained about their general availability in other lesser developed and poorer areas (Office of the State Council 2012; FORHEAD 2014, 49-50).

Government and legal authority

In general, the literature is less concerned about the authority of the law and the regulator as a system-level capacity for maintaining food safety. Other than common recommendations for strengthening legislation (see Liu 2010, 245-246) and its enforcement for more effective regulation (Ni & Zeng 2009), the literature has been chiefly advocating for the harmonization of numerous food standards, clarification of wordings of the laws, and provision of better guidance for compliance (Ni & Zeng 2009; Pei et al 2011). (The 2015 Law shows improvements in some of these respects and raises the minimum penalty substantially.) Some observers do worry about whether the judiciary can adjudicate disputes among conflicting non-government parties amid local political-economic influence, and protect the regulatees from arbitrary regulation (Balzano, 2012, 38-54). Yet, it remains an empirical question how the latest emphasis of governing by law may change the situation.

Data and method
To unveil and anticipate capacity issues for implementing the Food Safety Law after the reorganization, we conducted a case study on Beijing’s food safety regulatory system. As China’s capital city, Beijing has been paying serious attention to food safety, an issue that is often linked with public security, government legitimacy and political stability. With one of the country’s most developed economies, the municipal government may be expected to possess sufficient financial resources and hence be able to mobilize them to support the Law’s implementation. Furthermore, the government has developed in 2013 a regulatory system directly in charge of food and drug regulation in all the sub-districts and townships within the city, thus minimizing influence of lower-level governments. Overall, Beijing represents one of the best possible scenario for our research question.

Empirical data were collected from 2015 to 2016 in two of the 16 sub-districts: Haidian and Tongzhou. Haidian, an old urban district with the city’s second largest population, is located in northwest of Beijing. It is an education and technological innovation center of the country, housing major government agencies as well as reputable academic institutes such as Tsinghua, Peking and Renmin University. Meanwhile, Tongzhou, a district located in southeast of Beijing, is going to be a new center for the fast-expanding city. All municipal authorities from downtown areas, announced the local officials in October 2015, will be moved to Tongzhou District in 2017, and the plan to develop a new downtown area within the District in a decade has been advanced to the level of national strategy.

In order to cover various regulatory scenarios (e.g., regulatory targets, levels of urbanization), we had selected three sub-districts in Haidian and two townships in Tongzhou (both districts administer over 20 sub-districts and townships). In Haidian, Yangfangdian sub-district (YFD) houses many government agencies such as the Ministry of Science & Technology, Ministry of Water Resources, Navy and Air Force Headquarter of PLA; Haidian sub-district (HD) contains a lot of national universities and innovative centers such as...
Renmin University of China and Zhongguancun Industrial Park; Shangdi sub-district (SD), meanwhile, has a lot of industrial and commercial enterprises such as headquarters of Lenovo and Baidu. For Tongzhou District, Majuqiao township (MJQ), lying on the outskirts of Beijing, is home to many immigrants working in the logistics industry; Yongledian township (YLD), finally, is more remote, representing a typical rural region.

In each of the five sub-districts and townships, a small meeting was held with 4 to 5 street-level bureaucrats and a number of representatives from local regulatees such as food manufacturers, sellers and restaurants. Semi-structural interviews were conducted, asking about their perceptions and opinions about the implementation of the Food Safety Law, and its influences and implications on their work.

Findings

General organizational arrangement

Our interviews with frontline regulatory officials at sub-district offices revealed that this level of FDA, or the street-level office of Beijing FDA, is under “duo-management (双重管理)”, with the managers (主管主任) from Street Office (街道办事处) as the head and the deputy of the District Office (A1). The team leaders and his frontline officers then are responsible for part of the district, and all the food and drug related issues within (e.g., “permits, bars and restaurants, complaints, regular/special inspection (巡查)” (A1). They were also responsible for food circulation, and the individual entities selling food products. They also needed to implement “materials” [i.e. instructions and initiatives] sent from the FDA Office (A1).

In the sub-district (street-office or township) office, there were three main types of officers. The first one was sent from the district FDA office. They were civil servants, possessing enforcement pass, and thus law enforcement authority. The second was food and drug regulation monitor (食品药品监督监察员), or monitor. They wore a different uniform,
and possessed no law enforcement pass but a work pass, allowing them to serve in supplementary tasks. Finally, there were also staffs sent from offices of the street-level government or village and township governments (乡镇) (A1).

_Inadequate human resource_

The regulatory sub-district offices generally did not have enough manpower to implement all the requirements stated in the Food Safety Law. A number of reasons were attributed to this phenomenon.

