



China Labour Bulletin

July 2003

The Liaoyang Workers' Struggle: Portrait of a Movement

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China Labour Bulletin
PO Box 11362
Central Post Office
Hong Kong SAR
Telephone: (852)2780 2187
Fax: (852) 2359 4324

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¹ This is an adaptation by China Labour Bulletin from a chapter by Trini Leung, author of a forthcoming book on labour organising in China 1998-2003.

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CHINA'S WORKERS STAND UP

The Liaoyang Protest Movement of 2002-03, and the Arrest, Trial and Sentencing of the "Liaoyang Two"²

Introduction

On 11 March 2002, several thousand workers from the Liaoyang Ferro-Alloy Factory in Liaoning Province marched in Democracy Road, the main street of Liaoyang City, to the headquarters of the city government. They were demanding government action to investigate the malpractice and misappropriation of funds that had led to the bankruptcy of their factory. Several thousand more workers from other factories who held similar grievances soon joined the Ferro-Alloy workers' demonstration. The workers, many of whom were in their fifties and older, were all protesting against retrenchment or long-standing arrears of wages, pensions and other basic living subsidies.³ The Ferro-Alloy workers were unusually well organized and had a core of representatives who were prepared to negotiate with government officials. Six days into the daily street demonstrations, by now involving over 10,000 workers, the Liaoyang police detained several of the workers' representatives. These arrests triggered more demonstrations by even greater numbers of workers, who now demanded the release of their representatives as well. On 18 March, 30,000 workers were reported by the foreign press to have marched in the streets of Liaoyang, protesting against retrenchment, arrears and the recent police arrests.

The workers' demonstrations in Liaoyang were held against the backdrop of the annual convention of the national parliament, the National People's Congress (NPC) and of the government's "united front" body, the National People's Political Consultative Conference (NPPCC). As one of their key demands, the protesting workers called for the resignation of their local delegate to the NPC, Gong Shangwu, who was the former Mayor and Party Secretary of Liaoyang. The Ferro-Alloy workers alleged that Gong had been an accomplice of their plant director in the mishandling of the factory's finances. But in a television interview, made in Beijing at the NPC in March, 2002, Gong claimed that the problem of unemployment in Liaoyang had essentially been solved and that all unemployed workers were receiving a minimum monthly payment of Rmb 280 yuan. Gong's comment outraged the tens of thousands of unemployed and retrenched workers who had suffered months of impoverished living and who had never seen anything like a monthly payment of Rmb 280 yuan.⁴

The spring months of 2002 were marked by numerous large-scale workers' protests against factory closures, job retrenchment and wage arrears in many other parts of the country. The most important of these commenced on 4 March, 2002, six days prior to the first public demonstrations in Liaoyang, when no fewer than 50,000 retrenched workers in Daqing Oilfield (also in the north east of China) began a protracted series of protests in the streets of Daqing city.⁵ The mounting wave of unrest in China's traditional

² Adapted by China Labour Bulletin from a chapter by Trini Leung, author of a forthcoming book on labour organising in China 1998-2003.

³ CLB, 11 March, 2002, http://big5.china-labour.org.hk/big5/news_item.adp?news_id=1839

CLB press release, 19 March, 2002, http://www.china-labour.org.hk/iso/article.adp?article_id=2129

⁴ After the interview, some protest banners referred to the statement and read "Give me my Rmb 280 a month".

⁵ Please see the following links for a selection of CLB's reports on the protests in March in Daqing which involved at times up to 50,000 workers protesting against forced retrenchment; http://www.china-labour.org.hk/iso/article.adp?article_id=2213, http://www.china-labour.org.hk/iso/article.adp?article_id=2214

industrial heartland soon caught the attention not only of the international media, but also of the country's top leadership. Police repression, in the form of widespread harassment of demonstrating workers and their families, coupled with the sporadic detention of key leaders and activists, proved – in line with the Chinese saying, “kill the chicken to scare the monkey” – to be the mainstay of the government's response to this startling new social development. However, there was also considerable vacillation and a wide divergence of approach, between different government departments and regions, in the official handling of the various workers' protests of 2002.

In Daqing, for a variety of reasons and also possibly because the Daqing workers directed their protests towards their enterprise, the Daqing Petroleum Administration Bureau, and called for meetings with high ranking enterprise leaders and not with municipal or provincial leaders, the unrest was resolved relatively quickly by a mixture of inducements and concessions from the authorities.⁶ In Liaoyang, the policy pendulum swung between attempts to show a degree of latitude and tolerance towards the workers and the more hard-line tactics of police intimidation and repression. From the outset, a continuous stand-off between the local government and the protestors emerged, marked by numerous and regular street demonstrations led by the Ferro-Alloy workers and aimed at securing both their original demands and the release of their arrested representatives. For their part, the Liaoyang authorities tried for over a year to end the workers' protest movement through a combination of procrastination, false promises and apparent pacification, and crude attempts to divide and isolate the workers' leaders.

Predictably enough, the final outcome of this process was a resort by the local government to the time-honoured Chinese Government practice of legally branding the movement's leaders as being “dangerous elements” who posed a severe threat to social “stability and unity.” Thus, on 9 May 2003, following their trial on trumped-up charges of “subversion” in January 2003, and fourteen months after their initial detention, two of the principal leaders of the Liaoyang demonstrations, Yao Fuxin and Xiao Yunliang, were sentenced by the city's judicial authorities to seven and four years' imprisonment respectively. On 27 June 2003, almost inevitably, despite the best efforts of their lawyers and families, both Yao Fuxin and Xiao Yunliang's appeals were rejected without review or retrial.

Harsh and unjust though these prison terms undoubtedly were, they would most likely have been substantially longer had the Liaoyang workers not continued to publicly protest in their thousands for the release of Yao and Xiao during the course of 2002, and if the local labour protests as a whole had not continued to figure so prominently in the pages of the international news media over the same period. In this important sense, the Liaoyang workers' movement of 2002-03, though ultimately defeated by the government, can still be said to have won a significant victory – and hence the title of this report. It did so by virtue of its sustained, resolute and consistently peaceful nature, and through the widespread support and publicity it attracted from within the international labour movement, the global NGO and human rights communities, the world news media and foreign governmental observers, among others.

In this report, China Labour Bulletin records and pays tribute to the first lengthy large-scale and successful awakening of independent worker activism in China since the start of the Deng Xiaoping era of economic “opening and reform” in the late 1970s. Although largely silenced for now, the voice of the Liaoyang workers over the past year and more has sent forth a message of direct relevance and importance to many millions of workers

labour.org.hk/iso/article.adp?article_id=2527&article_id=2527 , http://www.china-labour.org.hk/iso/article.adp?article_id=2269

⁶ There were no reported arrests or trials in the case of the Daqing labour unrest of March 2002; however, CLB is concerned about the fate of at least 60 demonstrators who were said to have been detained at various times during the protest movement there.

elsewhere in China who suffer daily from the same kinds of problems and hardships as they do. Among the most prominent of these are: widespread forced redundancies with little hope of future re-employment; lengthy wage arrears and denial of medical and housing benefits; endemic corruption by local officials who collude with local business interests and the police to engage in such things as factory asset-stripping, phoney investment schemes that lead to the disappearance of workers' hard-won savings, and opportunist enterprise bankruptcies that unnecessarily put millions of workers and their families on the breadline; and last but not least, the systematic suppression of any and all attempts by Chinese workers to exercise their internationally guaranteed rights to freedom of association and self-organization in defence of their basic livelihoods, occupational safety and personal security.

