

Proposals to Improve Occupational Health and Safety in China

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China's Coal Mining Industry Requires of Urgent Measures

Statistically, gas forms the most serious threat to coal miners. According to the People's Daily (September 26, 2002), gas-related accidents caused 43 per cent of all fatalities in coal mines during 2001. Furthermore, in the ten-year period from 1991-2000, the number of coal miners killed in gas-related accidents nearly doubled. In recent years safety investment in China's key mines had fallen between 3 and 4 billion *yuan* short of previously set targets. In Heilongjiang alone, investment in coal-mining safety was 570 million *yuan* short of the planned target figure. Moreover, the People's Daily report also stated that over the last two years investigations had revealed that many of the small-scale mines closed down by local authorities had failed to follow even the most basic safety procedures such as the installment of gas ventilation and monitoring equipment.

In an emergency national telephone conference on coalmining safety convened in Beijing on July 7, 2002, the head of State Administration of Work Safety (SAWS) Wang Xianzheng emphasised that small coal mining enterprises must implement safety procedures in accordance with the law and that regulations on ventilation limits and gas density must be followed. When excavating gas-filled coal seams, procedures to release gas *prior* to excavation must be upheld. In accordance with the law, no excavation may take place in shafts that lack gas ventilation equipment or safety buffer layers. Production in coal mines that do not have gas monitoring and warning equipment with the ability to cut-off electrical power must stop production immediately.

The above speech by Wang Xianzheng clearly maps out major problems in China's coal mining industry and that reveals how many coal mining companies are not fulfilling obligations to implement safe mining operations. Coal shafts without proper ventilation facilities, no gas extraction equipment in mines and coal seams with high gas concentration are extremely common as are shafts without adequate automatic warning facilities that guard against sudden increases in gas. Mr. Wang pointed to the coming implementation of China's new "Work Safety Law", which comes into force on November 1, 2002 as an opportunity to get safety work in the country's coal mining industry on to a sound legal footing.

During the last two years I have carried out a number of interviews with those involved in coal mines where gas explosions and other accidents have taken place. I firmly believe that the problems pointed out by Mr. Wang are a very clear illustration of the serious occupational safety issues facing the Chinese coal industry. The situation we are in right now not only threatens the lives of millions of coal miners on a daily basis, but also the healthy development of the coal mining industry along with overall social stability.

As such, improved safety in the coalmining industry is the responsibility of three major players involved: the employers, the government and the workers. I am in total agreement with Wang Xianzheng's assessment that only by addressing the problems via sound legal channels can the basic solutions be found.

The Current System of Safety Management in Coal Mines: Is it Effective?

At present, SAWS is the official organisation responsible for OSH laws, regulations and technical standards as well as inspecting compliance and safety management systems. The bureau's official website (<http://www.chinasafety.gov.cn>) provides information on the measures the government frequently adopts to improve safety in the coal mining industry. These include:

1. Top-down safety publicity campaigns on OSH, including convening meetings and conferences of safety officials and the regular issuing of OSH documents and guidelines;
2. Closing down small coal mines that fail safety inspections;
3. Suspending production in state-owned coal mines that fail safety inspections;
4. Demanding that local governments and employers take OSH concerns seriously as well as guarantee investment in safety procedures and equipment and adequate training for personnel.¹

But how effective is this top-down propaganda-based approach to OSH?

In March this year SAWS proclaimed June 2002 as "work safety month". However, according to figures posted on their website, 400 coal miners died in May this year and 449 in June - the designated safety in production month. The ongoing tragedy continued into July when a further 482 coal miners were killed at work.

