



China Labour Bulletin

July 2003

The Liaoyang Workers' Struggle: Portrait of a Movement

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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.

Extracts from the Bill of Indictment against the Liaoyang Two³²

Beginning in 1998, defendants Yao Fuxin and Xiao Yunliang met often in Yao Fuxin's shop to listen to "Voice of America" and "Radio France International," thus learning of the scheme by Wang Wenjiang (already sentenced) to establish a "China Democracy Party Preparatory Committee for the Three Eastern Provinces," which aimed to "realize a pluralist democratic political system." They then went to Anshan City to seek out Wang Wenjiang and expressed to him their wish to join the "Democracy Party." ...

They decided to convene the "First Provincial Congress of the China Democracy Party in Liaoning Province" on December 5 of the same year. At that time, the "Liaoning Province Party Branch of the China Democracy Party" would be established and the Constitution of the China Democracy Party would be ratified. However, the "party-building" activities in which they participated did not succeed after these were discovered and prevented by the Public Security Bureau...

On June 3, 1999, defendant Yao Fuxin went with others to Shenyang City [the provincial capital], [where they] participated in a memorial event for the June Fourth Movement organized by the "Democracy Party." ...

During February and March 2002, Liaoyang Ferroalloy Factory went legally bankrupt, and some laid-off workers who did not understand [the situation] were dissatisfied. Defendants Yao Fuxin and Xiao Yunliang took advantage of these objective conditions and met repeatedly with Pang Qingxiang, Wang Zhaoming (not to be indicted), and others at the home of Yao's family shop, and plotted to organize demonstrations and protests. On March 11, defendants Yao Fuxin, Xiao Yunliang and others, without applying for permits, organized some workers of the Liaoyang Ferroalloy Factory to carry out illegal assembly, demonstration and protests, [thus] seriously disturbing functions of state organs. In front of the main entrance of the city government [compound], the two defendants also gave inflammatory speeches.

Despite being reprimanded by the Public Security office, on March 12 Yao and Xiao organized another illegal assembly, demonstration and protest. On March 18, 19, and 20 respectively, Xiao Yunliang, Pang Qingxiang, and others again organized illegal assemblies, demonstrations and protests. Moreover, they ignored orders to disperse, disturbed the proper work of state organs, even blocked street traffic for a long period of time, and caused a severe disruption of the public order. ...

From January 2002 on, Yao and Xiao contacted the hostile separatist organization "Information Center on the Human Rights and Democratic Movement in China," led by Lu Siqing, and also the hostile element Han Dongfang. They also made contact with reporters at Agence France Presse and the Wall Street Journal in order to pressure the government by publicizing information about their illegal demonstrations and activities; thus having a major influence. Foreign media covered this event extensively through the Internet and exaggerated the facts of the situation, creating a despicable impression...

This procuratorate concludes that the defendants Yao Fuxin and Xiao Yunliang, with the intention to subvert the political power of the state and overthrow the socialist system, have actively engaged in organizing and plotting to establish the hostile organization the "China Democracy Party," as well as organizing illegal assemblies, demonstrations and protests. Their behaviour constitutes a violation of Article 105, section 1 [sic] of the Criminal Law of the People's Republic of China. The facts of these criminal activities are clear and the evidence is sufficient. Therefore, they should be held criminally responsible for the charge of subverting the political power of the state...and we request a conviction according to the law.

(City People's Procuratorate of Liaoyang, Liaoning Province, 27 December 2002)

³² Extracts taken from a translation by Human Rights Watch, "Indictment of Yao Fuxin and Xiao Yunliang in Liaoyang, China," 14 February 2003; full version available at: hrw.org/press/2003/02/chinaindictment.htm.

In the defence submitted by their lawyers, the Liaoyang Two pleaded innocent to all charges against them. Yao Fuxin admitted that he had attended a couple of CDP meetings in 1998, but said that he had decided not to join the party following a discussion of its constitution in Shenyang on 5 December that year. He had taken exception to a proposed article in the constitution calling specifically for the "ending of single-party rule" in China, since he felt it could be taken to imply that a particular party would need to be excluded – a view that did not accord with his own understanding of the multi-party political system.

Yao further admitted that he had taken part in a rally to commemorate the 4 June 1989 Tiananmen crackdown, held in Shenyang City Square on 3 June 1999, but added that he had done so only in a personal capacity and not under the auspices of the CDP. (He had been detained by police upon arrival at the Square that day and questioned by them for many hours.) He told the court that he agreed with the viewpoints of the 1989 pro-democracy student movement, in particular those concerning anti-corruption, and he insisted that it was his right as a citizen to do so.

