I-1.24: The Track and Logic of Regulatory State Building in China: A Case Study of Coal mine Safety

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The Track and Logic of Regulatory State Building in China:
A Case Study of Coal mine Safety[1]

This article traces the development of the regulatory state in China through the case of coal mine safety and tries to find out the logic of regulatory state building in China as well as its fundamental dilemmas embodied during the process. Based on the change of the coal mine market and governmental agencies responsible for managing coal mines, the article divides the history of regulatory state building into three periods: one of totalitarian command control when production was priority; then under rapid marketization when profits became priority, government regulation began to take shape, and currently safety regulation has become the focus, the government resorts to merging and reorganization of coal mines. The track of regulatory state building embodies the following characteristics: firstly, regulatory reform lacks a clear strategy; secondly, admission control based on licensing is still the primary way of regulation; thirdly, the idea of social regulation, instead of economic regulation based on price and entrance regulation, has gradually appeared; fourthly, gradual reliance on local government on daily regulation; finally, coal mine workers did not have a say in the regulation to defend their own rights.
Key words: Regulatory State; Coal mine; market; government

Following the advancement of market reform since 1970s, China has undergone remarkable economic growth. Meanwhile the control of the Chinese government over the market changed: State planning abdicated in favor of market forces, and a series of new independent governmental regulatory agencies emerged. The OECD believed that many Chinese reforms were consistent with the independent regulatory model that swept the world in the 1970s[2]. Some scholars argued that China was developing out of a traditional Totalitarian state into a regulatory state. [3]As the fundamental reform in handling the relationship between state and the market, regulatory reform is inevitable in modern state building. How to encourage the freedom of economic actors while enforcing market discipline and avoiding returning to the control mode of planned economy is the greatest challenge China faces in the transition. China has to find its subtle equilibrium between government and the market. This article traces the development of regulatory state in China through the case of coal mine safety and tries to find out the logic of regulatory state building in China as well as its fundamental dilemmas embodied during the process.

The reason for taking coal mine safety as the perspective to view the development of the regulatory state is that the coal mine industry bears more historical burdens compared to other regulatory areas, which makes the reform more complicated, since it involves not only the establishment of new regulatory agencies, but also the elimination and transition of the old control bodies and their mode of governance. As a fundamental and strategic industry, the government cannot deregulate it completely, while great market pressure presses the government to loosen its control. Consequently, the perspective of coal mine safety will comprehensively reflect the complicated state building process in the effort to regulate this industry. On the other hand, international experiences also show that coal mine safety is controllable; efficient regulation could significantly reduce accidents.[4] The coal mine accidents could directly reflect the effect of government regulation, which gives clear feedback and signals to the reformers. Therefore, the case of coal mine safety regulation could better embody how the government changes with the environment.

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In general, the coal mine regulatory regime underwent three stages of development: firstly, under totalitarian command, production was priority; secondly, under vigorous market-oriented reforms, profit ranked first and the modern regulatory state showed its embryonic form. Then the third stage when the market was in a chaos and frequent accidents led to government merging and acquisition of coal mines to ensure coal mine safety.

Stage I: period of totalitarian command control, production was priority

From 1949 to late 1970s, China adopted a planned economy. During the founding days of the new China, an urgent task was to recover its economy. In order to boost the national economy and secure the supply for large-scale construction, China followed the Soviet system of a planned economy. Therefore, coal mines at all levels were managed by a national ministry. All materials and funds the enterprises needed were to be distributed and supplied in a unified way by the central ministry. A low price policy was implemented. Central planning dominated all the production, transportation, and sale of the coal. When the coal mines made plans and organized production, output was always the first priority and only consideration since they did not need to worry about transportation and selling. Transportation was the responsibility of the ministry of railway, and sale of the coal was the government's business. Some data showed Shanxi province once stocked 70 million tons of coal, meanwhile coal mines were busy producing coal everywhere, neglecting the fact that the government constantly required them to reduce production.[5] Under the guidance of production first, the safety of coal mines was placed in a secondary position, and the government failed to pay sufficient attention to coal mine safety.

At that period, the agency in charge of coal mines also underwent constant change. In October 1949, the central government established the Ministry of Fuel Industry to manage the coal, petrol and electricity of the whole country in a unified way. The General Administration of Coal Mine Management subordinated to the ministry was responsible for all state-owned coal mines in the north and east part of China. The Coal Mine Authority of Northeast People's Government, Military and Political Committee of East China, Military and Political Committee of Central South China, Military and Political Committee of West-South China and Military and Political Committee of West-North China were responsible for the management of state-owned coal mines under its jurisdictions[6], and governments at and below the provincial level were responsible for the local coal mine. The Ministry of Fuel Industry and the Coal Mine Administrations subordinated to it were mainly responsible for deciding on labor, finance, materials as well as the production, supply and sale of the coal mines.