In the aforementioned telephone conference SAWS deputy director Zhao Tiechui pointed out that the OSH system established in the coal mining industry existed in name only. Documents issued from the centre are simply passed on to the next level down and ignored. Meetings are held but the safety measures they discussed never got further than the conference hall. He also stated that the problems were exacerbated by old and outdated machinery in state-owned mines, inadequate safety operation procedures and a decline in these mines' fire prevention facilities and fire-fighting equipment. Using the recent accident at a mine owned by the Jixi Mining Group as an example, Mr. Zhao pointed out that the State Administration for Coal Mine Safety Supervision (SACMSS) had issued six warnings to the group. The warnings stated that its investment in safety systems and operations had fallen and as a result there was serious safety hazard. Yet the group both refused and procrastinated over instructions to rectify the situation, citing economic difficulties. On June 20, just as an inspection team despatched by the State Council had completed its work and issued yet another notice to cease production until safety standards were met, an explosion and fire ripped through the mine, killing 115 miners.

Mr. Zhao also said that local governments, especially at county and village level were unwilling to close down small mines that failed to meet safety standards due to a dependence on tax revenues from these operations and that it was impossible to prohibit illegal small-scale mining. At the same time, some mine owners simply ignored ventilation and safety measures and organised groups of workers into working extra long shifts in dangerous pits so as to extract as much coal as possible before they were ordered to close down. Obviously, this tactic dramatically increases the chances of accidents.

On July 19, the People's Daily quoted an interview with the head of the Jixi Mining Group Safety Inspection Office Meng Zidong and the director of Jilin provincial office of SACMSS Dong Xiangge: "[W]hat can we do if a mine refuses to implement a notice to cease production following a safety inspection? We can't force them."

Clearly, we cannot expect miracles from this traditional top-down model of OSH inspection and management. The government is doing all it should be doing to regulate the industry and yet new ideas are still required to improve the situation unless, of course, we simply sit back and accept the crisis is insoluble. What then, is the way forward?

A New Approach

Clearly lacking in the traditional approach to OSH in China is direct worker participation. No matter from which angle we examine the issue of health and safety at work, there is one inescapable common denominator: namely that the status of workers themselves remains passive. As such workers are reduced to the level of a passive 'target audience'. They are 'targets' of OSH propaganda; 'targets' of inspection and monitoring; 'targets' to be restricted by various laws and regulations; and, inevitably, easy 'targets' for OSH tragedies.

However, if we take the significant step of moving on from this outmoded approach and place the right to actively monitor health and safety in China's coal mines into the hands of the miners themselves, the situation will take on a completely different appearance. Over the last two years, I have conducted interviews with coal miners, management cadres and government officials as well as with the families of miners killed in accidents. This work has led me to the conclusion that it is the miners themselves who are best placed to understand the importance of OSH. For them it is not simply a matter of reports and conferences. The issue is of paramount importance to their families and a matter of life and death to themselves.

My interviews also testify to the fact that as far as OSH is concerned, miners are restricted to a totally passive status. Yet, if we begin by strengthening the legal system governing OSH and keep strictly to the letter of the law in order to implement guarantees that give face workers the right to refuse to work in an unsafe environment without risking punishment or any other repercussions from management, we can transform workers from being passive 'targets' of OSH management and legal regimes to being active implementers of OSH monitoring and implementation. This paradigm shift will also move OSH in China on from the traditional, largely ineffective model of top-down management and implementation.

The crux of our proposal is for underground face workers in China's coal mines to organise a "workers' OSH committee" in their workplace, elected by face workers themselves. Using this committee as a baseline, an "enterprise OSH committee" should be set up made up of members of the workers' OSH committee and enterprise management on a fifty-fifty basis.

Legal Basis for a "Workers' OSH Committee" in China's Coal Mines

Article 19 of China's new "Work Safety Law" (hereafter Safety Law) states that work units producing, operating and storing dangerous materials as well as mining and building work units shall set up OSH management organisations or allocate full time OSH personnel to administer safe practices at work. Other work units with over three hundred staff and workers must also set up OSH management organisations or allocate full time OSH personnel to administer safe practices at work. Work units with less than three hundred staff and workers must allocate full or part time OSH personnel or entrust such duties to technically qualified personnel in line with China's laws.