First and foremost, there were a large number of regulatory targets (usually in thousands) under the purview of the sub-district offices. The number of regulatory enforcement officials, nevertheless, were highly limited, usually less than 5, or in some occasions, 2-3. For example, sub-district A (A1) had 5 law enforcement officers and 5 food and drug regulation monitor; sub-district C (C1) had 4 officers, and 15 supplementary monitors, which, as reported, should be the most in Beijing.

Second, the regulatory officers are required to conduct their law enforcement work in pair, arguably a corruption prevention measures. Combining with the administrative requirement that only those possessing the enforcement authority are allowed to conduct regulatory work (while the supplementary monitor may only “assist”), the workload fell on individual officers was huge.

Third, the sub-district offices were assigned with numerous number of tasks along the food chain, from food production to consumption (e.g. different stages, products and target groups). Not only so, the same teams were assigned with regulatory tasks in both domains of food and drug (e.g., cosmetics, medical machinery, health food, etc.). The multitude of tasks complicates greatly their work.
Forth, multiple offices reported that currently much of their energy (some cited “at least 50%”, and some even cited “80%”) on the food catering industry, in particular on dealing with food vendors operating without licenses, as well as following up with citizen complaints. The portfolio of drug was not “prioritized” sufficiently with the current amount of workforce (E2-S8).

**Personnel management system**

As reported, a detailed and comprehensive performance management system was in place to hold individual officers accountable for their work (A1). Individual officers’ performance was assessed by both the “organizational department” of the FDA district office, as well as the Street Office or the Village and Township Government, with each of them carrying equal weightage. The performance assessment system was reported to be quite comprehensive in nature, evaluating all aspects of the officers’ work.

Meanwhile, there were also ongoing trainings, and “stringent” assessments throughout the years. However, there were reports that the diverse nature of the regulatory tasks demanded high professional knowledge capacity from individual officers. The backgrounds of the team members were quiet mixed. Many reported to be transferred from the original the Administration for Industry and Commerce, as well as the Administration of Quality Supervision, Inspection, Inspection and Quarantine. There were also officers with medical background, as well as recent graduates from the university.

There were relatively strong opinions concerning the career prospect and the remuneration package of the regulatory officers. Many with higher graduate degree were reported to have left the offices. Their salary was not competitive compared to private sector jobs (one regulator described that the salary might be good for younger female officers but definitely not enough for male ones when they have to raise a family) (A1, A3, B1).
As an evaluation of the personnel management system, the duo-management successfully created an incentive system (it exists now) for mobilizing individual staff to carry out central instructions on food and drug regulation as well as adapting it for local considerations. Officers’ performance is now evaluated by both the functional specialization department of FDA as well as the geographical specialization department of its local jurisdictions. The unexpected consequence, nevertheless, is that all the regulator tasks are now assigned to a relatively small number of staff in the sub-district office.

As discussed above, the knowledge and energy requirements for individual regulators is very high—from memorizing requirements from various regulatory domains, and mastering various skills and procedures in the enforcement process, to handling the large amount of regulatees and citizen complaints, and responding immediately to food incidents which tend to be uncertain in nature. Together with the less-than-satisfactory remuneration package and career prospect, all these requirements posed unreasonably large pressure on individual regulators.

Financial resource and equipment support

Similar to the organizational arrangement for human resource, the expenditure of the sub-district offices was shared by the local government and the district FDA. While the corresponding local street office or the village and township governments were responsible for the daily expenditure of the sub-district office, the expenditure for the professional work of regulation such as law enforcement was shouldered by the higher level (district) FDA office (C1).

Generally, there seems to be room for improvement in terms of financial and equipment support for the sub-district office. For example, it was not uncommon to find the whole office sharing one inspection vehicle for the whole area (C1, D1). Offices located in
urban areas tended to have more limited office space (D1). Also, while the literature was confirmed that the sub-district offices possessed some rapid-testing equipment for food safety, the results were not as reliable as expected, as commented one regulator; many cases were repealed when the food samples were formally tested in government laboratories, causing frustration to the frontline officers. Yet different from what the literature observed, there was not report concerning interagency competition, though comparisons were often made between the abundant staff level in the State Administration of Industry and Commerce and the regulators’ current office, as many of these officers were transferred from this former administration.

Overall, the financial and equipment support from the local government seemed to vary from place to place. A regulator reported that his head from the street office managed to give the office a one-million RMB budget last year to hire 15 supplementary monitors (paying for their salary, uniform and work-related equipment). But as he suggested, his head had an exceptionally open and flexible mindset, who was politically shrewd and highly supportive of the regulatory work. In other words, although food safety is one indicator for performance evaluation of local bureaucrats, it still depended on the commitment (and arguably capability) of individual local governments to find sufficient resources for food safety work at the local level.