As the massive economic construction was launched under the first five-year plan, the national centralized economic management system gradually came into existence. After the revocation of greater administrative regions, most of the functions and agencies of the former regions were taken over by ministries of central government. The heavier workload made the central government further divide labor between ministries, and a series of professional economic sectors were established. In July 1955, the Ministry of Fuel Industry was divided into three new ministries, with Ministry of Coal mine Industry placed in charge of coal mines. Furthermore, the Coal Mine Administration, subordinated to the original Ministry of Fuel Industry, which was responsible for the management of coal mines, was also rescinded.

As the highly centralized economic system gradually revealed its defects, the central government determined to expand the autonomy of provinces and municipalities and delegate the power of managing some of the state owned enterprises to provinces.[7] In 1958, after the Coal Mine Administrations of the greater administrative regions was repealed, the 15 biggest coal mine producing provinces (including autonomous regions) all established Administrations of Coal Industry (ACI), among them, 6 were directly controlled by the Ministry of Coal Industry, [8] which shows that the central government still did not want to delegate the power completely to the provincials. The other nine ACIs were controlled by the relative department of provincial government. The coal mines of the remaining provinces (including autonomous regions) were managed by their local Bureaus of Industry. Under the theme of streamlining administration and decentralization, the executives of the coal mine enterprises had enhanced their control over the enterprises.

However, the idea of "constructing socialism faster, better, and more economically" in 1958 leads to chaos in industrial production, and was the direct drive for large-scale "re-centralization" afterwards. In the 1960s, with the centralization of the management of enterprises by the central government, all provincial Administrations of Coal Industry were now under the direct control of the Ministry of Coal Industry. ACIs became agents of the Ministry of Coal Industry at the local level.

During 1966-1976, the Ministry of Coal Industry was once again repealed in 1970, substituted by the Ministry of Fuel Chemistry Industry (DFCI). During that time the coal industry was managed by the Bureau of Coalfield and Geology, a bureau subordinated to the DFCI. However, the DFCI was repealed in 1975 and the Ministry of Coal Industry was rebuilt. Near the end of the Cultural Revolution, the management system of coal industry suffered severe damages, the MCI and its subordinate enterprises were placed under military control, and it was the Preparatory Group of the Cultural Revolution that was responsible for leading the coal industry in "revolution and production".

In sum, the management of coal market at that period was under complete command and plan, with the government supervising coal mine production as well as safety. The government, especially the central government, manages the coal mines directly; sometimes it is difficult to distinguish its role as regulator from its role as coal producer. It is essentially a mode of Totalitarianism, a centralized and unified organ is responsible for the whole coal mine industry.

The second stage: profits became priority, government regulation began to take shape

During the reform and opening-up in 1978 to 1997, the government had tried to build a socialist market system. In order to meet the energy demand of rapid economic development, central government gradually liberalized the coal mines market.

The Secretary General of CCP, Hu Yaobang said that we should advocate a principle of "if there is water, let it flow quickly". Under that principle, the Ministry of Coal issued *Report on Eight Measures for Accelerating the Development of Small Coal mines, Hasten the Development of Local Coal mines,* and *Actively Supporting the Masses in Opening Coal mines* in1983.The coal mine market was booming with not only state-owned and collective, but also individual, coal mines. More and more coal mines in small villages and towns appeared. In 1993, the central government made major reforms in centrally distributed coal mine plans[9], as well as ordering and pricing of coal. Meanwhile, the government cancelled the National Coal Ordering Fair, and the mandatory coal prices in Northeast China, Northeast China and Hunan Province were liberalized, with the expectation that the loss to coal mines could be earned back in 3 years. At the same time, the central government gradually cancelled the financial subsidies for large and medium sized state-owned coal mines. In order to ensure stable prices for household electricity, the central government used a strategy of partial liberalization, meaning that state-owned large power plants were still under price control of the central government. Therefore, the dual pricing system for coal was established, in which a planed price coexisted with market prices.

With the liberalization of coal prices and reduction of subsidies to coal mines, the State owned coal mine was at a disadvantage in market competition, with heavy social burdens, excess staff, and ageing equipment, and to make things worse, it still bore some mandatory tasks, and enjoyed low autonomy. In a planned economy, the input of coal mine safety was covered by national finances, and had nothing to do with the cost of the coal mine. All this changed dramatically after the transition. After entering the market, facing the harsh market competition, State owned enterprises could not adapt to the new requirements in management measures and operating mechanisms. The sale of coal greatly depended on the monopolized railway. All these factors drove down the interest of coal mines, and subsidies for coal mines were also reduced. Therefore, the state owned coal mines had to expand their production in order to make more profit, while neglecting the input of safety measures, which built up a dangerous future for coal mine safety.