On the question of his alleged criminal contact with the news media, Yao said that he had indeed tried to contact several domestic press organizations in China, including both the Liaoyang Daily and the Liaoning Provincial Daily, in an effort to publicize the workers' protest movement in Liaoyang. But he was told any journalists who tried to report on the case would lose their jobs. Left with no other choice, he had then contacted reporters from *Agence France Presse* and the *Wall Street Journal*, in the hope that they would help publicise the Liaoyang workers' case and thereby bring it to the attention of China's central authorities. However, he denied ever having contacted or talked with Han Dongfang, the director of China Labour Bulletin and one of the two "hostile elements" named in the indictment.³³

The defence also pointed out that in the four open letters issued by the Ferro-Alloy workers, which Yao helped to draft, it was clearly stated that the protesters supported both the government of Jiang Zemin and the President's policies on "the three represents,"³⁴ which the government had recently been promoting as its core policy.

In an impassioned statement to the court, during which he was frequently interrupted by the judges, Yao asserted that he firmly supported the Communist Party of China and that all his actions during the protest movement had been on behalf of his fellow workers. He said he had been unable simply to stand by and watch while his fellow workers suffered: some of them were old and sick but had received insufficient pension money even to visit a doctor; some of the Ferro-Alloy workers had not received wages for over 20 months; and others did not even have enough to eat. At the end of his speech, Yao reportedly broke down in tears.

Xiao Yunliang entered the courtroom looking very frail, and had to be held as he walked in. But he still managed to raise his hands in greeting to his fellow workers and family. A worker in the gallery began to weep and was promptly ejected from the courtroom; then other workers too started crying. Ten minutes into the trial, Xiao collapsed on the floor and had to be seated for the rest of the hearing.³⁵

³³ In Hong Kong, Han Dongfang subsequently confirmed that he had never contacted or spoken with Yao Fuxin and that he had only learned of Yao's name after the latter's arrest in March 2002. Since that time, Han and the staff of CLB have been in telephone contact with the families of both Yao and Xiao Yunliang.

³⁴ Jiang's policy of the "three represents" (*sange daibiao*) states that the Communist Party should always strive to promote "advanced productive forces," "advanced culture" and "the fundamental interests of the people."

³⁵ The day before the trial, the chief judge told Xiao's family members that Xiao had visited a doctor for failing eyesight and walking difficulties.

According to a Western news report, "When given a chance to speak, Xiao mocked the charges against him, asking how an unemployed worker like himself could overthrow the government (audience members said.)"³⁶ In his defence statement, Xiao reminded the court that he was a member of the Communist Party of China, and he denied the charge that he had been involved with, or was a member of, the CDP.

He admitted that he had once spoken with Han Dongfang, but this was only because Han had called him. He had been unaware at the time that Han was a "hostile element," and in any case he had merely discussed with Han the facts of the workers' protests and nothing else; he was therefore innocent of any wrongdoing on this count also.

Xiao Yunliang's Eyesight Gravely Deteriorating in Jail

The health condition of Xiao Yunliang has been of concern since his initial detention, although the full seriousness of his condition was only realized at his trial in January 2003, when he collapsed after ten minutes into the court proceedings.

According to several medical reports, Xiao is suffering from an eye condition called Floaters. While not in itself critical, it can be a symptom of serious retinal damage and may lead to loss of eyesight unless treated. It is believed that Xiao's eye condition stems from an injury sustained when he was pushed into a police van at the time of his initial detention in March 2002.

After a medical examination on 2 April 2003 by an ophthalmic doctor, Xiao was reportedly diagnosed as having serious underlying damage to his eyes. The doctor added that his current symptoms were likely to worsen, resulting in possible blindness unless treated.

According to CLB sources, in April 2003 the head of the Liaoyang City Public Security Bureau expressed serious concern over Xiao's rapidly deteriorating eyesight. Probably as a result of this, Xiao began to receive limited medical treatment in jail soon afterwards. Until then, the jail authorities had insisted that they had "no money available" for the medical treatment of sick detainees.

On 17 April, in a follow up medical examination, Xiao Yunliang was diagnosed as being blind in one eye from a cataract, while his other eye was found to be in serious danger of going blind through damage associated with Floaters.

In a further complication, in March 2003, former detainees from the same detention centre reported that Xiao had been moved to an isolation cell after he was found to be spitting up blood. If true, this suggests that he may be suffering from tuberculosis, which if left untreated can be life-threatening.

At his sentencing hearing on 9 May 2003, Xiao appeared, according to his family, to have become almost totally blind.