Inter-agency and inter-region coordination

With the establishment of CFDA in 2013, the regulation of food products, food circulation and food catering were integrated into the new agency. The agency was redesigned amid criticisms of coordination problems among multiple related agencies. In this regard, it was reported that the arrangement now was “much more efficient” (D1). Yet given the complexity and scope of the reform, the needs for coordination persist.
Internally, frequent joint enforcement exercises were reported (A1, C1), regularly or intermittently, depending on individual districts. Multiple local agencies would join forces, such as public security, fire, environment protection, and industry and commerce. They would conduct inspections together and charge the regulatees against any violations. All of them would be wearing their respective uniforms, and as reported, the method was very effective. As an inter-agency effort, it was coordinated by the head of the local street office government, since, as reported, only it had such an ability to mobilize all these agencies together.

Further coordination channels remained to be established for communication among provincial governments, as illustrated by a reported incident related to some meat imported from another province. One sub-district team leader found it hard to communicate, and thus coordinate with agencies in Tianjin province. It was reported that he did not know which counterpart he should be contacting, as Tianjin currently was regulated under a different organizational arrangement, a holistic “market-regulating” arrangement.

There were also boundaries to be clarified with other food safety-related agencies. For example, questions were raised concerning how to define an agricultural product—to what extent a food product is artificially processed will it enter the food circulation domain? There were reports about the case of injected pork meat. Officers were confused about whether it should fall into the regulatory domain of FDA or the Ministry of Agriculture. Meanwhile, questions were also raised about whether some regulatory requirements, such as building requirements (e.g., kitchen size) of food operators may be regulated by or at least shared with other more relevant departments such as the Administration of Industry and Commerce, and smuggled food products with the General Administration of Customs. It seemed that further rationalization of the regulatory process, and better task/product-based collaboration among departments will be the next step of the food safety reform.
Information system

In Beijing, it was reported that the new information system for food safety incidents had just been set up recently. The requirement is that the office will have to respond immediately to complaints, including follow-up with complaint calls, establish cases, carry out inspection, and publicize the whole process online. While its effectiveness and impact is yet to be seen, one may anticipate the tremendous workload added on top of what is currently shouldered by limited number of staff. (D1)

More systemically speaking, as the coordination example above shown, better information exchange mechanisms might have been established. More importantly, feedback channels could have been established from the street level officers to senior levels of the FDA. It was reported that they do not have much say in the last revision process of the Food Safety Law. It was telling that, when asked about their possible contribution, the interviewees commented that their level was not high enough for the legal revision (D1).

While the Law is encouraging more the society to help monitor for the country’s food safety, our interviewees showed concerns that sometimes the media lacked the expertise in their reporting and was often not entirely clearly about what constituted as reasonable results in food testing. Moreover, the media might have followed “popular demand and submitted to reporting more sensational stories than objective facts”. This might, as suggested, hamper public understanding in food safety matters than enhancing it.

Regulatory authority and the adjudicating system

Concerning the targets of regulation, the floating population of Beijing rendered it difficult to track the operators’ identity. Those who did not have a stable local residential citizenship, or hukou, may easily refuse to pay their penalties, move to a different place in the area and
continue with their operations. (People continued to purchase from these operators for economic reasons.) (A1) The difficulty in issuing and collecting fine seemed common in the interviewed districts. If the unpaid fine is too low (before the revised law), the officers would worry that the court would not follow up with it and eventually the accumulation of those cases would look bad on his performance record. If they did charge the regulatees with the recently revised minimum penalty of 50,000 RMB, they would also be worried that it would shut down many businesses for good, causing social instability.

Meanwhile, the regulatory authority was respected in general. Nevertheless, multiple incidents were reported about scenarios of charge-resisting behaviors, in which the alleged offenders acted violently against the officials (mainly verbal insults, sometimes physical). One female officer (A4) reported about the “need” (emphasis original) to carry out the inspection assignment in pair, as this would ensure their personal safety.