In short, the story of the Liaoyang workers' movement of 2002-03 contains a message of wide and urgent significance for the country as a whole, and one which the Chinese government will continue either to silence or ignore at its own peril.

Background to the protests: Three years of corruption and mishandled complaints at the Ferro-Alloy Plant

The demonstrations in the spring of 2002 by thousands of Liaoyang Ferro-Alloy workers and their colleagues from other local factories were not a spontaneous outbreak of discontent. They were the culmination of over three years of frustrated and prolonged attempts by the workers to draw the attention of the government to their complaints and demands. Unfortunately, the Liaoyang movement showed how a case of local economic and labour grievances which could in practice have been settled relatively easily, instead turned into a high-level political confrontation involving the repression and harassment of many of those involved, due mainly to the failure of various government departments to act swiftly on the workers' legitimate complaints. The sequence of events leading up to the trial and sentencing of Yao Fuxin and Xiao Yunliang – the "Liaoyang Two" – affords a vivid insight into the kinds of egregious injustices and abuses that millions of ordinary citizens have to live with every day in China; and it shows the virtual absence of any institutional channels through which they could effectively seek redress against official corruption or malpractice.

Liaoning Province has the largest number of state-owned enterprise (SOE) employees in China, and therefore also the largest number of retrenched and retired SOE workers in the country.⁷ The Ferro-Alloy Factory was an old enterprise which started out as a small-scale smelting workshop producing phosphorus-based products. It was developed into a medium-sized SOE in the 1950s.⁸ The factory has faced financial difficulties since the

⁷ At the beginning of 2001, Bo Xilai was appointed as the governor of Liaoning Province. Bo, a member of the CPC central committee, has enjoyed high acclaim as a 'clean' and competent top official.⁷ Before he was promoted to head Liaoning Province, he was applauded for his success as the top official of Dalian City which had developed a relatively modernized port and a well-run commercial city. Bo claimed, in an interview in March 2002, that he needed at least five years to solve the immense problems of structural reform in Liaoning, which would involve 10 million workers. (See: <http://www.chinanews.com.cn//2002-03-10/26/168412.html>; <http://www.unn.com.cn/GB/channel286/287/695/200301/27/241468.html>.) He said his government had already spent Rmb 16 billion in improving the social security system in the province, and achievements included the creation of jobs and re-employment for 830,000 workers. According to Bo, by end of 2001, 510,000 workers who were removed from their enterprise-based social security systems had been transferred into the public social security system; but the remaining 60 percent of workers' accounts had yet to be transferred. Six million workers were registered in the social medical insurance scheme by end of 2001; while the other 30 percent of the total workforce had yet to be registered. (See: <http://www.chinanews.com.cn//2002-03-10/26/168412.html>.) Nearly five million workers have reportedly set up personal pension accounts, to be administered by the local government; but nearly two million more workers' accounts have yet to be processed.

⁸ "Open letter to Jiang Zemin from the workers of Liaoyang Ferro-Alloy Factory", 5 March, 2002, http://www.china-labour.org.hk/iso/article.adp?article_id=2390 ;

1990s, just like tens of thousands of other SOEs. In 1995, a new official, Fan Yicheng, was appointed as the plant's Party Secretary and Director. In collaboration with the former mayor and Party Secretary of the city of Liaoyang, Gong Shangwu, Fan introduced measures to rescue the company by spinning off several production lines into independent companies.

By the late 1990s, however, Fan Yicheng had gained a reputation among the Ferro-Alloy workers as being little more than a self-interested manipulator of the factory's resources. They accused him of having misappropriated over Rmb 100 million⁹ to spend on his lavish lifestyle, including sending his children to study abroad, and moreover of having links to local triad criminals.¹⁰ Most seriously, the workers later found out that between 1995 and 2000, Fan had stopped paying contributions to the plant's pension and medical funds, leading to a deficit totalling Rmb 27 million. This later prevented 6,000 members of the workforce from drawing any pension payments or other social security benefits when they were made redundant.

Eventually, in late 2001, Fan Yicheng attempted to apply for bankruptcy, and in September 2002 he was taken into police custody on charges of corruption. However, the events leading up to and surrounding the Ferro-Alloy Factory's final closure merit close and careful scrutiny. First, late on the night of 17 May 2001, some officers from the Liaoyang court arrived in plain clothes at the factory, accompanied by dozens of trucks and a group of over fifty workmen, and began attempting to remove over 2,000 tons of [iron] ore from the warehouse. After the security chief at Ferro-Alloy alerted members of the factory's workforce, Yao Fuxin and eight other workers hurried to the factory to intervene, but they found themselves heavily outnumbered and were unable to prevent the theft from going ahead. The next day, 3,000 Ferro-Alloy workers staged their first demonstrations at the Liaoyang city government and demanded that an official investigation be carried out into the incident. Government officials promised to do so and to deliver their report within a week, but this never materialized.¹¹

Second, under various PRC laws including the Bankruptcy Law, the decision of a plant's Workers and Staff Representative Congress (a congress controlled by the factory management and the Party), is required before a SOE can apply for bankruptcy and closure. In mid-October, 2001, Fan Yicheng convened a meeting of the Ferro-Alloy Workers' Congress to vote on his bankruptcy proposal. However, on the day prior to the meeting, the police detained three representatives of the workers; and on the day of the meeting, over 500 riot police were deployed in front of the factory and a number of workers were barred from even entering it. Two plain-clothes police officers were stationed in each of the thirteen areas where voting was to take place, with the result that some workers simply walked out in anger. Those who tried to cast opposing votes reportedly had their ballot papers torn up on the spot by the invigilating officials. It was no surprise, therefore, when the announcement came that the workers congress meeting had voted to "approve" the management's bankruptcy proposal.

"Open letter to Liaoning provincial governor, Bo Xilai, from the workers the bankrupt Liaoyang Ferro-Alloy Factory", 5 March, 2002, http://big5.china-labour.org.hk/big5/article.adp?article_id=2295;

"An open letter from the Liaoyang Ferro-Alloy Factory workers", 4 March, 2002, http://big5.china-labour.org.hk/big5/article.adp?article_id=2291.

⁹ Rmb 8 yuan is approximately equal to one US dollar.

¹⁰ Corruption is rampant throughout China and Liaoyang province has been hard hit by the corruption of high level officials and their links to underground criminal gangs. In Shenyang, the capital of Liaoning province, the Mayor, Mu Suixin was arrested and tried for corruption after investigations uncovered an extensive symbiotic interlinking of City officials and local criminal gangs. Mu was sentenced to the death penalty with a two year reprieve in late 2001 and Ma Xiangdong, the deputy mayor was executed along with one other official. In total 15 top officials were removed from their posts along with 500 others. However, two of the people who had helped expose the scandals were imprisoned. Bo Xilai has himself been the subject of allegations of corruption by several journalists outside China.

¹¹ There are unconfirmed reports that court officials involved in the attempted theft incident at Ferro-Alloy were arrested shortly after the outbreak of the March 2002 mass protests.

Third, the Ferro-Alloy Factory was formally declared insolvent by the Liaoyang government and the court on 5 November, 2001, and shortly thereafter, several constituent parts of the factory were sold off to contractors who had close personal links to the Director, Fan Yicheng, and to various local government leaders. The workers thereupon requested access to an official investigation and assessment report that the government had prepared on the Ferro-Alloy insolvency, but this request was never met. Three days later, all equipment, materials, and other assets at the plant were removed by the local authorities.