Article 45 stipulates that employees have the right to be fully aware of all hazards present in their workplace as well as the associated preventative and emergency measures. Workers also have the right to make suggestions on OSH policy to their work unit.

Article 46 stipulates that workers have the right to make criticisms, reports to the relevant department and take legal action on existing OSH problems. Workers also have the right to refuse orders that violate OSH rules or work in hazardous conditions.

Article 47 states that workers who encounter a situation during work that directly endangers their personal safety have the right to stop work and, after taking all appropriate measures, to leave the workplace.

At the same time, Article 50 stipulates workers legal obligations to accept education and training in matters pertaining to OSH and take steps to render themselves fully aware of the appropriate and necessary OSH

knowledge. They must also improve their skills and ability in safe working practices as well as accident prevention and emergency procedures.

The Safety Law also stipulates the functions of trade unions regarding OSH at work. Article 52 states that the trade union has the right to make suggestions and put forward opinions on the facilities for OSH which shall be designed, put into operation and monitored at the same time as the main project. Trade unions have the right to demand the correction of any aspects to work place operations that violate OSH laws and regulations or harm the legal rights of staff and workers. They also have the right to make suggestions aimed at solving problems that arise from the violations of OSH rules, orders from management to work in hazardous conditions or the discovery of hitherto unforeseen dangers at work. The work units are obliged to respond to the suggestion promptly. Trade unions also have the right to propose that management make sure that their employees leave a place of work on the discovery of life-threatening hazards. In such cases the work unit must act on the proposal immediately.

As we can see, the problem lies not with the aforementioned rights and regulations but with the official trade union's ability to implement them. Given the nature of the official trade union, there is no way that it can legally and effectively put into practice trade union functions in the field of OSH inspection and administration in the workplace. Moreover it is unrealistic to expect it to be able to fulfill these trade union functions in the foreseeable future. Our proposal for the establishment of "workers' OSH committees" (WOC) must also be considered against the reality that many private, foreign-owned, joint-venture and restructured state-owned enterprises as well as subcontracted coal mines and shafts do not even have trade unions. A WOC could therefore rapidly begin to address OSH monitoring and management on the basis of the aforementioned laws and regulations. In mines and enterprises where trade unions do exist, the WOC can cooperate with the trade union in improving OSH measures, inspection and management at the enterprise on the basis of the law. This cooperation between the WOC and the existing trade union can avoid the sensitive question of challenging or changing the nature of the official trade union and will be able to complement and complete the work and functions that the latter is unable to fulfill due to existing legal restrictions. We hope that the result will not challenge the existing trade union system, improve OSH in the mines and reduce the threat of injury and death to those who work in them.

At this point we must also point out that what we are discussing is how to inject new ideas, thinking and content into a traditional top-down system of OSH monitoring and management that reality has proved at best unsatisfactory and at worst impotent. In effect, we are trying to forge a new approach to improving OSH in the mines. The key focus of our proposal is to reposition OSH in the workplace itself and move the entire issue away from the meeting rooms of government departments or the remote discussions of academic conferences and seminars. It is our view that the starting point for improving protection must be to encourage workers themselves to get involved in OSH based on their legal rights which we have explained above.

The Establishment of WOCs and the Aims of Government Policy

On December 12, 2001, China's State Economic and Trade Commission (SETC), with reference to the "ILO Guidelines on Occupational Safety and Health Management Systems" formulated a document entitled "Guidelines on Occupational Safety and Health Management Systems" (hereafter Guidelines). The aim of this document was to "encourage all employees of employing units, especially top level executives, managers, workers and their representatives to adopt rational principles of OSH management and methods in order to uphold and continue to improve effective OSH in China". The Guidelines also stated that the "State Administration of Work Safety (SAWS) was responsible for drawing up, implementing and regularly evaluating national policy on work units' internal OSH management systems". The Guidelines also confirmed that "work units shall voluntarily set up and maintain OSH management systems and support employees and their representatives to actively take part in OSH activities. They shall also confirm and guarantee that OSH measures and requests apply not only to their own employees, but also to subcontractors

and directly employed temporary workers. Enterprises involved in high risk work along with those employing units that have suffered serious accidents have a special responsibility to set up and maintain OSH management systems". The Guidelines also stipulated that once enterprises had set up "OSH management systems", they should also establish an "OSH Committee" in which a fair proportion of workers are to take part. As the Guidelines have had for little more than half a year to be put into practice, I believe that coal mining enterprises have not yet had time to set up these systems and committees.