In China, coal mines in villages and towns are famous for their "small, scattered and chaotic" status. Most of these coal mines operate under a contract system in which the contractor outsources the production process to different sub-contractors. This created a strange situation in which the coal mine resources belonged to the state, investors and operators were separated, the multi-tier principle and agent relationship provided the operator of coal mines little incentive to manage the coal mines in a long-term perspective. The tax sharing system of 1993 made small coal mines and local government form an interest symbiosis, since the former would increase the latter's revenue. Many small coal mines made uses of this great opportunity to operate without licenses or to illegally mine alongside state owned coal mines. Because of the low operating costs of these small coal mines, the normal market was greatly disturbed, which also built up a hidden danger of future coal mine incidents.

The development of the coal mine market also made the government realize the necessity of strengthening regulation. In 1979, the Ministry of Coal Industry issued *Technical Standards for Coal mine Workers,* and *Coal Mine Safety Regulations.* In 1981, it issued *Administrative Regulation on Generally Mechanized Coal Mining* and *Administrative Regulation on Mine Aeration Safety.* In 1983, *Regulation on Coal Mine Safety Supervision* and *Administrative Regulation on Pneumoconiosis in Coal Industry* were issued. And *Administrative Regulation on Township Coal mines* was issued in 1985. In 1989, the newly established Ministry of Energy issued *Regulation on Strengthening Safety of Township Coal mines*. In 1994, the State Council issued *Administrative Regulation on Coal Production Licenses*, and *Regulation on Township Coal mine Management*. *Ore Resources Law*, *Labor Law*, *Coal Law* and *Mining Safety Law* were issued and enacted later. Most laws and regulations about coal mine production and safety were born at this stage. From departmental regulations to statute of the State Council, and to general laws, we can see the significance of coal mine safety.

In terms of regulatory agencies, in 1988 the State Council witnessed reorganization of its ministries. Under the guidance of "canceling the specialized economic sectors and transforming from ministerial management to general industry management", the central government repealed the Ministry of Coal Industry and established the Ministry of Energy, which was in charge of the management of electricity, coal, petrol and nuclear industry so that the government could manage and exploit the energy in an integrated fashion, and exert an overall management of the energy industry. At the same time, the Coal Mine Corporation of China (CMCC) was established to manage the centrally distributed coal mines and enterprises that were previously subordinated to the Ministry of Coal. In accordance with the principle of separation of government and enterprise, the CMCC had divided the function of the former Ministry of Coal. CMCC, the parent company set up the Bureau of Coal Geology of China, to manage the geological exploration units of China (except the three northeastern provinces). The original intention of establishing the CMCC was to build some large corporations, and then transfer them to trade unions, separating it from government and turning it to a public unit (*Shiyedanwei*) to serve the coal industry. However, the establishment of regional companies was hindered by local interests, and due to the difficult market situation of coal, the CMCC did not transit to a trade union. The result of this reform is that CMCC and Ministry of Energy share power in managing the coal industry. Without changing the fundamental system, it was premature to establish the Ministry of Energy, and it was determined to repeal the CMCC and the Ministry of Energy, and to restore the Ministry of Coal Industry in 1993.

The third stage: Merging and reorganization of Coal mines, safety regulation becomes the focus

At the initial stage of the reform and opening-up, the liberalization of coal mines had made a great contribution to the alleviation of the energy shortage. However, problems culminated as the reform accelerated. The defects of over-liberalization and inadequate liberalization were revealed simultaneously. On one hand, like in the gradual opening of the coal mine market in 1980s and 1990s, the amount and output of township coal mine increased rapidly. In 1993, the output of township coal mines exceeded that of key state-owned coal mines for the first time. And in 1980, the output of township coal mines reached 18.3% of the national output. This proportion had risen to around 50% from 1995 to 1996, the overrunning of township coal mines led to the frequent occurrence of vicious competition, and frequent accidents in coal mines[10]. After a short period of recovery after price liberalization in 1993, the state-owned coal enterprises with their heavy historical burden fell into a difficult situation again. The combined effects of the price liberalization of coal and the Asian Economic Crisis caused China's first overproduction of coal. To reverse this situation, China adopted the macro-control policy to limit total coal mine output. In 1998, the State Administration of Coal Industry promulgated a notice to shut down illegal and irrationally laid out coal mines, enforcing the closure, shutting down production or banning the illegal coal mines. After that, the output of township coal mine decreased to 260 million tons. In the mean time, the 94 key state-owned coal enterprises under the direct control of the former Ministry of Coal Industry were decentralized to local governance, and 32 of them started to change into enterprises, while coal mines in cities of Yanzhou, Datong, Pingdingshan and Pingshuo began to form corporation groups[11]. From 1999, key state-owned coal mines have been allowed to declare bankruptcy. It is interesting to see that when the world and China's economy grew rapidly from 2003, and the depreciation of US dollar caused high prices on international energy markets, township coal mines rapidly rose up again in spite of the unfriendly environment, and total output reached 520 million tons in 2003[12].