And fourth, the factory's bankruptcy package – unilaterally decided upon by management – pledged retirement benefits of Rmb 300 a month to all workers who had worked for the company for over 30 years and also to those workers who had suffered serious (grades 1-6) industrial accidents; the remaining workers were offered retrenchment compensation of Rmb 600 for each year of service. In addition, workers who had incurred permanent injuries from less serious industrial accidents were each to receive lump-sum compensation of between Rmb 3,000 and Rmb 6,000. The Director also promised to reimburse at least half of the long-standing wage arrears owed to workers by the end of 2001. Around half of the workforce, including over 100 management cadres (among them the official "trade union" chairman), were re-employed by the plant sections that had earlier been sold off. However, for the most part, the terms of this settlement package turned out to be little more than empty promises. Over 3,000 Ferro-Alloy workers found themselves left without a job and with many months of unpaid wage arrears still owed to them. They were also unable to draw any pension or unemployment benefits beyond Rmb 182 a month – the city's minimum living wage level. Contrary to what had been promised in the official bankruptcy package, moreover, families of workers killed in industrial accidents received only the miserly sum of Rmb 70 a month.

Since 1998, the workers at Ferro-Alloy had been organizing numerous petitions to demand that the government take action to investigate the on-going corruption and malpractices by the factory's senior management, and calling on it to provide the workers with all the social and financial entitlements still owed to them by various government departments. Faced not only with the local authorities' consistent failure to do any of these things, but also with the factory management's refusal even to implement the terms of its own redundancy package, the workers at Ferro-Alloy began to lose all patience, and the autumn of 2001 they took steps towards setting up their own independent workers' representative congress. Estimates of the number of workers involved in this "independent union" vary from several hundred to over a thousand, and it is said to have elected about a dozen representatives charged with the task of negotiating on the workforce's behalf with the government and the factory management. (Among those elected was Guo Xiujing, a Ferro-Alloy worker, and also her husband, Yao Fuxin, a laid-off worker from the Liaoyang Rolled Steel Factory.)

Over the subsequent weeks and months, these elected representatives took the workforce's complaints to all the relevant official bodies: the Party Disciplinary Inspection committee, the Court, the Procuratorate, the Labour and Social Security Department, and even to the Complaints Office of the State Council in Beijing. Occasionally, they received vague promises that their complaints would be looked into – but in fact, this never happened. (Their petition, as the Chinese saying has it, "fell like a piece of stone to the bottom of the ocean".) Meanwhile, the retrenched Ferro-Alloy workers continued to endure rapidly mounting wage, pension and medical arrears.

Finally, the Ferro-Alloy workers decided they were not going to endure these injustices in silence any longer, and that they now had no option but to fight – openly but peacefully – for their entirely legitimate demands. Having knocked patiently on the doors of so

many different government offices, all to no avail, the workers had lost faith in using the traditional and sole government-sanctioned channel of recourse available to them. From now on, they resolved to take their demands on to the streets, as a means of building direct public pressure on the local government. Between October and December 2001, therefore, the workers staged three public protest marches on the streets of Liaoyang, each involving between 1,000 and 3,000 demonstrators. But still the government made no response. Sometime in the beginning of 2002, the director of Ferro-Alloy, Fan Yicheng, was taken away for investigation by the authorities. But he was released three days later and apparently then resumed all his leadership positions at the factory, holding them right up until the time of his arrest in September.

Spring 2002: The start of the Liaoyang worker protests, and the initial government suppression

On 5 March, 2002, the protesting Ferro-Alloy workers published four open letters. One was addressed to the nation's top leader, President Jiang Zemin; one to the provincial governor of Liaoning, Bo Xilai; one to the Party committee and government of Liaoyang; and another to the city's workers and citizens. (See below, Appendix I, for a full translation of the open letter to President Jiang.)

Early on the morning of 11 March 2002, several thousand workers of Liaoyang Ferro-Alloy marched in the streets to protest against their plant's closure and to demand the resignation of Gong Shangwu, the Director of Liaoyang People's Congress.¹² They were joined by several thousand more workers from other collapsing factories, such as the Liaoyang Textile Factory, Liaoyang Piston Factory, Liaoyang Instruments Factory, Liaoyang Leather Factory and Liaoyang Precision Tool Factory. The demonstrators first went to the Liaoyang court and demanded that the chief judge and chief Procurator should come out and explain what they were doing to reduce corruption in the city. No official emerged. The workers then marched to the city's People's Congress office to demand Gong Shangwu's resignation. They continued on to the city government headquarters and held a rally there to express their anger about Gong Shangwu, rising corruption, and the increasingly dire straits of the Ferro-Alloy Factory's workforce. Officials from the city government offered to meet with the workers' representatives; but the protestors replied that they had already lost faith in the local government and would only negotiate with senior officials from the provincial-level or central government. This first demonstration was not interfered with by the police and so there were no injuries or detentions. (According to some eye-witness accounts, the police had been deployed to the railway line that day, for fear of an attempted blockade by the protestors. During 2001, protesting workers from the Liaoyang Three Star Machinery Factory and the Liaoyang Textile Factory had blocked the railway on two separate occasions for over an hour.)

The local government initially responded to the 11 March mass demonstration with an unusual degree of restraint and tolerance. The following day, a 12-member delegation of leading officials – including the Deputy Secretary of the Municipal Party Committee, two Deputy-Mayors, the Party Secretary of the Politics and Law Committee, the President of the Court, the Chief Procurator, and the Director of the Public Security Bureau – was dispatched to meet with the workers representatives. In the course of this meeting, Deputy-Mayor Chen Qiang, promised the workers that their complaints would be diligently looked into by the government; and he specifically pledged that no arrests of workers' representatives would occur. The senior Liaoyang officials were currently away on a trip, Chen said, but they would attend to the workers' grievances upon their return.

¹² The night before the mass demonstrations, officers from the Liaoyang PSB went to the houses of the organizers and workers' representatives at around 11 pm. However, all the workers' representatives were staying elsewhere that night to avoid detention.

The workers were promised, moreover, that the city government had allocated Rmb 4.4 million in order to pay back their cumulative wage arrears.

Only five days after this seemingly quite constructive and conciliatory meeting, however, the government broke the first of its pledges to the demonstrators. On 17 March, the first of the workers' leaders, Yao Fuxin, was secretly detained by the Public Security Bureau (PSB). Three days later, on 20 March, three more workers' representatives, Xiao Yunliang, Wang Zhaoming and Pang Qingxiang, were detained when the police broke up a second large demonstration in front of the city government's offices demanding Yao's release.¹³ On 21 March 2002, the city's Baita District PSB office served notices on the families of the four detainees, stating:

Yao Fuxin and the others have violated Article No. 296 of the Criminal Law of the People's Republic of China¹⁴ on March 17. This office has detained Yao Fuxin on suspicion of illegal demonstration. He is now under detention in Tieling [Iron Peak] City Detention Centre.¹⁵

On 30 March, the families of the four detainees were notified by the Liaoyang PSB that their relatives had been formally arrested the previous day.

