

## Railway Governance and Power Structure in China

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### Abstract

Over the last 15~20 years, many countries have adopted policies of railway privatization to keep up with increasing competition from road and air transport. Although each country and case has its own history, market characteristics, political context as well as administrative process, railway privatizations (including railway restructure, concession etc.) in the west usually are accompanied with the establishment of new regulatory regimes. Therefore, railway governance has been innovating towards an interaction of government, regulator, industry bodies, user groups, trade unions and other interested groups within the regulatory framework. However, it is not the case in China. Although China had seen a partial privatization in some branch lines and is experiencing a much larger-scale privatization by establishing joint-ventures to build and operate high-speed passenger lines and implementing an asset-based securitization program, administrative control still occupies absolutely dominant position in the railway governance in China. Ministry of Railway (MOR) acts as the administrator, operator as well as regulator. There is no national policy that clearly positions railway in the transportation network and clarifies the role of government in railway development. There is also little participation from interested groups in the railway policy making, pricing, service standard or safety matter. Railway in China is solely governed by the mere executive agency. Efficiency-focused economic perspective explanation is far from satisfaction. A wider research perspective from political and social regime is of great potential to better explain and solve the problem. In the west, separation and constrains of power had long been established as a fundamental rule. In addition to internal separation of political power (legislation, execution and jurisdiction), rise of corporation in the 19th century and association revolution in the 20th century greatly fostered the growth of economic and social power. Therefore, political, social and economic organizations cooperate and compete with each other, which leads to a balanced and reasonable power structure. While in China, political power, mainly party-controlled administrative power has been keeping a dominated position since the time of plan economy. Although the economic reform promoted the growth of economic power of enterprises, it is still not strong enough to compete with political power. Furthermore, under rigid political control, social organizations usually are affiliated to government, independent social power is still too weak to function. So, duo to the limited and slow reform in political and social regime in China, there is an unbalanced power structure within which political power is dominant, economic power expanding while social power still absent. Totally different power structure in China determines the fundamental institutional environment of her railway privatization and governance. It is expected that the exploration of who act behind railway governance and their acting strength (a power theory) will present us a better picture of railway governance as a relevant transportation mode. The paper first examines the railway governance in China and preliminarily establishes a linkage between railway governance and its fundamental institutional environment, i.e. power structure in a specific country. Secondly, the reason why there is no national policy in China is explored in the view of political power. In China, legislative power is more symbolic while party-controlled administrative power dominates political process and plays a fundamental role in Chinese railway governance. And then, in the part three railway finance reform is analyzed in the view of economic power, esp. the relationship of political power and economic power.

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## 1. Governance and Power

Over the last two decades or so, many countries have adopted the public policy of railway privatization. Some achieved success or partial success while others are total failures. No matter success or failure, it is an international experience of railway privatization. However, China is an exception. Although with increasing competition from road and air transport, railway's market position has been greatly weakened, it is still under plan economy while other public sectors' reform have gone much further. The paper tries to explore the reasons behind it on the view of power structure in China.

There are too much different meanings in the context of different researches on governance. As Professor Rhodes (1997) pointed out: governance could be regarded as minimal state, as corporate governance, as new public management, as good governance, as social-cybernetic system, as self-organizing networks. However, there is a common point summarized by Professor Gerry Stoker (1999), governance is a new development of rule within which division between public and private sector and even the internal division within each sector tend to be blurred. Governance theory also emphasized there exists power reliance among different organization involving in collective action. The paper agreed with this point and railway governance in the context of the research mainly focused on the power reliance as well as competition in Chinese railway industry. According to different entities, power could be briefly categorized as political power, economic power and social power. How these power interacted with each other constitutes fundamental institutional environment of railway governance. On the comparative view, institutional environment is totally different from that of the west which may at least partially explain the different railway governance in China.

## 2. Railway Governance in China

Although China had seen a partial privatization in some branch lines and is experiencing a much larger-scale privatization by establishing joint-ventures to build and operate high-speed passenger lines and implementing an asset-based securitization program, administrative control still occupies absolutely dominant position in the railway governance in China. According to Railway Law 1991, power to railway administration, regulation as well as operation is delegated to the Ministry of Railway (MOR). So, MOR is the agency that acts as the administrator, operator as well as regulator in railway governance. Ministry of Communications or other governmental agencies had little power in

railway governance.