Xiao stated that all he had done was to help stage public demonstrations aimed at venting and expressing the grievances felt by his fellow workers and himself over the severe hardships they were encountering in daily life - problems caused by the mass unemployment situation in Liaoyang and the fact that the workers and their families were not receiving the social welfare and other benefits due them. Xiao's lawyer also pointed out that Xiao himself had not received any wages for the 23 months leading up to March 2002. He emphasized that the protest demonstrations of early March 2002 had all been initiated directly by the workers themselves - a claim clearly supported by the fact that the largest workers' protests had occurred between 18 and 20 March, i.e. subsequent to his and Yao Fuxin's detention by the police. The demonstrations,

³⁶ *Washington Post*, op cit.

moreover, had consistently called for constructive negotiations with the authorities, thereby indicating the workers' overall support for the government. The protestors, Xiao pointed out, had only been trying to get the government to perform its responsibilities toward the workers in a more effective and conscientious manner.³⁷

The court adjourned after four hours without delivering its verdict on the case. Indeed it was to be another four months before the defendants and their families learned of the outcome of the trial. Just like the huge, almost year-long workers' demonstrations that had preceded it, the trial of the Liaoyang Two was not deemed newsworthy enough by the authorities to be reported in the domestic press.

From trial to sentencing

For several weeks after the trial, the home telephones of Yao Fuxin and Xiao Yunliang were cut off from incoming calls, and the two families were warned by the PSB that no communication with the overseas media would be allowed.³⁸ In late January, PSB officers came to the homes of both families and attempted to take the detainees' daughters, Yao Dan and Xiao Yu, in for questioning, but both women declined to cooperate. Yao Dan reportedly told the police, "I don't speak the same language as you do. I won't go there! If you have enough evidence to charge me, come here with the warrant, and I will go with you. Otherwise I won't go!" The police then left after giving the young women a warning. On 23 January, the families were visited again by four PSB officers, who talked to them for more than an hour and told them that they were not to accept any overseas calls. "China will not heed the opinions of the international media, and their reports will change nothing," the families were informed.

On 24 February 2003, for the first time since March 2002, both families' residences were placed under around-the-clock surveillance by numerous officers from the local police station. The families were also ordered by the Public Security Bureau not to take part in any demonstrations or to undertake petitioning activities either at provincial level or in Beijing, and they were told that they could not leave their homes without prior approval from the police officers watching them. Around the same time, another of the workers' leaders, Wang Dawei, was briefly detained by the police and questioned about the workers' plans to hold another protest demonstration. The intense surveillance measures during this period probably reflected the city government's belief that the workers were intending to mark the coming first anniversary of the March 2002 protests with further public protests. Also, the annual meeting of the National People's Congress was due to begin in early March, and local governments around the country had been ordered to take all necessary measures to "ensure social stability" in the run-up to this important national event.

The surveillance continued over several of the coldest weeks of the year, and in an ironic twist, both detainees' families invited the police officers posted outside their houses into their living rooms during the daytime. As one of the family members told CLB, "We all felt quite sorry for them: the weather is freezing cold at the moment, and it was snowing here a couple of days ago." This anecdote is quite revealing and highlights the fact that the problems of the Liaoyang workers were shared by many of the families of government functionaries of all kinds, including the police, many of whom also had

³⁷ For further information on the court proceedings against Yao and Xiao, see "Inside the Courtroom – Report on the Liaoyang Trial," China Labour Bulletin, 23 January 2003; available at: http://www.china-labour.org.hk/iso/article_pv.adp?article_id=3781.

³⁸ Yao's family attempted to have another telephone line installed, but on realizing who the customer was, the phone engineer who came to the house on 26 January refused to proceed with the installation. When asked repeatedly for a reason, the engineer replied, "Please don't give me a hard time – I simply can't do it for you". The family then complained to the mayor's office, which sent over an official from the city's telecommunication authority. But his response was the same "I can't do anything; this involves political issues".

relatives who had been made redundant or were otherwise adversely affected by the collapse of the Liaoyang Ferro-Alloy Factory and other bankrupt local enterprises.

On 25 February, Yao Dan and Xiao Yu delivered to the Liaoyang Public Security Bureau a formal application to hold a protest demonstration on their fathers' behalf on 11 March. However, when the women handed over the application letter they were informed by the desk police officer that the application would "not be approved," and he refused even to receive it. In an interview with Han Dongfang, the head of the Liaoyang PSB's Public Order Section stated that there was a "technical error" in the application. However, the Liaoyang workers had made three previous attempts during the previous year to submit applications with the local PSB for permission to stage public demonstrations, and on all three occasions the authorities had similarly refused even to accept the application forms.