On the other hand, although the sale of coal was liberalized, the price of coal was not. State control of coal prices adversely affected the enthusiasm of the coal enterprises. On December 17, 2007, the National Commission of Development and Reform held a video conference to link the production, transportation, and demand of coal, claiming that both the supply and the demand side should consult with each other and determine the coal price according to the market, which totally liberalized the 13 years restriction on coal price. Since then, the National Coal Order Fair[13] directly organized by the government was ended, and the government gradually faded out from all aspects and changed its management mode from intervention to directing the linkage of production, transportation and demand. After that, a new system gradually formed, in which enterprise asks for resources according to its own needs and under the guidance of the pricing mechanism.

It should be noted that because of frequent safety accidents, Zhang Guobao, the executive of National Energy Bureau proposed at the National Energy Conference that "in 2009 we should promote the merging and reorganization of coal enterprises through planning and policy support"[14]. The mergers and reorganizations of small coal mines witnessed its first episode in Shanxi province, where private capital withdrew completely. In respond to the rumor of "the government advancing and the private sector retreat", SASAC argued that the growth of state-owned capital is not to elbow out the private capital but an adaptation to the overall strategy of national economic modification[15]. Coal mines are a national strategic resource, which should be controlled by the state. The reason to restrict the entrance of private capital is to prevent destructive mining.

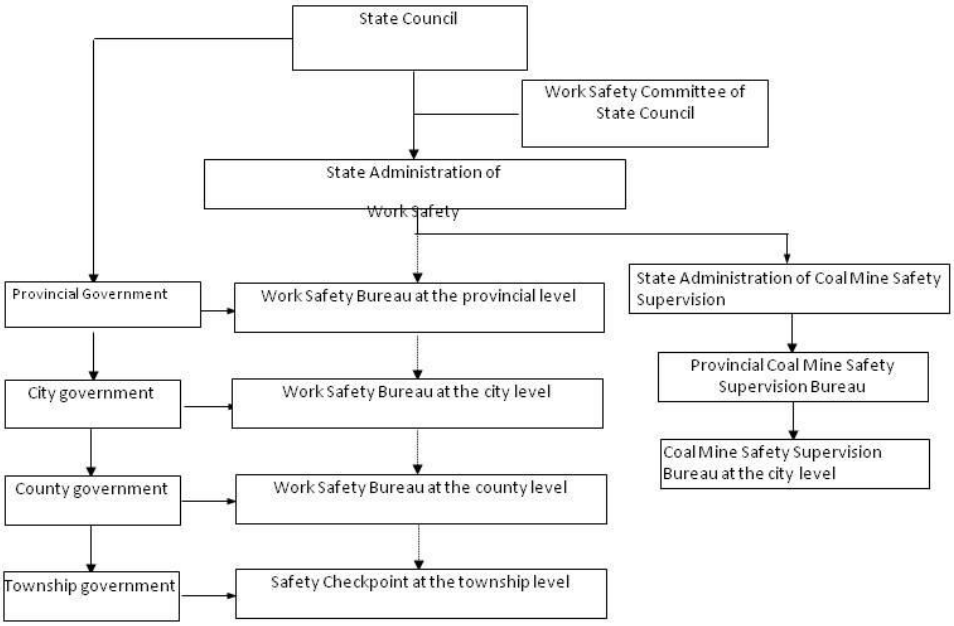
The 20 years of liberalization of the coal industry has brought enlightenment to the idea that to ensure the healthy operation of coal market, the government should focus on regulation instead of overall control. In 1998, the Ministry of Coal Industry was reorganized to the Bureau of National Coal Industry, which was subordinated to the State Economic and Trade Commission (SETC). The new bureau was mainly responsible for the management of the coal industry, no longer a direct manager of enterprises. The industrial planning and regulations formulated by the bureau should be issued by SETC. And the 94 key state-owned coal mines managed by the former Ministry of Coal

Industry were devolved to local governments.