On 21 March, during a third demonstration carried out by over 1,000 workers to demand the release of their four detained representatives, two more workers were taken into custody by the police. One was Guo Suxiang (52), wife of the detained Pang Qingxiang; the other was a worker from a Liaoyang fabric factory who had merely asked the police on what grounds they had arrested Guo Suxiang. Both were reportedly released shortly afterwards.

Another worker's representative, Gu Baoshu, fared considerably worse. He was also taken into custody on 21 March, but managed to escape with the help of his fellow workers later that day from the government compound where he was being held by Gong Yi, the head of the Municipal PSB. For this, Gu was reportedly harassed and beaten by the police over the following days.

Soon after the 21 March demonstration, in order to avoid further arrests, the workers decided to suspend their public protests for the meantime, and instead to send several representatives, including Gu, to negotiate with the government for the release of Yao Fuxin and the other three detained leaders. (The police had been seen trying to hunt down several other workers' representatives during the 21 March protest, but they had already all gone into hiding.) On 16 April, at around 8:40 in the morning, Gu Baoshu heard a knock on his door. Seeing two strangers outside, and fearing that they might be individuals sent by corrupt local officials to take revenge on him, he immediately dialled 110 to alert the police. To his surprise, the two men proceeded to open the door with a key. When he asked them for identification, one of them replied: "Why do we need papers for your sort?" They then ripped out the telephone line, pushed Gu to the ground and beat him up. Taking two ties and a jacket from Gu's wardrobe, they wrapped the jacket around his head, fastened one tie around his neck and the other around his feet, and escorted him downstairs. They ran into a workers' picket in front of the building, but

¹³ Yao Fuxin, Xiao Yunliang and Pang Qingxiang are all in their fifties, and Wang Zhaoming was then 39 years old; all but Yao are laid-off workers from the Ferro-Alloy Factory.

¹⁴ Article 296 of the Chinese Criminal law: "Whoever holds an assembly, parade, demonstration without application in accordance with the law or without authorization after application, or does not carry it out in accordance with the beginning time and ending time, place, and road as permitted by authorities concerned, and refuses to obey an order to dismiss, thereby seriously sabotaging social order, those personnel who are in charge and those who are directly responsible are to be sentenced to not more than five years of fixed-term imprisonment, criminal detention, control or deprived of political rights".

¹⁵ Interview broadcast on RFA on 22 March, 2002; also from http://www.china-labour.org.hk/iso/article.adp?article_id=2384.

a group of police stationed outside pushed aside the picketing workers and Gu was whisked away in a police car.

After the forcible removal of Gu Baoshu from his home, scores of his fellow workers from Ferro-Alloy began to gather around outside his block to enquire what had happened. The Chief Secretary of the city government quickly arrived at the scene and attempted to pacify the workers. Then and there, the workers submitted to him an application to stage a demonstration on Gu's behalf, threatening also that if Gu Baoshu was not promptly released and the application to demonstrate was not approved, they would either carry out a collective petitioning visit to Beijing or else they would blockade the railway line. Later that evening, Gu was released by the PSB after being given five yuan and a pair of flip-flops to see him on his way home.

Summer 2002: Both sides dig in their heels

Over the next few months, the Liaoyang workers – sometimes in their hundreds, sometimes in their thousands – continued to hold daily or weekly demonstrations in front of the city government offices to demand the release of their four detained representatives. On numerous occasions, the demonstrators tried to apply to the PSB for a permit to conduct public protest marches but these were always turned down. As the sensitive occasion of the May Day national labour celebration approached, the Chief Secretary of the Liaoyang government and the chairman of Liaoyang city trade union paid frequent visits to the family homes of the movement's main organizers and activists, in an effort to persuade them to back down. On 8 May, about 20 workers took the bold step of personally signing their names on an application to the PSB for a permit to demonstrate. The application was again rejected, but the workers held their rally anyway to demand the release of their representatives.

In May, about two months after the outbreak of the initial demonstrations and arrests, the chief of the Liaoyang PSB, Gong Yi, was replaced. It is not known if Gong's removal was linked to the authorities' handling of the demonstrations or not. On 17 May, the deputy mayor of Liaoyang, Chen Qiang, reassured the family of Yao Fuxin that he and the three other detainees would be released very soon, provided the workers ceased their demonstrations. Taking these words in good faith, the workers suspended their protest actions – but yet again, the promised releases failed to materialize. In mid-June, Chen told the Ferro-Alloy workers that he would be able to inform them within a week as to whether their detained representatives would soon be released or, if not, when they would face formal prosecution proceedings. Up until the time of the trial of the Liaoyang Two in January 2003, this promise too was never fulfilled.

In the months following the initial mass protests, the government took significant steps towards meeting some of the economic demands raised by the Ferro-Alloy Factory workers. Some medical expenses were eventually reimbursed, salaries in arrears began to be paid in instalments, and the workers' pension insurance cards were issued. Various kinds of one-off assistance, including payments of several hundred yuan or several sacks of flour, were also given by the government to especially poor families from Ferro-Alloy. An example of the somewhat random and token nature of government efforts at this time, however, can be seen in an initiative of the local branch of the All China Federation of Trade Unions. In early April, 2002, a notice was posted at the Ferro-Alloy Factory entrance advertising the recruitment of over 100 skilled workers and technicians by a "sound and strong" private enterprise.¹⁶ According to the notice, this recruitment drive was "motivated by thoughts of helping the poor and caring for retrenched workers". The proposed terms of employment included: a monthly wage of Rmb 450 - 650 yuan, a Rmb 1.5 lunch, a 9.5-hour working day, and no rest on Saturdays or Sundays. The

¹⁶ CLB, http://big5.china-labour.org.hk/big5/article.adp?article_id=2289.

notice stated that this 66-hour working-week offer had been co-ordinated and agreed upon by the Liaoyang municipal trade union (ACFTU). In fact, these working hours directly breached the PRC Labour Law – a piece of legislation that the ACFTU has on numerous occasions cited as being one of their “key achievements” in protecting labour rights and standards in recent years.

If the Liaoyang authorities sought to present themselves as being more cooperative over certain of the campaign’s immediate economic demands, they nonetheless maintained – by continuing to isolate and harass the protest movement’s leaders – a relentlessly hard-line stance toward any form of organized workers’ power.¹⁷ Indeed, shortly after the relatively conciliatory response given to them by Deputy Mayor Chen Qiang, the Liaoyang workers received a chilling verbal assault from the ACFTU’s central leadership. In June, 2002, a spokesperson for the ACFTU stated at the annual conference of the ILO in Geneva that the four Liaoyang detainees had been arrested not merely for “illegally demonstrating”, but also because they had “burned cars and destroyed public property”. This previously unmentioned charge was repeated again by the ACFTU in Beijing on 11 November that year.

And worse was still to come. On 27 March 2002, the International Confederation of Free Trade Unions (ICFTU) had lodged a strong formal complaint with the ILO’s Committee on Freedom of Association over the continued arbitrary detention, in violation of the International Labour Convention No.87 (on freedom of association), of the four Liaoyang labour leaders.¹⁸ In its September 2002 reply to the ILO on this complaint the Chinese government made the opportunistic, post-9.11-style allegation that the four workers’ leaders had “jointly carried out planned activities of terrorism and sabotage.”¹⁹

Such arbitrary smear tactics have long been the hallmark of legal proceedings in China against dissidents of all kinds, and in this case they were clearly an effort by desperate officials eager to destroy the public reputation of Yao Fuxin and his fellow detainees and to dissuade the international community from any further condemnation of the authority’s repressive tactics against the Liaoyang workers’ movement as a whole.