Despite the official warning message sent to them by the trial of the Liaoyang Two, the city's workers continued to show firm solidarity with the two detainees and to issue demands for their release. On 27 February, a group of fifteen Liaoyang workers' representatives – including Wang Zhaoming, Pang Qingxiang, Gu Baoshu and Wang Dawei – met for around three hours with Chen Qiang, the deputy mayor, and other senior municipal officials to appeal again for the release of Yao and Xiao and to discuss at length several other of the workers' chief concerns. This appears to have been the most significant meeting granted to local worker activists by the Liaoyang authorities since March 2002, and the deputy mayor adopted a generally positive and conciliatory tone during the course of the meeting. Chen was reportedly noncommittal over the workers' demand for a prompt verdict to be rendered in the cases of Yao and Xiao and for their swift release if the charges could not be firmly substantiated. However, he agreed to convey to the higher authorities the workers' demand that the families of Yao and Xiao should at least be allowed to visit them in prison – no family visits had been permitted since the time of the two men's trial in mid-January – and to inform them of the authorities' response as soon as possible.

The other main demands conveyed to Chen Qiang by the fifteen worker representatives concerned the continued failure of the Liaoyang Ferro-Alloy Plant's management to fulfil its economic responsibilities to the factory's laid-off and redundant workforce. The deputy mayor agreed to meet some of their demands: that funds donated by the workers in recent years for purposes of expanding the factory's workshop infrastructure (*fang-ji-jin*), together with both the workers' longstanding unpaid home-heating allowances, wage arrears, un-reimbursed expenses for medical treatment and children's allowance would all be paid to them in full before the end of June. On the vital issue of pensions, though, he said he was unable to make any promises. On the Ferro-Alloy Plant workers' demand for prompt issuance of the two-years-worth of unemployment welfare benefits that they had still not been paid, moreover, Chen confessed that he was "powerless to resolve this issue." In an unusually candid admission of how grave the situation for unemployed workers in China's northeast has now become, Chen informed the workers representatives: "There are currently several dozen bankrupt enterprises in Liaoning Province where the workers have still received no unemployment welfare benefit. If the workers from any one of these enterprises receive unemployment benefit, I assure you that the Liaoyang Ferro-Alloy Plant's workforce will also receive theirs."³⁹

In the run-up to the first anniversary of the mass protest by over 10,000 workers in

³⁹ Despite the relatively constructive tenor of the 27 February meeting between Chen Qiang and the fifteen workers representatives, it should be noted that at Chen's two previous (and considerably briefer) meetings with some of the same workers, the deputy mayor issued pledges to them that he was later unable to fulfil. (On 12 March 2002, five days before the arrest of Yao Fuxin, he told them that no workers would be arrested; and on 17 May, he assured them that he would strive to secure the release of Yao and several other workers who had also subsequently been detained "as soon as possible.")

Liaoyang on 11 March 2003; the Chinese security authorities undertook a further series of clumsy and repressive measures against the families of Yao Fuxin and Xiao Yunliang. In the most worrying of these incidents, on 3 March, the two detainees' daughters, Yao Dan and Xiao Yu, who had gone to Beijing on 28 February to meet with Xiao's defence lawyer, Mo Shaoping, were seized by about twenty police officers at their hotel room in the capital. Informed by the officers that since the hotel where they were staying was "too shabby," they would be taken to another hotel where they would be allowed to meet with their father's lawyer without interference the following day, the two women were instead driven to a different guesthouse in a Beijing suburb where all their belongings were searched. They were then driven directly back to Liaoyang in a police van along with eight police officers from Liaoyang. Upon their arrival back in Liaoyang on 4 March, Yao Dan and Xiao Yu were escorted by police officers to a government office, separated, and held there until early evening for questioning. Before finally being allowed to return home, the two women were asked to sign the transcripts of their police questioning. Since the police record included a line incorrectly stating that the purpose of their visit to Beijing had been to talk to the foreign news media, Yao Dan reportedly refused to sign until this part had been deleted. According to CLB sources, a senior Liaoyang PSB officer then presented the women with a renewed warning against speaking with the foreign new media.

In March 2003, the ILO issued a lengthy report upholding the ICFTU's composite complaint against the Chinese government over its detention and prosecution of the Ferro-Alloy workers' leaders and over its repressive handling of various other recent labour disputes in China. The ILO's Governing Body formally endorsed recommendations from its Committee on Freedom of Association calling upon the Chinese authorities to release all Ferro-Alloy workers still in detention and to drop any outstanding charges against them.