In 1999, the Bureau of Coal Mine Safety Supervision was established at the national level. The new bureau was merged with the Bureau of Coal Industry. The Bureau of Coal Mine Safety Supervision was the executive organ of the SETC, and responsible for the coal mine safety supervision. In December 2000, the Administration of Work Safety was founded. The Administration of Coal Mine Safety was another name for this bureau. The SETC is its parent ministry. In March 2001, the state council established the Work Safety Committee to reinforce safety supervision and management. The chairman of the new committee is the Vice-Premier, with chief executive of the Administration of Work Safety the Vice-chairman and office director of the committee. The Work Safety Committee was regarded as a coordinating mechanism between the government and different regulatory agencies. In 2003, the State Economic and Trade Commission was repealed and an energy bureau was established under the National Development and Reform Commission in charge of formulating medium- and long-term policies for China's coal industry. In 2005, the State Council upgraded the State Administration of Work Safety to the State General Administration of Work Safety, and separated the State Administration of Coal Mine Safety into a second-tier bureau, while the State Administration of Work Safety exercised the general management functions of coal mines and the State Administration of Coal Mine Safety professional management. The latter should not consider the production of coal mines, and is only responsible for regulating coal mine safety. Meanwhile the State Administration of Coal Mine Safety is vertically administered, that is to say, all the local administration should directly obey the State Administration. In this way, the regulatory agency is free of interference of local interests. Figure 1 shows the current regulating regime of coal mine safety. A three-tier regulatory network has been formed, with the National Government supervising, Sub-national governments regulating, and coal mines producing.

As a supplement of the laws and regulations of late 1990s, several detailed and specific statutes and regulations were issued during this period. For example, the Measures for Administrative Penalties on Coal Mine by Ministry of Coal Industry, and the Measures for Administrative Penalties on Coal Mine Safety Supervision by SAWS. After the SAWS became an independent organ of implementing laws and regulations, the State Council issued the Regulation on Coal Mine Safety Supervision, and SAWS issued the Measures for Coal Mine Safety Inspectors, etc. So far, a relatively complete legal system for China's coal mine safety has been established, with the Constitution and Labor Law as foundation, Safety Production Law and Mine Safety Law as the trunk, and large amount of administrative regulations and departmental rules as its leaves.

FIGURE 1 *China's current coal mine safety regulation regime*



Note: (1) Coal Industry Bureau led by provincial or county governments still exist in provinces of Henan, Hunan, Liaoning, Heilongjiang, Jilin, Shanxi and Shandong; (2) In Chart 1, the dashed arrows indicate operating guidance (yewuzhidao), and solid arrows indicate vertical leadership (chuizhiguangli); (3) The Bureau of Coal Mine Safety in some provinces (eg. Jiangsu) merged with the Work Safety Bureau, and merged with the Coal Industry Bureau in other provinces (like Xinjiang) .

Through the above analysis, we can see that China's coal mine safety regulation regime has been developing in parallel with the market economy. After 60 years of continuous adjustment, a unique, Chinese-style regulatory regime has formed. Namely, the National government supervises coal mine safety, with all provincial bureaus and local bureaus under direct control of the State Administration. The Subnational Administration of Work Safety regulates coal mines under the leadership of the applicable sub national government. The coal mines are responsible for their own production and workplace safety. As we can see, quite differently from developed countries, China's regulatory reform of coal mine safety is not only a deregulation process to release traditional totalitarian control, but also a regulatory reconstruction process to establish a new regulatory regime suited to the market economy. From the history of the regulatory regime, we can see the regulatory state of Chinese Style has the following characteristics:

Firstly, the regulatory reform lacks a clear strategy. Following the principle of "muddling through the river", the reform was carried out without a clear plan and strategy about government withdrawal and without common sense about the boundaries between the government and private sector. At the beginning of Reform and Opening Up, there was great demand for coal since economic construction was the focus, and efficiency the first priority. Coal mines owned by the state couldn't meet the demand. Therefore, the central government started property right reform of the inefficient state-owned coal mines, delegating some state-owned coal mines to local government. Small coal mines were encouraged in order to quickly meet the demand of the market. The rapid development of small coal mines makes coal mine safety more and more salient since these coal miners have little incentive to invest in workplace safety. In order to get immediate results, the central government shut down small coal mines or merged and reorganized them, and nationalized coal mines. State ownership was a panacea to solve all the problems, according to the central government. It never seriously considers other ways of regulating workplace safety besides public ownership.

In the setting up and abolishing of regulatory agencies, there was no systematic planning in terms of the functions of regulatory agencies or the focus and scope of regulation, which made the regulatory agencies subject to frequent reform and reorganization. Let us take the 1990s as an example. In 1988, the Ministry of Coal Industry had just been incorporated into the Ministry of Energy. However, five years later, the Ministry of Energy was abolished and the Ministry of Coal Industry that was just shut down was restored. In 1998, the government reorganized again, this time the Ministry of Coal Industry was degraded to a bureau subordinated to the State Economic and Trade Commission. In 1999, the State Council established the State Bureau of Coal Mine Safety independent of the Bureau of Coal Mine Industry. But two years later, the Bureau of Coal Industry was abolished again in the new round of government reorganization. No matter what the original intention of reorganization had been, the frequent reform caused great chaos to the safety regulation regime. Lacking clear strategic planning, people working in the system were extremely anxious. The reform disrupted the old management method, which had worked in those circumstances, but the new method had not become habitual yet, leading to frequent coal mine safety accidents in the wake of each large-scaled restructuring.