¹⁷ The protests at Ferro-Alloy may also have reached particularly unsympathetic personalities within the higher levels of the Liaoning provincial government. For example, the Chinese Communist Party Secretary of Liaoning, Wen Shizhen, who had been in top provincial government positions since 1986, was also the architect of the reform of Liaoning’s SOEs. Criticisms of the re-structuring of SOEs in the province would probably have been particularly offensive to Wen. He was appointed Party Secretary of Liaoning between 1997 and 2002, and the Director of Liaoning People’s Congress Standing Committee in January, 2003.¹⁷ Wen appears from reports to be a hard-liner. In the immediate wake of the Liaoyang protests, on 2 April, 2002, Wen was reported to have reiterated the four key tasks of the Liaoning provincial PSB as: (1) to handle incidents of mass petitioning effectively; (2) to wage a far-reaching struggle against the evil cult of Falungong; (3) to continue the “strike hard” campaign on public order; and (4) to prevent the outbreaks of spontaneous incidents.¹⁷ (A common government term for mass protests) Wen’s profile probably explains why the Ferro-Alloy campaigners decided to address their petition letter to the Provincial Governor, Bo Xilai, rather than Wen who is actually the most powerful official of Liaoning.

¹⁸ <http://www.icftu.org/displaydocument.asp?Index=991215049&Language=EN>. Many national-level trades unions had also launched campaigns against the continued detentions of the Liaoyang workers. See appendix Five for details. <http://www.icftu.org/displaydocument.asp?Index=991215394&Language=EN>

¹⁹ The relevant passage from the Chinese government’s response to the ILO reads in full as follows: “[Para] 433: At this time, a worker at the Liaoyang City Rolling Mill, Yao Fuxin, and three workers at the Liaoyang City FAF, Pang Qingxiang, Xiao Yunliang and Wang Zhaoming, jointly carried out planned activities of terrorism and sabotage, severely threatening public security, disrupting public order and damaging public property. As they had broken the law public security authorities summoned them for trial in accordance with the law, and applied forcible measures. In view of the fact that their behaviour violated the relevant provisions in the *Criminal Law of the People’s Republic of China* and the *Law of the People’s Republic of China Governing Meetings, Parades and Demonstrations*, on 27 March 2002 after approval by the Liaoyang City People’s Procurator, the public security authorities of Liaoyang City arrested Yao Fuxin and the other aforementioned persons in accordance with the law on charges of holding illegal meetings, parades and demonstrations. At present, records are being established to hear the case.” (See: “INTERNATIONAL LABOUR OFFICE GB.286/11(Part I), 286th Session, Governing Body Geneva, March 2003: 330th Report of the Committee on Freedom of Association,” p.107; available at: <http://www.ilo.org/public/english/standards/relm/gb/docs/gb286/pdf/gb-11-p1.pdf>.)

Despite the Chinese government's imposition of a complete news blockade on any coverage of the Liaoyang events within China itself, the movement's continuing high profile within the international media meant that the Liaoyang case had for months been the focus of close scrutiny and attention from international human rights groups, the United Nations, the International Labour Organisation, and also the ICFTU and numerous individual trade unions around the world. All of this no doubt formed the immediate context and reason for the Chinese authorities' sudden "revelations" that the Liaoyang Four had engaged in violent activities of various kinds, including "terrorism and sabotage", during the initial protest demonstrations of March 2002.

However, when contacted directly by Han Dongfang, China Labour Bulletin's director, the local authorities in Liaoyang told an entirely different story from the one given to the international community by their distant superiors in Beijing and Geneva. Indeed, local government officials in Liaoyang, apparently unaware of these allegations of "car burning" and "terrorism" by Beijing officials, flatly denied that the demonstrating workers had engaged in any form of violence at all.

The following is a translated transcript of a telephone interview that Han conducted in early November 2002 with a Mr. Su, the chairman of the Liaoyang Municipal Trade Unions ACFTU).²⁰

HAN: Was there any violence at all during the petitions?

Mr. Su: No! ... Everything was peaceful.

HAN: We have heard reports that Yao Fuxin was involved in burning cars.

Mr. Su: That is sheer rumour. There is no way that Yao Fuxin was involved in such activities.

HAN: None at all?

Mr. Su: No. No!

HAN: What was the most serious incident?

Mr. Su: Nothing was especially serious. They were just going to the government to petition and voice their views - nothing more than that. There was no violence or extreme behaviour of any sort.

HAN: From the perspective as trade unionists, would you say that any of the street activities actually constituted criminal behaviour? I mean purely from what they have done.

Mr. Su: Not that I can see.

HAN: Has the ACFTU headquarters been in touch with your offices in Liaoyang?

Mr. Su: No. I am not aware of it.

HAN: But you can confirm there was no car-burning?

Mr. Su: Absolutely! That is a rumour.²¹

²⁰ Interview broadcast on RFA on 12 November, 2002; also from http://www.china-labour.org.hk/iso/article.adp?article_id=3408.

²¹ Interview broadcast on RFA on 12 November, 2002; also from http://www.china-labour.org.hk/iso/article.adp?article_id=3408

Similarly, in another interview conducted by Han Dongfang, this time with an official from the Liaoyang Government's Security Office (*Baowei Bu*) we received further confirmation that there had been no incidents of "car burning" or anything of a similarly violent nature at all during the workers' protest movement. Indeed, the only incident of a remotely "terrorist" nature turned out to have been that, at one point, a large number of workers had poured into the Liaoyang government office's canteen during lunch hour and had helped themselves to all the canteen's steamed buns. Again, here is the English transcript of the telephone interview:

HAN: Can you confirm for us that during the Ferro-Alloy Factory workers' petition in March, some cars were burnt? Did anything like that happen?

Security Office: No.

HAN: Not at all?

Security Office: No. Where did you get your information from?

HAN: We heard that Yao Fuxin had led workers in burning cars. Was there anything like that?

Security Office: No.

HAN: Was there any violence at all during the whole petitioning activity?

Security Office: We know that Yao Fuxin led the workers into the canteen and they stole all the food in there.

HAN: Which canteen?

Security Office: The government office's canteen. All the steamed bread got nicked. There were a lot of people there at the time and everyone went for it. Yao Fuxin was up on a platform shouting that there was food in the canteen and suggesting they go and eat it. Everyone just went up to the canteen.

HAN: I see. So that's what happened. So there was definitely no car-burning?

Security Office: No, there wasn't.²²

The government's spin-doctors increase their efforts

As noted above, the charges on which Yao Fuxin and Xiao Yunliang were eventually brought to trial in January 2003 included both "illegal assembly and demonstration" and – much more seriously for them – the political charge of "subversion." The arbitrary nature of these final charges was only made all the more glaring and obvious by the frivolous manner in which different senior Chinese officials and departments proceeded to throw out into the public arena – and then just as swiftly and without explanation

²² See Appendix Four for the transcript of the interview broadcast on RFA on 12 November, 2002. The original sound recordings (in Chinese) of both the above interviews can be listened to on CLB's website at http://www.china-labour.org.hk/iso/article.adp?article_id=3408.

withdraw – a range of competing criminal charges (such as car-burning and terrorism) during the ten months or so in which the principal Liaoyang workers' representatives were being held in pre-trial custody.