In particular, the ILO cast subtle scorn upon the Chinese government's arbitrary contention, conveyed to it in September 2002 in Geneva, that Yao Fuxin, Xiao Yunliang and other workers' representatives had committed acts of "terrorism and sabotage" during the Liaoyang protest movement last year. This claim had been sharply undercut, the report suggested, by the government's simultaneous admission to the ILO that the Liaoyang protests had been simply "a labour dispute." (As noted above, even the Liaoyang procuratorate did not see fit to include these charges in its bill of indictment against Yao and Xiao.) In the ILO Governing Body's own words,

Given the [Chinese] Government's indication that the events occurring at the Ferrous Alloy Factory fell within the context of a labour dispute, the [ILO] Committee requests the Government to drop all charges relating to terrorism, sabotage and subversion.

The same message was delivered to Beijing, in even clearer and stronger terms, by the Workers Group of the ILO on 3 March. According to the Workers Group's public statement:

This case [China: Case 2189] concerns numerous allegations of excessive use of force in police interventions, torture and imprisonment of trade unionists and workers participating in various protest actions and demonstrations. The Committee is not convinced by the reply of the [Chinese] Government stating that "As a responsible member of the International Labour Organization, China recognizes and respects all the principles stipulated in the ILO Constitution, including the principle of freedom of association, and has made unremitting efforts to achieve these principles." (Para 442). Instead the Committee [on Freedom of Association] expresses its concern (as could be seen in Paras 446 and 447) over the detention of a number of arrested leaders and representatives of

independent workers organizations. It also requests that impartial and independent investigations are instituted concerning the various allegations of arrests and mistreatment.

In addition, it requests the Government to provide instructions for the forces of law and order eliminating use of excessive violence in relation to demonstrations. Specifically the Committee requests the Government, in relation to the labour dispute that occurred at the Ferrous Alloy Factory, to drop all charges relating to terrorism, sabotage and subversion - charges which carry heavy penalties. As could be seen in Para 465 the Committee underlines that durable solutions to social conflicts and promoting economic and social development can only be found if full freedom of association of workers is recognized and consequently, as has been requested previously by the Committee, that the [PRC] Trade Union Act be amended to allow workers to freely organize in independent trade unions of their own choosing. Despite the previous negative response by the Government, the Committee once again requests the Government to show good faith and to accept an ILO direct contact mission to promote the full implementation of freedom of association.⁴⁰

Final verdict, May 2003: Seven and four years' imprisonment for subversion

On 9 May 2003, just weeks after the ILO's appeal to the Chinese government for the release of Yao Fuxin and Xiao Yunliang, the Liaoyang Intermediate Court announced that guilty verdicts had been reached on both men: Yao was sentenced to seven years' imprisonment and Xiao to four years' imprisonment.

The four-month delay in announcing the verdict and sentences contravened China's own laws and regulations. According to Article 168 of the Criminal Procedure law of China, the court must pronounce judgment on a criminal case within one month, or six weeks at the latest, of the date of its acceptance of the prosecution's indictment, although in exceptional cases this time limit may be extended by one more month upon approval by the provincial High People's Court. The maximum length of time that a criminal suspect may be held after the commencement of trial is therefore two and a half months.

The reason for the authorities' timing of the sentencing announcement in May was probably twofold. On the one hand, any further delay would only have compounded the illegality of the two men's prolonged detention; and on the other, international attention was firmly focused on other major events in China at the time. The country was in the grip of the SARS (Severe Acute Respiratory Syndrome) epidemic, and the world's attention was all on the recent exposure of the massive cover-up of the epidemic then being attempted by the country's health authorities. Fortuitously, this gave the government an opportunity to try to bury the news of the harsh prison sentences handed to the Liaoyang Two among a sea of news reports on the SARS health crisis.

Only the daughters of Yao Fuxin and Xiao Yunliang, Yao Dan and Xiao Yu, and two workers were allowed entry to the 9 May sentencing hearing, which took place at the detention centre where the two men had been held for over a year. However, braving the presence of some 300 PSB officials who surrounded the centre, some 300 Liaoyang workers also went to the scene to demonstrate their support for Yao and Xiao. Immediately after the hearing, Yao Dan and Xiao Yu were both driven away in separate police cars. Xiao Yunliang's wife, Su Anhua, tried to stop the car taking her daughter

⁴⁰ Statement by Ulf Edström (Sweden) on behalf of the Workers Group on the 330th Report of the ILO'S Committee on Freedom of Association (CFA), 27 March 2003; available at: <http://www.ilo.org/public/english/dialogue/actrav/new/wg/cfa330.htm>.

away but was beaten to the ground by police. She lost consciousness and had to be taken to hospital. Xiao Yu and Yao Dan were released later the same day.