### 2.1 No National Railway Policy

Although the State Council is the top executive agency in China while MOR only one of her ministries, the State Council's power in railway governance is of more nominal value. MOR takes full advantages of information and railway's complex technique features and dominates nearly all material decision-making processes, including but not limiting railway network plan, market strategy as well as pricing. Furthermore, MOR also has promised to develop railway network without national fund support, which greatly strengthen MOR's decision-making power. National Congress and State Council highly respect MOR's opinion, which is obviously in the shoes of sector benefits. Up to now, there is still no national railway policy that clearly positions railway in the transportation network and clarifies the role of government in railway development.

### 2.2 No Independent Railway Enterprises

There are 18 railway branches and 3 special railway corporations under state-owned railway system. Although these entities are of independent legal status, they are actually highly affiliated to MOR. The officers' appointment, income allocation, strategies etc. are all under the control of MOR. No organizational features indicate these entities are independent railway enterprises. There are also a few joint-ventures or stock railway companies, such as jin-jing high-speed passenger line, daqin railway, guangshen railway etc. They enjoy more autonomous power in operation compared with state-owned railways. However, since they are obliged to unconditionally obey the integrated dispatch of MOR by law as well as their articles of association, they have been deprived one of most important property rights for an independent transportation enterprise. Besides, their assets and business income are so small that they even could be ignored compared with giant state-owned railways, it is reasonable to conclude that there is no independent railway enterprises in China.

In short, Railway in China is under the comprehensive control of administrative power.

## 3. National Railway Policy and Political Power Structure

Railway is of great external benefits, such as environmental friendly, energy saving and scale economy, which deserves more national support. Even in countries that have privatized or partially privatized their railways, governments still need to take necessary responsibilities in

railway development. National railway policy plays an important role in the railway sustainable development. Unfortunately, it is not the case in China. The reason behind could be explored in the view of political power. In the modern democratic society, principle of power separation has long been established. For the matters involving public resource allocation, public interest protection and public provision, political procedures should be strictly followed. Railway is of great external benefits and in most cases national support is the pre-condition for private capital's input. In the west, Congress plays a very important role in national policy-making. In the national railway policy, railway's role in the integrated transportation system, its development strategies and principles as well as government's responsibilities all should be clearly set out. In the legislation processes, the interested groups of railway industry have the opportunities to speak and game for their interests. China is a country that administrative power combined with party power is in a stronger position compared with legislative power. It is not uncommon that under administrative control represented by MOR's domination, no national railway policy has been made yet.

Under the dominant administrative control of MOR, there is also little participation from interested groups in the railway policy making, pricing, service standard or safety matter. With the increasing competition from road and air transport, high-end railway users turned to other transport mode. For cargo transport, most cargoes are low value-added goods; for passenger transportation, university students, peasant workers and other low incomes groups are most preferred rail transportation. However, more high speed passenger trains (CRH) and higher ticket price are no good to their interest. Although there has been establishing public listening procedures in ticket pricing, consumers are in absolute disadvantage on expertise and information. Absence of social power could provide a reasonable explanation. In the 20th century, western world has established the civil society of state-association-business, in which social organizations received much policy and fund support from government. Political power, economic power and social power compete and cooperate with each other and reach the balance through gaming process. The balanced power structure is the institutional environment for establishing an integrated railway governance with interaction of government, regulator, business and interested groups in the west. While in China, it is still in a society of state-business, in which social power is absent and political power exerts too much control over economic power. This abnormal power structure naturally leads to a administratively-controlled railway governance in China.

#### **4. Railway Finance Reform and Economic Power**

Both the promise to open up railway market in the WTO agreement and national policy of strengthening development of private capital, indicate the strong will to promote railway finance reform in China. It seems that there are no policy barriers that prevent private capitals from investing in railway network. However, the expectation that large amount of private capitals will flow into railway market has been greatly frustrated. It has been the 7th year of China's accession into WTO in 2007 and the transportation market has been opened up as scheduled in the WTO agreement. However, there is little competition pressure deviated from flowing in of international or domestic private capital. On the contrary, there are great capital gaps in railway construction because of private capital's hesitation and reluctance to invest in railway network.