It should be emphasized that this proliferation of rapidly changing charges and accusations against the Liaoyang detainees reflected more than just factual confusion or miscommunication between various levels and departments within the Chinese government apparatus. Rather, as the two interview transcripts presented above clearly indicate, the Chinese authorities knowingly pursued a campaign of misinformation and deceit toward the international community during the latter half of 2002. This deceptive posture eventually began to take on still more sinister overtones, as the government moved steadily in the direction of prosecuting Yao Fuxin and Xiao Yunliang on charges of "subversion." On 11 July 2002, a complaint on the case of the detention of the Liaoyang Four was submitted to the U.N.'s Working Group on Arbitrary Detentions, and in November of that year, the Chinese government provided its first detailed response to the complaint. According to the official statement given to the Working Group,

Yao Fuxin is not in fact an employee of the Liaoyang city Ferro-Alloy factory. In the course of the events alluded to above, however, Yao colluded with employees of the Liaoyang city Ferro-Alloy factory, taking advantage of their discontent to plan, instigate and carry out a number of destructive activities. Yao and his accomplices burst into the local government building, throwing the offices into turmoil, smashing public vehicles, blocking traffic and disrupting public order. The unlawful activities conducted by Yao and his accomplices seriously disrupted production activities in the city, as well as the inhabitants' daily lives and work routine, endangered public safety and property and provoked the strong disapproval of the general public. As Yao's conduct was in breach of relevant provisions of the Chinese regulations on the organization of assemblies and marches, on 27 March the public security authorities, acting in accordance with the provisions of article 296 of the Chinese Criminal Code, took him into criminal detention on suspicion of the crime of organizing an unlawful assembly, march or demonstration. Since Yao has been taken into detention, all his rights and interests have been fully protected, his state of health remains good and he has not been subjected to any form of torture.²³

What Beijing strikingly omitted to inform the U.N. Working Group on Arbitrary Detentions in November 2002, however, is that a full three months earlier – on 15 August 2002 – the Liaoyang City PSB had (according to the prosecution's final indictment against Yao and Xiao) "discovered the [additional] serious crime of endangering state security...and [hence] decided to recount the time limit for [their] investigation and detention."²⁴ In other words, the principal criminal activities for which Yao and Xiao were actually being detained and investigated by the PSB at the time of the Chinese government's reply to the U.N. Working Group in Geneva in November 2002 were not in fact those of "unlawful assembly, march or demonstration". Rather, as the prosecution indictment later revealed, they centred squarely upon the defendants' alleged involvement in the officially outlawed China Democracy Party, a dissident organization that had been formed in 1998 and many of whose chief organizers had subsequently been convicted of "subversion" and sent to prison for periods of up to 13 years. ("Subversion," in the PRC criminal lexicon, is ranked as one of the most serious and dangerous forms of "endangering state security.")

²³ http://www.china-labour.org.hk/iso/news_item.adp?news_id=2309&subcategory_id=1000

²⁴ See: <http://www.hrw.org/press/2003/02/chinaindictment.htm>

In conveniently neglecting to tell the U.N. body about the new, and wholly political, criminal charges that were currently being prepared against the detained Liaoyang workers' leaders, the Chinese government was doubtless motivated by the desire to avoid any further accusations from the international community that its suppression of the Liaoyang workers' movement was itself politically motivated and not, as the government continued to maintain, aimed at "upholding the rule of law" in China. In particular, the authorities were concerned to pre-empt and deflect any potential criticism from within the U.N.'s Commission on Human Rights, where it had faced annual motions of censure over its dismal rights record since the military suppression of the Tiananmen Square pro-democracy movement in June 1989. Moreover, the official re-hashing in Geneva of the earlier allegations against Yao and Xiao of violent damage to public property, while a strict silence was maintained over the real impending charges of "subversion," was entirely consistent with previous Chinese government practice in this general area. In numerous earlier instances in which "political prisoners" cases have been raised in major international fora, the Chinese government has invariably sought to downplay the political nature of the charges against the detainees in question by insisting that they are simply "common criminals" who have broken specific articles of the criminal code (for example: theft, fraud, and illegal demonstration.)

Throughout the summer of 2002, an intense power struggle was raging within the most senior echelons of the Chinese Communist Party over the question of the reallocation and redistribution of top Party posts at the forthcoming 16th CCP Congress. At the Congress, which took place between 8 and 14 November, Jiang Zemin stepped down as Party General Secretary, to be replaced by Hu Jintao – an ambiguous political figure but one credited by many observers as being somewhat more liberal and reform-minded than his predecessor. Broader political considerations in China therefore doubtless influenced, to some unknown extent, the overall decision-making process by the Chinese authorities over the question of how best to handle the internationally thorny and sensitive issue of the trial of the Liaoyang workers' leaders. This may have contributed to the degree of uncertainty that seemed to prevail within the Chinese leadership – whether in Liaoyang city, at the Liaoning provincial level, or at the central level in Beijing – over whether to opt for a harsher or a more lenient judicial approach to the case of the Liaoyang Four.

For its part, however, the ACFTU continued as before to reliably second-guess the eventual wishes of its political overlords by taking an unwaveringly hard line against those (namely the workers) whose rights and interests it was ostensibly meant to be protecting. Right in the middle of the Party's 16th Congress, on 11 November 2002, the Deputy Chairman of ACFTU, Zhang Junjiu, repeated at a press conference in Beijing the same version of events as that heard at the ILO meeting in June. Yao Fuxin, said the ACFTU leader, "was detained because he had broken Chinese law by carrying out car-burning, and not because he had organised a workers' campaign".

In addition, certain statements issued by the Liaoyang authorities in the run up to the 16th Party Congress – to the effect that of the approximately 130,000 unemployed and laid off workers in the city, some 96 percent had now found gainful reemployment – served to further inflame the sentiments of those directly concerned – the vast majority of whom had certainly not found any new work and were still awaiting the large sums owed to them in previously unpaid wages and other due benefits.

The trial and sentencing of Fan Yicheng

On 26 July 2002, the Liaoyang news media reported that the former director and general manager of the Liaoyang Ferro-Alloy Corporation, Fan Yicheng, had recently been arrested by order of the Liaoyang city procuratorate on suspicion of engaging in serious economic corruption and malfeasance. A month later, Fan was put on public trial in Liaoyang on charges of misappropriating and smuggling large quantities of goods from the factory. According to official reports, two to three hundred workers from the Ferro-Alloy Factory watched the proceedings from the public gallery.

Since the Ferro-Alloy workers, who had turned out in their thousands to stage protest demonstrations in the Spring of that year, had publicly identified Fan as being the principal author of their misfortunes, his trial and that of the detained workers' leaders some six months later were clearly inextricably linked – both in a legal and a political sense. But the Liaoyang authorities went to considerable lengths to try to separate and divorce the two cases from each other.

On the one hand, the case of Fan Yicheng was depicted, improbably enough, as involving purely economic wrongdoings which had little or no bearing either on the vital matter of Ferro-Alloy's final closure or on the resulting mass unemployment and impoverishment of the factory's workforce. On the other hand, no official effort was spared in presenting the "crimes" of the detained workers' leaders in the most heinous political light possible, via the eventual levelling of charges of "subversion" against them. Although the latter trial was aimed mainly at a domestic audience – the Liaoyang workers themselves – its blatant politicization by the local authorities served also, of course, to mute or even cancel out the message of "strict legal process" which the central government had been trying so hard to send to the international community.