Secondly, admission control based on licensing is still the primary method of regulation. The so-called licensing is to evaluate the potential quality of behaviors among all persons who are engaged in an activity, to make sure whether he has attained the required standards. Coal mines are supposed to be a special industry in that coal mine should meet production safety standards, such as production capacity and the condition of occurrence of coal seams, and the mine manager must also be equipped with a certain knowledge of coal mine production and should be trained to be able to get the certificate. As a fundamental industry for the national economy, the coal industry is controlled through the market access system. At first, four licenses were compulsory to enter the market: the mining license, the coal production license, the business license, and the mine management qualification certificate. But after the establishment of different coal mine regulatory agencies, two new certificates were added, namely the coal manager safety certificate and the safety production license, which were issued by the Provincial Department of Land and Resources, the Provincial Bureau of Coal Mine Safety, the Provincial Department of Coal, and the Provincial Commerce and Industry Bureau. Later, three new certificates were added, namely associate coal mine manager safety certificate, safety production manager certificate, and coal trade license. There are a total of nine licenses for legally run coal mines.[16]

Issuing licenses and certificates involved training, examination and annual inspection, which was the most attractive part in coal mine safety regulation, since it may generate abundant profits. So the regulatory agencies compete to set up entrance barriers. These entrance barriers are meant to limit the number of coal mines and guarantee "orderly competition". Actually, some certificates and licenses are not necessary, and some barriers complete duplications. For example, the department of coal industry and the bureau of coal mine safety at the provincial level issue coal mine manager certificates and coal mine manager safety certificates, respectively. There was overlap between the two certificates, and the managers had to be trained and examined by two agencies for the same content. On the other hand, the issuing order of the six certificates was not rational. It would take at least three months to be able to get a mining license, safety production license, coal production license and business license. Among the four licenses, the valid period of the latter three were less than the valid period of mining license, some of them are even valid for only a few months or ever less, and the longest one only 3 years. What's more, if one license was overdue, the other three were also overdue. This situation placed the coal mines in a constant state of renewing licenses, which causes a heavy burden for the industry. This also drives some coal mines to cheat—to produce without licenses, or to produce beyond their capacity to cover costs as soon as possible when they legally got all the licenses. In addition, if there is an extremely serious accident in one coal mine, the peripheral coal mines will all be inspected or suspended operation whether they have all the licenses or not. Therefore, licensing can't guarantee coal mine owners' credible commitment[17]. Taking cost-profit into consideration, most of the coal mine owners will produce beyond their capacity,and mining beyond the approved layers or seams so as to make profits as soon as possible.

Thirdly, the idea of social regulation gradually appeared. Regulation theory differentiates economic regulation and social regulation. [18] The former is aimed at reducing monopolies and costs related to it. The later, also known as protective regulation, aims at protecting individual citizen from all kinds of dangers and unfairness. It focused on the quality of product and service, as well as the adverse effects on human health and environment caused by the producing process. Social regulation tries to restrict the behavior of enterprises on behalf of citizens, compared with the narrow focus of economic regulation. From the coal mine safety regulation reform of China, we can see that coal mine safety is gaining importance; meanwhile the agency responsible for regulating coal mine safety has gradually been separated from agencies managing the production of coal mine. The main task of safety regulatory agencies gradually turned to safeguard the safety of coal mine workers. Before 2000, the coal mine safety regulation regime was subordinate to the coal industry management system. Ministry of Coal Industry was the department regulating coal industry as well as responsible for the profit of national coal mines. It was easy to confuse the roles and functions when this ministry tried to deal with production and safety of coal mines. Complying with the market-oriented reform of coal industry, the government corporatized the management of coal mine, cancelled the Ministry of Coal Industry, which was responsible for the allocation of coal in the whole industry under the planned economy, and established State Administration of Coal Mine which is solely responsible for the work safety of coal mines.[19] Surely, as Pearson[20] had argued, in the transition period, reformers faced an old problem of how to reconcile the new regulatory institutions with the old system. The reconcilability of the new regulatory regime depends on the growth of social force and adjustment of regulatory powers. It definitely is not just an issue for a document, or a reorganization of agencies.