We believe that there is little difference between the voluntary participation in "OSH management systems" stipulated by the Guidelines document and the WOC that we are advocating as a practical and realistic response to dangerous workplaces in China.

The Chinese Government's Cooperation on OSH with International Statutory Bodies

Article 2 of the SAWS document (No.6, 2001) "Temporary Regulations on the Management of Foreign Affairs of the State Administration of Coal Mine Safety Supervision under SAWS", which came into effect on January 1, 2002, states that "the general affairs office (foreign affairs department) of the State Administration of Coal Mine Safety Supervision under SAWS (hereafter Foreign Affairs Department - FED) is responsible for foreign affairs work related to the OSH monitoring and management. This includes guidance, co-ordination, administration and co-ordination of all work and matters relating to foreign affairs." Article 3 emphasises: "[T]he principle that 'external affairs are important and all matters must be dealt with on the basis of requesting instructions'. All activities of work units involving foreign external matters where problems are encountered shall promptly request instructions from the leaders of the foreign affairs offices of the relevant national bureaux via the [aforementioned] FED. Where necessary, the national bureaux shall request instructions from the relevant departments of the Central Government." Article 7 of the same temporary regulations also sets out in detail the corresponding responsibilities in handling foreign external matters.

On the Selection of Members to the WOC

The process of selecting and organising a WOC should be as direct and straightforward as possible. Each workshop, mine (mineshaft) and even mine work team can organise a WOC Group from which workers in enterprises and mines can elect a WOC,

1. In order to encourage the participation of the workforce, the workers must elect all WOC members themselves. Most important, the WOC shall not be appointed, either by management or government departments. This would be no more than a return to the traditional top-down approach and result in workers having no confidence in the new WOC even at its inception. It will also sacrifice the aim of encouraging workers themselves to take part in OSH affairs.
2. In large-scale state owned mines, the WOCs can be set up within the enterprises.
3. In provinces such as Hunan and Guizhou where small-scale mines are comparatively common, local coal sector WOCs can be elected at county or city level with a ratio of one committee member for every thirty members, with a minimum of at least two members from each coal mine. WOC members must be coalface workers able to inspect safety conditions in the mine at all times. Membership of the WOCs should be one year, during which time he or she may not be dismissed or fired. The WOC shall meet once every three months during work hours and set up a working committee that shall deal with day-to-day complaints and reports from the workforce. Monthly reports on the results of complaints and how they are dealt with shall be sent to the WOC on a monthly basis. Where local coal mining WOCs are set up at county and city level, they shall register

with the Ministry of Civil Affairs and filed with the Department of Labour and Social Security and SAWS.

4. A pilot "OSH Co-ordinating Committee" (OCC) shall be established at county (or city) level composed of an equal number of government, enterprises and WOC representatives. WOC representatives to the OCC shall be elected by WOC members.
5. A coal mining sector OCC Congress shall be convened once a year during which negotiations between government, employer and worker representatives shall take place. These will include a critical assessment of the past year's problems and set a figure for financial investment in OSH facilities for the following year. Deadlines should be set for funding and OSH investment and all parties shall sign an agreement on questions relating to safety standards in coal mines.
6. The WOC shall set up a fund to meet legal fees of any WOC member who is dismissed by his or her employer as a result of activities related to the WOC.

The WOC as a Player in Enterprise Development

Once established, it is envisaged that the new WOCs will be a source of renewed energy and vigour in China's exhausted OSH system. The election of face workers who are only too keenly aware of the underground hazards they face will have a direct beneficial effect on OSH measures in the work place. Moreover, the capacity of WOC members to raise questions related to violations of safety rules and the existence of worn out and ineffective safety and equipment and installations will reduce the number of accidents.