Fan Yicheng's sentence – to 13 years' imprisonment – was finally announced on 12 March 2003 (ironically, almost a year to the day after the first public protests by his employees.) According to the Chinese press, the Liaoyang Intermediate People's Court ruled that Fan Yicheng had engaged in "irresponsible conduct" that had "caused a large amount of state-owned property to be fraudulently diverted and lost." The reports also state that he had allowed the importation of unprocessed ores without proper authorization from the customs authority, and had engaged in the illegal processing and selling of raw ores for personal profit. Fan was found guilty on three criminal counts of "dereliction of duty, causing loss of state-owned property, and smuggling in ordinary goods."

A number of Fan Yicheng's closest business associates were tried at the same time. Liu Yongjia, the former manager of the Liaoyang Ferro-Alloy Factory's import and export department, and Cao Ce, former manager of the Liaoyang Ferro-Alloy Corporation's resources department, were both found guilty of embezzling public funds and were sentenced to 6-year terms of imprisonment. The Ferro-Alloy Factory's former director and assistant general manager, Wang Youguang, who had also been the manager of the Liaoyang Iron Ore & Ferro-Alloy Distribution Company, was convicted on the twin counts of negligence at work and illegally operating a business and was sentenced to four years' imprisonment and a fine of 20,000 yuan. The heaviest sentence was reserved for Liu Yongjia's son, Liu Zhe, the former marketing director of the Dalian Kaida Industrial Co. Ltd. – the largest of the various private companies into which Fan Yicheng was alleged by the Ferro-Alloy workers to have spun off large amounts of the factory's own wealth and resources. Convicted on charges of corruption and the embezzlement of public

funds, Liu Zhe was sentenced to 17-years' imprisonment and the confiscation of 270,000 yuan of personal assets.²⁵

These sentences were quite severe by any standards. No mention was made at the trial, however, of the politically much more sensitive charge that the workers themselves had been raising for the past year and more: namely, that it was precisely this deeply entrenched network of official corruption within the Ferro-Alloy Corporation – presided over by Fan Yicheng and with the connivance of the local government for so long – which had led directly to the collapse of the Ferro-Alloy Factory and to the forced redundancy of most of the workforce. Indeed, nowhere in the local press coverage of the trial of Fan Yicheng and his associates was any mention made either of the continuing plight of the thousands of unemployed Ferro-Alloy workers, or of the fact that they had been conducting a year-long mass protest movement that was probably the most significant public event in Liaoyang's entire modern history.

Late 2002: The workers' movement stands firm

Unsurprisingly, many of the Ferro-Alloy workers and their families (including those of Yao Fuxin and Xiao Yunliang) were far from satisfied with the outcome of the trial. The court proceedings against Fan Yicheng and his associates had provided a tacit but unequivocal confirmation of the overall justice of the workers' long-standing complaints and grievances, but the links which the workers themselves had sought to draw between Fan's corrupt actions and their disastrous overall consequences for the workforce – the collapse and bankruptcy of the factory and the subsequent wholesale non-payment of workers' wages and other benefits and entitlements – had simply not been addressed. Instead of feeling placated and vindicated by the public trial and sentencing of their former bosses, as the government had no doubt intended they should be many of the Ferro-Alloy workers and their families once again felt that they had simply been cheated and sidelined by the authorities. So they decided to continue their protest campaign.

On 29 and 30 September, more than six hundred Ferro-Alloy workers petitioned the city government again, demanding the release of the Liaoyang Four before National Day on 1 October. But still the city government made no response.

By now, the four workers' representatives had been held in custody for over six months. Yao Fuxin was being held at a detention centre for ill offenders in Shenyang city, and on 9 October his family was granted their first prison visit with him since 13 May. (The three other detained workers held elsewhere were also allowed family visits around the same time.) At the detention centre, Yao Dan, his daughter, found that her father was still suffering from heart problems and hypertension, despite recent medication. He was in reasonably good spirits, however, and in the course of the brief prison visit he made a point of telling her: "I didn't say anything against the Party, and I didn't say anything against socialism. I was only appealing for the basic livelihood of the workers. The Party should not have arrested me... I have done nothing wrong."

In early November, about a week before the opening of the CCP's 16th Congress in Beijing, organizers of the Liaoyang protest movement pasted up numerous copies of three "Open Letters" – signed in the names of "Party Members," "Young Workers" and "Retired Workers" respectively – around the working class districts of the city. The open letters appealed to citizens to gather in front of the city government offices on 4, 5 and 6 November to demand the release of the four detained workers' representatives. The letters also contained calls for the government to issue unemployment allowances and

²⁵ There are also unconfirmed reports that officers from the Liaoyang Court (including the chief of the Enforcement Department) who had participated in the illegal removal of materials from the Ferro-Alloy Factory in May 2001 were arrested and sentenced some time after March 2002.

welfare subsidies to all those living under the government-fixed poverty line, for the return of Rmb 2,000 that the Ferro-Alloy workers had each previously paid into a failed housing-scheme fund, and for the reinstatement of long-overdue and now officially cancelled heating subsidies.

On 5 and 6 November, between three and four thousand unemployed workers from various state-owned enterprises – including the Liaoyang Ferro-Alloy Factory, the Liaoyang Steel Rolling Mill, the Liaoyang Canning Factory and the Liaoyang Textile Factory, and led by the Ferro-Alloy workers – duly turned out to show their enthusiastic support for these various demands. Prominently displayed on the protest banners that they waved outside the Liaoyang government offices were the twin slogans: "Welcome the Party's 16th Congress" and "What Crimes did the 'Liaoyang Four' Commit?" Both demonstrations were eventually broken up and dispersed by the police.

Meanwhile, the government was busy making its final preparations to put the Liaoyang workers' leaders on trial. On 20 December, Wang Zhaoming and Pang Qingxiang were released from the Liaoyang city jail "on bail awaiting trial." Three days later, the City Intermediate Court notified Wang that the local PSB was pursuing a charge of illegal assembly and demonstration against him, and it advised him that he could now hire a defence lawyer. After Wang replied that he intended to sue the PSB for wrongful detention, he was detained again by police on 31 December but released later the same day. Around ten days later, both Pang and Wang were notified that all criminal charges against them had been dropped. The Liaoyang authorities had apparently decided that the legal scapegoating and punishment of just two of the original workers' protest leaders would suffice to send the requisite stern message of warning to the Liaoyang city workforce as a whole. So the Liaoyang Four now became the "Liaoyang Two": Yao Fuxin and Xiao Yunliang

On 22 December, the Liaoyang PSB completed its investigation of the case and on the same day formally applied to the Liaoyang Intermediate People's Procuratorate for a review of the police evidence and for an indictment to be prepared against the two detainees. A mere five days later, on 27 December, the Procuratorate sent its completed indictment to the city's Intermediate People's Court. The court then decided upon a trial date of 15 January 2003.

It was revealed in the indictment against Yao Fuxin and Xiao Yunliang that the PSB had decided to investigate the two for subversion as early as 15 August 2002, following the police's discovery of "new evidence." However neither the defendants nor their lawyers were notified of this major new charge until December 2002. It was also around this time that the detainees' families first learned that Yao and Xiao were being questioned for their alleged involvement with the outlawed China Democracy Party (CDP).