There is no agreement on opening up railway infrastructure in WTO members. Whether to open up and relevant policies are solely determined by each specific member. China set no policy barriers for international capitals in railway network. However, there is little international capital flowing in railway infrastructure field in China, which has been one of countries that attracted most capital in the world. Furthermore, even the flowed-in international capital are mainly the loans from international financial organizations or foreign governments, most of which are confined to payment for importing technique or equipments. There are still no successful cases for international capital's direct investment. As to railway operation, main WTO members has taken the reforms of regulation, separation of passenger and cargo transportation, introduction of franchise or boot (build-own-operate-transfer). Although most of these actions are voluntary and not legally binding under WTO agreement, they are important pre-conditions and institutional guarantees for opening up of railway markets. Meanwhile, to introduce more private capital, MOR launched some official documents to promote and support private capital in participating railway construction which removed legal barriers for private capital's access to railway market. However, the effects are not satisfactory. Up to 2007, there are only three listing railway companies and a few high-speed passenger line joint-ventures. Compared with humorous railway assets, scale of private capital means nothing. Even in these joint-ventures, Return of Asset (hereinafter shortened as "ROA") is not the most important factors considered by private investors. In the shi(shijiazhuang)-tai(taiyuan) high-speed passenger line, two private companies invested approximately ¥200millions. However, the transaction is based on the

fact that the line is an integrated high-speed line for passenger and cargo transportation. The transportation capacity distribution is the precondition for the transaction under the background of insufficient transportation capacity supply. Private investors focused more on transportation capacity in stead of ROA. In the era of sufficient competition of other transportation mode, railway is not in a golden expansion period. There are still no strong wishes for private capitals to invest in railway. The few exceptions are all attached with extra conditions.

Under MOR's dominant control, railway's pricing system, clearance system, transportation capacity dispatch system are main factors that negatively influenced railway finance reform. Railway transportation is quasi-public goods. Railway pricing is still under rigid state control and keeps low to guarantee public's interests. However, under the capital pressure mentioned above, MOR tries to earn more from the market. On the one hand, no matter more CRH high-speed passenger lines or non-voluntary declared-value cargo transportation all indicate that MOR's focuses on escaping state's price control and getting more transportation incomes. On the other hand, railway staff's welfare and salaries are partially sacrificed to reduce the railway's operational cost. Although these measures may raise railway profits to some extent, it also sacrificed the social benefits that railway should serve. Railway clearance is another factor. Although a railway clearance center has been established, there is no reasonable clearance rules. Since there are no independent railway enterprises, MOR dominates the cost and income distribution ratio which is not based on acute calculation and quite arbitrary. It is hard for private capital to get enough protection. The third factor involves transportation capacity distribution. MOR insists that "integrate network and centralized dispatch". Even railway construction need huge private capital, centralized dispatch still is the bottom line of MOR. Although centralized dispatch could raise network efficiency, it is of great potential to threaten private capital. Without transportation capacity dispatch control-one of key property rights for an economic entity, it is hard for private capital to realize its economic benefits.

## 5. Conclusions

Some suggestions could be drawn from above analysis:

- Railway is not MOR's own business. Legislative power should play a more active role in China. Compared with one-party controlled administrative authority, Congress is in a better position to represent different interest groups within legal framework. As to railway, there is an urgent need to make national poli-

cies through legislation to clarify the railway's position in transportation and government's liabilities to invest in and support railway.

- Integrated Identity of MOR as administrator, operator as well as regulator greatly distorts the relationship of political power and economic power in Chinese railway. As potential giant economic power, privatized railway deserves well-designed independent regulation instead of direct administrative control. It is the right time to establish national railway corporation and independent regulatory agency.
- Although hard to achieve, it is of extreme importance to foster social power by lifting rigid political control of association. Interested groups will play a very active role in railway governance.

It is the very moment for China to further its economic reform, esp. in the field of infrastructure. Power-based analysis will help decision-makers to realize that more progressive reform in political and social regimes has become one of pre-conditions for successful economic reform. Integrated railway governance through interaction of government, regulator, industry and interested groups will provide railway business with a more friendly and equitable political and social environment, which is an institutional guarantee for its better interaction with public and sustainable development.

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