Yao Fuxin and Xiao Yunliang both lodged appeals against their sentences.⁴¹ The lawyer Zhang Bingbing drafted the appeal document for Xiao Yunliang after his brother, Xiao Yunji, withdrew from the case after being pressured by the authorities to cease working on it. (Xiao Yunji is currently recovering from a heart operation that he underwent shortly before his brother's trial in January. A replacement lawyer, Zhang Fusheng, was subsequently hired.) Zhang Bingbing also applied for Xiao to be granted medical parole, but this was refused. It is unclear what medical treatment, if any, Xiao Yunliang is currently receiving in prison.

In interviews with CLB, both families have expressed their anger at the harsh sentences given to their detained relatives. Yao's wife, Guo Xiujing, said that she was willing to take the appeal to the central authorities and if necessary to sue the government. Xiao Yunliang's daughter expressed the fear that her father may be unable to survive another six months in prison – let alone four years. So far as is known, only one minor newspaper in China (*Qiangshan Wenbao*) carried a report on the sentences given to the Liaoyang Two.

On 27 June 2003, six weeks after the verdict was publically declared, it was announced that the appeals of both men had been rejected by the Liaoning Provincial High People's Court and the original sentences were upheld.

The decision to dismiss the appeals was taken at a secret hearing lasting less than 30 minutes at the Liaoyang City Detention Centre where both men are being held. Both families were denied access to the hearing and neither of the two men's lawyers was present.

The family of Yao Fuxin were only told of the hearing late on the 26 June when a friend of the family happened to see a notice announcing the hearing outside the municipal court and immediately informed Yao's wife. The family then contacted Mo Shaoping, Yao Fuxin's lawyer, who had also not been informed of the hearing date. He had originally been planning to go to the Provincial High Court next week to press for information on the appeal as he had received no news from the authorities.

When asked about his views on the judgment, Zhang Fusheng, Xiao Yunliang's lawyers informed CLB that he was disappointed that the decision ignored the many detailed points highlighting Xiao Yunliang's innocence in relation to the subversion charges. In particular he stressed that the proceedings were flawed and should be reviewed by a higher court. Zhang himself was only notified of the judgment by telephone after the hearing took place.

It was also learned that Xiao Yunliang's family was informed by officials that Xiao's health had further deteriorated. Su Anhua, Xiao's wife again appealed for the release of her husband and asked that he be given immediate medical treatment. She added that the authorities did not seem to care if her husband lived or died but that they simply wanted to "see the family broken down".

The abrupt rejection of the appeals come as a heavy blow to the families of Yao and Xiao and to the thousands of workers in Liaoyang who have continued their fight against corruption in Liaoyang and their campaign to free both men despite extensive harassment. Despite the trial and sentencing of the two men and the rejection of their

⁴¹ A decision giving notice of the appeal hearing should, under Chinese law, be issued within twenty days of the receipt of the appeals. Thus a hearing should by rights be held shortly after 4 June 2003.

appeals, many workers continue to visit the family homes of Yao Fuxin and Xiao Yunliang to show their continued solidarity and support.

Despite the many months of struggle and all the various promises wrested from local officials at different times, only a handful of the Liaoyang workers' original demands have thus far been met. Indeed, according to recent reports, out of all the various pledges made to the Liaoyang workers by Deputy-Mayor Chen Qiang on 27 February, only the promise that unemployed workers' child support allowances would be paid has in fact been fulfilled.

Conclusion

The Liaoyang mass protest movement of 2002-03 was by far the largest and most sustained incident of organized worker unrest in China since the 1989 nationwide pro-democracy movement, when workers demonstrated against government corruption in cities throughout the country. It remains to be seen whether the harsh and unjust sentences passed on the Liaoyang Two will succeed, as the government clearly hopes, in putting an end to the workers' movement in Liaoyang. Whatever the case, there can be little doubt that the local government has succeeded only in reinforcing, over the past year and more, the deep and widespread resentment felt by the local community at the authorities' failure to take seriously its complaints and grievances over the disastrous impact that unrestrained "economic reform" in the city has had on so many workers and their families during the past decade. In failing to resolve the pressing issues of jobs, livelihood and social welfare raised by the demonstrating workers, while at the same time punishing their chosen representatives – courageous citizens who had sought only to engage in constructive dialogue with the local authorities – the government has probably alienated public sentiment to an extent that can only be directly harmful to the very "stability and unity" in society that it claims to seek to uphold above all other considerations.