According to Article 96 of the PRC Criminal Procedure Law, a criminal suspect is allowed access to a lawyer either from the time of initial detention or as soon as the initial police interrogation has been carried out. (In Yao's and Xiao's case, this was in March 2002.) Article 36 of the same law further specifies that criminal suspects are entitled to meet and consult with their lawyers in order to prepare a defence from the day on which the procuratorate sends the bill of indictment to the court (27 December 2002). And according to Article 151, the court must provide the defendant with a copy of the bill of indictment no later than ten days before the actual trial.²⁶

²⁶ The relevant parts of the PRC Criminal Procedure Law (1996) read as follows:

Article 96: A criminal suspect may, after being first interrogated by an investigating organ or from the day coercive measures are taken against him, retain a lawyer to offer him legal advice, and to file a complaint or a suit on his behalf. [...]

Article 36: From the date of investigation and filing of the suit by the people's procuratorate, the defence counsel may look up, extract and duplicate documents and technically appraised materials of the lawsuit, as well as meet with and correspond with the suspect of the crime in custody. [...]

In the case of Yao Fuxin and Xiao Yunliang, all three of these statutory rights were violated by the authorities. Indeed, neither the defendants nor their lawyers were formally notified about the impending trial, or given copies of the indictment, until a few days before the trial was scheduled to take place.

Xiao Yunliang's defence counsel – his brother, Xiao Yunji – learned about the trial date only after making repeated enquiries with the procuratorate and other government bodies. On 7 January 2003, he asked the court if the trial was indeed scheduled for 15 January, as he had heard from Yao's family. A court official replied that no decision had yet been made. On the evening of Friday, 10 January, Xiao Yunji suddenly received notification that the case would be held on 15 January – leaving him and his co-counsel, Zhang Bingbing, with only two working days before the trial in which to prepare a defence case. (When CLB telephoned the Liaoyang People's Intermediate Court on 13 January to enquire about the trial date, we were informed by a court official that the date had still not been set and that they were "awaiting a decision from the leaders".)

Yao Fuxin met with his lawyer, Mo Shaoping,²⁷ for the first time on 10 January 2003. Mo had been requesting a meeting with his client since July 2002, but was repeatedly denied permission by the police. When he challenged the Liaoyang PSB on the legality of their obstructive stance, he was informed in late August that since the case involved "state secrets" (a reference to the new and undisclosed charge of subversion) the PSB had the right to deny Yao any meetings with his legal counsel. By the start of the second week in January, Mo Shaping had still not received a copy of the prosecution indictment from the court, and he was still unclear as to when the trial would be held.

During the week prior to the trial, all telephones lines to the homes of Yao Fuxin, Xiao Yunliang, Wang Zhaoming and Pang Qingxiang were disconnected by the authorities. Wang Zhaoming was re-detained briefly on 31 December 2002 and warned not to discuss the trial or to communicate with outsiders. As the trial date approached, police officers were stationed in the homes of all four families and also were deployed in large numbers in workers' neighbourhoods throughout the city, presumably in an attempt to prevent any workers' protest marches to the courthouse or other forms of public demonstration from taking place.

The Trial of the Liaoyang Two

On the morning of 15 January 2003, ten months after the initial mass outbreak of the Liaoyang worker demonstrations, Yao Fuxin and Xiao Yunliang went on trial on charges of subversion at the Liaoyang Intermediate People's Court.²⁸ The four-hour trial was

Article 151: After the people's court has decided open the court session and adjudicate the case, it shall proceed with the following work: 1) determining the members of the collegial panel; 2) delivering to the defendant, no later than ten days before opening the court session, a copy of the bill of prosecution of the people's procuratorate; informing the defendant he may appoint a defender, if the defendant has not yet authorized one, or, when necessary, designating a lawyer to undertake the task of offering legal aid to defend the defendant. [...]

²⁷ Mo Shaoping is an outspoken and experienced lawyer who also worked on the case of dissident Xu Wenli as well as many other sensitive cases.

²⁸ The accounts of the trial are compiled from the following reports:

Associated Press, 15 January, 2003, "Chinese labour leaders await verdict in subversion trial,

"http://story.news.yahoo.com/news?tmpl=story&u=/ap/20030116/ap_wo_en_po/as_gen_china_labor_protest_s_3

China Labour Bulletin, 15 January, 2003, "Yao Fuxin Accused of Communicating with Hostile Elements",

http://www.china-labour.org.hk/iso/article.adp?article_id=3692

Washington Post Foreign Service, 16 January 16, 2003; "China Tries Labour Leaders Amid Protest",

<http://www.washingtonpost.com/wp-dyn/articles/A63290-2003Jan15.html> .

ostensibly open to the public, but in the event only a dozen or so workers and about five members of the defendants' families were admitted to the public gallery. The remaining 200 or so seats were occupied by senior municipal dignitaries, government officials and police officers.

According to Article 151 of the Criminal Procedure Law, the court is supposed to publicly announce forthcoming trials at least three days in advance. In this case it did so only one day before the trial, and when most workers then applied for admission they were told that no tickets remained. Nonetheless, despite heavy police deployments and sub-zero wintry winds, several hundred Liaoyang workers showed up outside the courthouse on the morning of the trial to register their protest. *"How is it a crime to ask for our wages?"* asked one unshaven worker, stamping his feet to stay warm. *"How can that be subverting state power?"*²⁹ The four main roads into the area had been closed off by the police around 5.00 am and a tight security cordon was in operation around the courthouse itself, but the police sensibly made no attempt to disperse the large crowd of workers.³⁰ No foreign journalists, overseas diplomats or other international observers were admitted to the trial, and a French journalist who attempted to enter the courthouse was detained and forced to return to Beijing.

Yao Fuxin and Xiao Yunliang were escorted into the courtroom wearing orange prison vests and handcuffs. The principle offences listed in the indictment against them under the heading of "subversion" were, first, their alleged membership of the outlawed China Democracy Party (CDP) and, second, their alleged contacts and communication with foreign journalists and "hostile elements." In addition, they were charged with instigating unlawful assemblies and demonstrations among the Liaoyang Ferro-Alloy workers in February and March 2002 and thereby disturbing public order. (Pang Qingxiang and Wang Zhaoming were named in the indictment as co-instigators, although all formal charges against them had already been dropped.) The government prosecutors summoned no witnesses to support any of these charges, thereby depriving defence lawyers of the opportunity to cross-examine them and refute the state's evidence.

The most striking and salient aspect of the above charges is that they all referred to non-violent activities connected with the defendants' exercise of their internationally guaranteed rights to freedom of association and expression.³¹ The authorities' previous allegations that Yao and Xiao had "smashed and burned cars" and engaged in "terrorism and sabotage" – ones which, as noted earlier, had only ever been intended for international consumption anyway – were completely absent from the bill of indictment. In short, the government's "legal case" against the two men was in fact an entirely political one.

²⁹ See: "Crowd at Courthouse Highlights Mounting Problem for Communist Party," Philip P. Pan, Washington Post, 16 January 2003.

³⁰ Even Mo Shaoping was subjected to four or five security checks before being allowed to enter the courthouse. Only after he had produced his lawyer's I.D. card was he allowed to proceed, and even then he had to be accompanied by a court official.

³¹ The charge of "illegal assembly, demonstration and protests" was no exception: although Chinese law technically provides for the granting of permits to demonstrate and hold marches, in practice this is invariably refused by the PSB where the topic of the planned events in any way departs from or conflicts with the government's political line.