Fourthly, the responsibility of local government became more and more visible and important. Under the planned economy, the central government could manage coal by just issuing a document or instruction, forcing the coal mines to shut down, to rectify and to reorganize. With the development of market economy, the autonomy of local government gradually grows. It is common for them to abide by policies and instructions literally or just neglect those policies that run counter to their own interest. In order to improve the effectiveness of regulation, the local governments' responsibility has been emphasized in the designing of regulatory regime. But taxation from coal mines is an important source of revenue for local government. So the localized regulation could hardly resist the local interest, which may deteriorate the safety regulation. Under that circumstances, a new form of regulatory regime, namely, "central government supervises, local government regulates" has emerged. It was a compromise between central government and local government on the division of authority and responsibility of regulation, which shows that during the transition period the central government could not ignore the appeals of local governments, at the same time, local governments also affect the policy formulation of central government.

However, this dual regulatory system causes great conflicts and contradictions in that the regulatory agencies directly under the control of Central Government and those under the local government are always in conflict with each other. For example, in order to avoid the interference of local interest, the central government established the State Administration of Coal Mine Safety and its branch agencies completely outside the current governmental system. All the personnel, financial support, and working task are assigned by the central government. But this administration did not make a presence in the county and township level. Because of the lack of "legs" in the localities, the daily operation highly depends on local government and the bureau or stand of coal industry, which makes the national supervision degraded to "key point supervision", or "supervision on special projects", or "occasional supervision". According to Coal mine Safety Law, enforcing the penalty of shutting down coal mines should first be reported to local government. And according to the Regulations for Coal Mine Safety Supervision, the branch agencies of Administration of Coal mine Safety cannot enforce the punishment if the coal mine refuses to accept it. The agency has to transfer the enforcement to the relevant departments at that level of government, such as department of geology and mineral resources. Without the support of other related departments, the agency can't revoke license or certificate of coal mines. In fact, in places where there is a Bureau of Coal Industry, coal mines are always very important for the local economy. The local government is not only responsible for the profit and loss of these coal mines, but also responsible for local economic development. Therefore, production instead of safety always comes as the first priority. Hence it is difficult to formulate an effective "Joint Enforcement Mechanism" between the national supervision agencies and local governments, which makes the national supervision a "tiger without teeth".

On the local level, local governments and local regulatory agencies would complain that there is a serious asymmetry between power and responsibility. The safety regulatory departments at or above provincial level are only responsible for the issuance of licenses. The regulatory agencies at the city, county or township do not have a say in licensing, but bear a large sum of daily yet painstaking regulatory tasks. To make things worse, when there is coal mine accident, it is they who are blamed and held accountable. The bureaus of coal mine industries have bureaus at the grassroots level, but it does not have a "father" ministry in the central government, therefore its interest can hardly be voiced at the central level. Although The Administration of Work Safety has four tiers, namely, the central level, provincial level, city level and county level, but at the county level, the bureau is always integrated with the bureau of coal mine industry. Without independent enforcement entities, it is difficult for the bureau to assume the arduous task of regulation. At the township level, none of the three regulatory agencies (the bureau of work safety, the bureau of coal mine industry, the bureau of coal mine safety) has powerful branches, which makes regulation more or less set down on paper instead of actually being implemented.

Finally, coal mine workers, as the direct beneficiaries of safety regulation, didn't participate in the regulation to defend their own right. This participation must take the form collective action because market pressure will make the individual worker's demand for a safer workplace irrational. If a worker requires a safer workplace, he will find it is impossible for him to find a job. But most workers would benefit form safer workplace.[21] Only through collective action of workers or intervention from government regulation can there be a safer workplace for all the workers. According to the 36th article of the "Labor Union Law", labor unions should defend the general interest of the people in the whole country, as well as represent and safeguard the lawful rights and interests of workers. But up to now, the labor union of coal industry still relies financially on coal mines and is not independent of the CCP's leadership. Stabilizing the social order is still one of its main tasks, which makes it hard to safeguard the legal rights of coal mine workers. As for the workers, because most of them are not well-educated, live in an atomized manner, and are highly-mobile, it is extremely difficult to organize them into a collective action. Therefore, in policymaking, consideration of workers' safety always comes after economic development. Society even rejects the responsibility upon the workers themselves, regarding it as their own choice to work under dangerous situations. Workers also adapt their own preferences to the reality, regarding the dangerous working situation as a given. Whether one can survive or not is not seen as an issue of individual choice, but rather, as a predestined fate. Workers' lives could even be compensated for by money. When there is a coal mine accident, the relatives of victims usually ask for enough money. They would rationally calculate in this way: since the damage already happened, no matter what kind of punishment is enforced to the person liable, the life of the victim could not be saved. So they would ask for more pecuniary compensation in order to make the victim's death valuable for his relatives. The safety regulatory department punishes the coal mines and persons liable by imposing a fine. If the fine is paid, then the Safety Regulatory Department is cleared of its responsibility. For workers, even though they are aware of the potential danger, they are willing to risk their life in order to make a living. Society as a whole generally accepts this way of dealing with work safety. Therefore, the cost of appeasing an accident caused by unsafe work situation is very low, coal miners would rather pay money to compensate for an accident than invest in work place safety, since the latter is much more expensive. Safety regulation becomes more and more difficult facing the situation where even the victims accept this kind of unsafe environment.