The fact remains that many small coal mines do not have even the most basic safety equipment and continue to operate in extremely dangerous conditions, usually under the protection of local government officials. While some of these officials are genuinely concerned to use tax revenue from coal mining in order to meet targets assigned to them by higher levels of government, their role is more frequently determined by bribes from coal bosses or their personal ownership of shares in local coal mining enterprises. Whatever the reason, the result is the same: a blind eye is turned towards safety concerns in the mines. WOCs will serve as an effective channel through which bribery and financial conflicts of interests caused by government officials' purchase of shares in local mining companies can be exposed and the practice ultimately stopped. WOCs right to monitor the workplace will gradually improve a situation where local officials ignore OSH matters due to factors relating to personal gain.

Of course, the setting up of WOCs will have unavoidable effect of increasing investment in OSH measures and this will in turn reduce profits. However, we believe the WOCs can become a watershed in the development of China's coal industry - in line with government policy. For example, the WOCs will be in a position to urge employers to buy basic work injury insurance for their employees. The insurance company will need to be fully aware of the risks before offering insurance and as such will evaluate OSH systems in the mine before offering a policy. This will serve as another mechanism that will have a positive impact on safety. Of course, injury insurance will lead to an increase in an employer's initial investment, but it will lessen the risk of enterprises having to make large compensatory payments after an accident has occurred, thus reducing the likelihood of bankruptcy and consequent unemployment.

I believe that planned investment in OSH aimed at preventing injury and accidents is part of the overall production costs and should be budgetted for as such. Managers' current mindset to OSH costs focus on one-off payments required as compensation following an accident. The establishment of WOCs will help the industry's managers to move on from this essentially passive reactive attitude to a rationale, budgetted and

proactive policy on OSH matters. Seen in this light, the proposal to establish WOCs will actually assist in the healthy, sustainable development of China's coal industry.

The Fireworks Industry

At present, the coal mining industry is beyond doubt the government's biggest headache as far as OSH is concerned. It continues to have the worst fatality rate of all China's industrial sectors. Our proposal for WOCs therefore starts with an urgently needed and feasible plan for the coal industry. However, the OSH situation in the fireworks and firecrackers industry is also extremely serious. The industry is plagued with regular explosions that kill and maim dozens of people. Worse still, because most of the assembly of fireworks and fire crackers takes place in the homes of villagers, the accidents always involve the deaths of children.

The response of the government of Jiangxi province to the problem - where small-scale firework production is extremely widespread - has been to announce a policy of killing off the fireworks industry in the province over the next two years. However a number of factors make this problematic. Firstly, the fireworks sector in Jiangxi is enormous. Secondly, millions of peasants who cannot support themselves off the land alone rely on fireworks production simply to get enough to eat and send their children to school. The likely result of the Jiangxi government's policy will be to force production into illegal underground workshops that are even harder to regulate, especially from an OSH point of view.

Fireworks production is frequently organised around a village-level enterprise that subcontracts out assembly work to local village residents who work at home. Nearly all the accidents are explosions followed by fire that affect those at the actual accident site, but more often than not those living nearby. Using the WOC model proposed for the coal mining industry as a model, we also propose that "villagers' OSH committees" (VOC) be set up to monitor the safety measures of village-level work units and companies responsible for fireworks and firecracker production. The VOC members should be directly elected by village residents who would then elect a county-level "community OSH committee" (COC). Finally a tripartite sector-level OSH coordinating committee (OCC) should be set up composed of government officials from relevant departments, industry representatives and village residents elected by the local COC. The OCC should be registered with the Ministry of Civil Affairs and filed with the MOLSS and SAWS.

¹ See the circular issued by SAWS No. 21 (2002): "Urgent notice on strengthening the 'one ventilation three precautions' work in coal mines".