One thing is clear from the events in Liaoyang over the past year. China's workers have at last begun to reclaim for themselves some of the sense of collective power, and autonomy of action, that the Communist Party relieved them of several decades ago when it declared that it alone had the requisite credentials to represent the country's "labouring masses," and that henceforth there would be only one officially-sanctioned trade union throughout the country – the All China Federation of Trade Unions. One of the most striking aspects of the Liaoyang workers' protest movement is that the ACFTU was, for the most part, conspicuous by its absence from start to finish. At no time did it seek to lend the demonstrating workers its advice, guidance or encouragement – or even to warn them of the likely consequences of their prolonged confrontation with the local government. Instead, ACFTU officials emerged only to voice public accusations at the movement and to slander it in international forums of various kinds. In short, it acted not as a genuine trade union would act, but rather as a mere transmitter and propagator of Party policy.

For decades, the Chinese government has dealt with political and religious dissidents by imprisoning them on false and politically-motivated charges of "counter-revolution," "endangering state security" and "subversion" (to name but a few.) It continues to do so even in the present era of greatly increased social and economic openness in China, and for the most part it has succeeded in its long-term goal of intimidating, isolating and marginalizing the domestic dissident community. Some two decades after the start of the "socialist market economy" and the steady growth of industrial privatization, however, the government now faces a very different kind of challenge to its control and authority, in the form of many millions of angry and desperate workers who have been thrown on to the breadline by a new and fast-growing class of politically well-connected entrepreneurs, a group that often appears to be solely concerned with the cold calculus

of economic profitability. The past few years in China have seen an exponential increase in the number of spontaneous strikes, public protests and sometimes violent riots by laid-off and increasingly desperate workers all around the country. Sooner or later, the Chinese government will be forced to the realization that if it wants to have a genuinely stable and well-functioning market economy, then it must also allow the workers to engage in free collective bargaining and to form their own representative bodies through which to pursue fair, equitable and safe terms of employment. The iron-fisted policy of repression that it has hitherto adopted against dissidents of various kinds, and which was once again so clearly apparent in its handling of the case of the Liaoyang Two, will simply not accomplish these vitally necessary goals.

The Liaoyang workers were not asking for freedom of association, for the right to organize, or even for the right to engage in collective bargaining. They were asking merely for minimum guarantees of their families' right to basic subsistence and livelihood – the very things that the Chinese government proudly tells Western governments and the United Nations, when challenged over its poor human rights record, that it has basically solved for the Chinese people since its assumption of power five decades ago. The lesson of the Liaoyang workers' protest movement for the country as a whole, however, is that unless the Chinese government begins at last to allow the workers some modicum of true independence, and the right to organize in defence of their own economic interests, it will inevitably face ten, twenty or a hundred Liaoyangs at some point in the probably not-too-distant future. Should that point be reached, no amount of hastily concocted "subversion" indictments would suffice to protect the government from the consequences of its own short-sightedness and folly.

In the meantime, the international community – and especially the worldwide labour movement – can play a vitally supportive role towards the goal of avoiding widespread social unrest in China, by expressing its firm solidarity with all peaceful and non-violent Chinese worker activists who have been unjustly persecuted and imprisoned. Every opportunity should be seized by the international community to try to persuade and pressure the Chinese government both into releasing these brave individuals, and at the same time into taking the more far-reaching and historic step of instituting genuine trade union rights for all Chinese workers.

China Labour Bulletin
Hong Kong, July 2003

Appendix One: Open Letter to the General Secretary of the Central Committee of the Communist Party of China, Jiang Zemin

"Appeal to the Leadership Following a Fruitless Four Year Struggle Against Corruption. The workers are being persecuted and need your support"

5 March, 2002

Esteemed General Secretary Jiang Zemin: Greetings!

At a time when the nation continues to grow and prosper, government policies are proceeding well and the people live in peace. All the workers from Liaoyang Ferroalloy Factory in Liaoning Province send our most sincere greetings to our nation's highest leader.

Formerly, the Liaoyang Ferroalloy Factory was a comparatively profitable large-scale state owned enterprise producing for both the domestic and overseas markets. In those days, the living standards of the workers continuously improved.

But now our factory is bankrupt and the overwhelming majority of its workers have been reduced to unemployed vagrants and we are furious. Most of us here have met with disaster and, as we have no other option, we address this open letter to you in order to recount the events leading up to, and since, the bankruptcy. We express to you, as a respected elder, the heartfelt aspirations of the entire workforce and fervently request that you find time in your busy schedule to address the uncertainties and perplexities in our hearts.