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Is China walking towards a regulatory state? From the case of Coal mine safety we can see that the government is gradually relying on formal procedures such as laws and rules to regulate. The underlying driving mechanism is that the frequent occurrence of coal mine accidents makes politicians anxious to shift the responsibility. Via legalization, the central government can show the public that it is eager to protect working place safety, and it does care about the welfare of common citizens. The regulatory agencies welcomed such legalization since it protects them when there is an accident, by showing what they do strictly conform to the standard operation process; therefore, it is the mine operator who should be blamed. What's more, legislation strengthens the status of regulators. As mentioned above, regulatory bodies have insufficient resources to enforce regulation. If relevant obligations of regulated parties are listed in the law, then the regulators can enforce compliance by resorting to coercive methods. It is also easy to shift the cost of compliance to the regulated party. Also, regulatory agencies can justify their demand for more resources by resorting to relevant legislation. Legalization legitimizes regulatory agencies. Therefore, the regulators more than welcome the rise of the regulatory state. For the regulated party, legalization helps them to gain a clear expectation of the political environment, reducing uncertainties arising from the regulators' action. Therefore, the rise of the regulatory state is also welcomed by the regulated parties, in this case the coal miners.

Is China forming a unique style of regulatory state? China is trying to follow the US style of independent regulatory agencies. But regulation relies heavily on subnational governments' cooperation, because the central regulatory agency lacks sufficient resources to enforce compliance. When economic concerns became more urgent for subnational governments, regulation underwent an awkward situation. The central regulatory agency also deliberately limits its role as supervisors of local regulators, so that it does not need to take the trouble of getting involved in the tiresome daily work of regulation. By occasional supervision and punishment of offenders, the central regulatory agency can protect itself from public scrutiny. The local regulators cannot shield their responsibility, but had to struggle between the local drive for economic development and the demand for a safer working place. This is mission impossible to them since a rather opportunistic climate is rampant among coal miners who believe "money can solve everything". To make things worse, for coal mine workers, economic compensation is more pragmatic for them under their current living standard. Hence a culture of ascribing the responsibility to their fate instead of to the coal miners and regulators is fostered.

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[6] According to Volume 2 of Section 1 of National History Chronicle of People's Republic of China（中华人民共和国国史通鉴第一卷第二册）, as a transitional system under the special circumstances in the early years following the foundation of the People's Republic, the management system of greater administrative region was generally adopted. The greater administrative regions includes people's government of north China, people's government of northeast, and Military and Political Committee of east China, central-south of China, west-south China and west-north China.

[7] Stipulations about the delegation of industrial enterprises（中共中央和国务院《关于工业企业下放的几项规定》）, 1958

[8] Administrations of Coal Industry led by Ministry of Coal Industry at that time were in Hebei province, Shanxi province, Liaoning province, Sichuan province, Yunnan province and Ningxia autonomous region.

[9] The central distributed coal mines are large and medium sized enterprises owned by the state, and the prices of these coal mine is under strict central plan.

[10] Anonymous. 1999. Encyclopedia of Coal Industry in China（《中国煤炭工业志》）, The Coal Industry Press.p.233.

[11] Anonymous. 1999. Evolution of China's coal industry management system（我国煤炭工业管理体制沿革）, *Chinese and Foreign Energy*（中外能源）, 13

[12] Duan Haifeng（段海峰）, 2005.The Development Dilemma of China's Coal Industry From the Rise and Fall of Coal Mines in Small Villages and Towns（从乡镇煤矿的兴衰看中国煤炭工业发展的两难选择）. *Net of China Energy*（中国能源网）, Mar 9th.

[13] From 1950s, as a production of planned economy, the National Coal Orders was organized by the government annually for connecting the production, transport and sale of coal for both suppliers and demanders. The NCO had two cruxes. One was that the duration of contracts between enterprises was all one year, and this short-term contracts could hardly ease the supply-demand relation of electricity coal, the other was that excessive invention of relevant government departments effected the marketization.

[14] "China will Promote Merges and Reorganizations of Coal Mine Enterprises"（中国将推进煤矿企业兼并重组）,*News Xinhua*（新华网）,Feb 3rd,2009.

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[19] But Bureau of Coal Industry still exists at the provincial and local level for those large coal mine provinces.

[20] Margaret M. Pearson.2007. Governing the Chinese Economy: Regulatory Reform In the Service of The State. *Public Administration Review*, 67(4):727

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