An interesting scenario of “professional fake-fighter” was reported in all of the sub-districts, which may illustrate the legal constraints on administrative actions as well as the independence of local courts. The scenario consisted of allegedly deliberate individuals reporting about having purchased defective food products, including those passed the due date, from sellers such as supermarkets and convenient stores. These individuals expected compensations from the sellers given that the 2015 law has raised the minimum penalty of food fraud to 50,000 RMB, (or at least 10 times the price of the products). When the two parties failed to settle, local FDA officers were called in to handle the disputes. Judging from their experience, regulators reported that they were able to identify the “professional” ones from victims in normal cases. Yet they could not afford to stay away from the dispute, as they may be accused of “administrative inaction” (行政不作為) by the individual. When these cases did end up in local courts, it was reported the rulings might vary with individual judges, but the regulatory officers’ opinion were generally not able to influence decisions of the
judges, who were likely to interpret strictly the wordings stated in the revised Law. It remains unclear how such a regulatory dilemma may be addressed in the near future, as involving the general public to participate in the regulatory process seems to be a widely welcomed trend. But it showed the increasing respect to the law and the general adherence to the administration’s emphasis of governing based on law.

**Discussion and Conclusion**

Our results showed that there has not been enough feedback channeled from the frontline or lower level regulatory offices back to the policy formulation process. Many of the above problems (e.g., human resource management) could be more readily addressed if senior levels of the administration pay more attention to the loading of frontline officers’ daily work. In the language of our framework, this problem lies at the information feedback at the systemic level of the regulatory system. The dominating top-down policy design process (led by the State Council) or legislative effort (led by the political influence channeled through the National People’s Congress), could have been better supplemented by lower-level bureaucratic inputs.

Meanwhile, our findings suggest that a main concern of the literature about the incentive system for local officers to implement the reform is addressed. The performance evaluation model for sub-district offices contains equal-weighting requirements from offices of the local jurisdiction and from the provincial Food and Drug Administration, and the financial expenditure is also shared by the two offices. This model seems reasonable in aligning the incentives for implementing some latest food safety policy initiatives while adapting them to local contexts.

The difficulties in working under this model, however, is that individual officers need to balance on a daily basis social and political concerns with technical requirements, and their
work is complicated by the huge demand for knowledge capacity regarding very diverse regulatory domains. The uncertainty inherent in food safety incidents was also reported to have caused a lot of stress to frontline officers. In other words, while the incentive to regulate is in place, the capacity of regulation is not. One remedy may be to introduce a more output-based evaluation method based on, for example, the number of food operators inspected, and/or the number of cases processed. Strategic priorities, however, should be set by the district office with different groups of sub-district offices to derive relevant regulatory schemes, and reducing the all-encompassing requirements on the local sub-district office.

Probably with the recent emphasis of the central government to base its governing in law, our interviewees generally showed a high regard to the wordings and requirements of the Law. (For one thing, they are now required to conduct their regulatory work in pair.) However, other difficulties arise as in how ambiguous terms in the Law may be interpreted, how boundaries of regulation may be drawn (e.g., is swine after plumping still an agricultural products) and how they may be enforced in practice, given such factors as the nature of the food incidents (e.g., “professional fake-fighter”) and the regulatees’ capacity (e.g., “small and poor restaurant”). In some cases, the strict application of new regulatory standard to small vendors, especially the non-licensed one, were met with resistance, posing threats to some regulatory officers (more below).

Why is there is such a systemic neglect of local capacity? It is understandable that this is a basic livelihood issue which receives serious attention from the general public, especially after since the melamine-milk incident. For a government whose legitimacy is based mostly on its performance, it is hard to imagine how politicians, legislators and central leaders not to show stronger political commitments on the issues, demonstrated through requiring higher standards, heavier penalties, and stronger enforcement. In fact, the strong commitment demonstrated by the central government recently is welcomed by the general public. Yet,
such an argument may easily lead to over-regulation, and the potential repercussion of which should not be ignored.

Our analysis showed that the causes for the obvious failure of the food market in producing safe and good-quality food are multifold and anything but straightforward. While the use of illegal additives and unsafe ingredients should be curbed, and the general standards of practice need be raised, there are also strong economic reasons behind consumers’ choice to continue to support restaurants and sellers without formal licenses. The capacity deficit of many smaller food sellers and operators (workshops, vendors) is also hard to fill, for especially many of them are small, with low gross sales, operated by low-income families, or in bigger cities, short-term immigrants from other provinces. The remedy, it seems, is to have the policy makers and professional regulators prioritized and thus paced their requirements. Our data showed that some sub-district offices are already pursuing a de facto risk-based approach to regulation, focusing on high-risk targets such as school canteens and major restaurants which serve a larger clientele.

Overall, our findings contribute to the food safety literature on China by identifying specific capacity gap in the system for implementing the recent food safety reform. Theoretically, it also supports the recent call from the policy literature that policy makers, managers and analyst shall pay more attention to the critical capacity prerequisite in adopting various policy instruments and modes of governances.

Reference


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