Liaoyang Ferroalloy Factory was a medium-size state owned enterprise with a long history of over fifty years. All the property and assets of the factory were derived from the hard work, blood and sweat of generations of workers. In the early days, the factory was no more than a small-scale smelting workshop producing phosphorus-based products. All the facilities, equipment and buildings were crude and simple. Production capacity was negligible and it was only after [the national] liberation and under the subsequent solicitude and support of the Party and government, combined with the hard work of a generation of older workers who suffered great hardships that the Ferroalloy Factory transformed, gradually, from a small-scale, backward workshop into a medium-size state owned enterprise. Every year, Ferroalloy contributed millions of yuan in tax and profits to the national treasury and the standard of living of the whole workforce rose. This success did not come easily. It was the result of our pioneering efforts to overcome countless challenges in conditions that were reminiscent of wartime hardships.

Following the introduction of the reform and opening up policy, Ferroalloy faced the mighty torrent of the market and its economic performance came up against an unprecedented test. However, it was certainly not the case that domestic and foreign customers were not interested in our branded products. What we needed to overcome the various problems that were facing us was a competent policy maker and honest leadership capable of taking advantage of the ready market for our goods. At the same time, this would have raised the nation's revenue from profits and tax. The workers would have continued to live in peace and prosperity and the factory flourished.

Who could have foreseen that once Ferroalloy's former director, party committee secretary and general manager, Fan Yicheng, had commandeered his positions at the factory, the workers days were numbered? With the factory facing the massive challenge

of the market and in already trouble, it was Fan Yicheng's duty, in his official position as both managing director and legal representative, to construct a strategy for improving the overall economic performance. It was his responsibility to provide leadership in improving product quality, output performance and profitability of the enterprise: to inspire the entire workforce to grasp and overcome the difficulties in front of us.

Fan Yicheng did none of this. Following his appointment he adopted a policy of cronyism in which all those who submitted to his will did well and anyone who resisted was dealt with. All dissent was outlawed. His close aides, friends and relatives were placed in company positions from which he could directly benefit. At the instigation of Liaoyang's former mayor and party secretary Gong Shangwu, Fan Yicheng set up a number of independent enterprises - such as the Ya Kuang Company, Boronalloy Factory and the Sai De Company - and arranged fictitious domestic and foreign links and contacts. These people worked hand in glove as a team to swallow up billions of yuan in national funds resulting in losses of billions of yuan in state property - we have detailed evidence of all this. Ever since this group of corrupt people linked up in 1995, they have acted in cahoots to reduce, by double-dealing and plotting, a perfectly good SOE to absolute chaos: production stopped, workers were laid off and employees driven to indescribable despair. The sweat and blood of workers has been used to nurture a colony of parasites. Under the pretext of procuring goods, Fan took holidays abroad and gathered up large amounts of foreign exchange to fill his own personal coffers to the brim. At the factory he bullied and intimidated workers and used hundreds of thousands worth of public funds to refurbish his house and send his two children abroad to study. Fan and his corrupt friends used state funds to eat, drink, gamble, whore and anything else they felt like doing. There were no limits to their extravagance.

Even more serious was the refusal to pay employee's pension insurance contributions from 1995 to 2000, resulting in arrears of Rmb 27 million. As a result, now the factory is bankrupt we are unable to draw our pensions and have no way of meeting our livelihood expenses. Forced into a corner by these circumstances, we began to organize collectively in 1998 to expose and denounce Fan Yicheng and his gang's corrupt behaviour. We have petitioned and reported to the relevant departments at city, provincial and central levels. At the time, city officials reassured us with moving commitments to solve the problems to everyone's satisfaction, but matters have turned out very differently from how we hoped they would. Far from addressing our concerns in a conscientious manner and criticizing Fan and his fellow rogues, they resorted to repression, defiling public opinion and enforcing the planned bankruptcy in an attempt to cover up the heinous crimes of these blood-sucking devils. False bankruptcy and real corruption has been the strategy to achieve their wicked aims, leaving the workers in wretched circumstances.

The events of the meeting convened to vote on the bankruptcy, held the day before yesterday, have left us boiling with anger. On that day, the government ordered the police to arrest three workers' representatives for no reason and place them in custody in the police station. On the same day, when the results of the vote were announced, police were deployed at the factory gates in full battle array and, police cars were cruising around everywhere. It was as if they were preparing for a full-scale attack from a formidable enemy. Workers who for special reasons were unaffected by the bankruptcy were manipulated into casting their vote in favor of it.

All this amounts to a bankruptcy that seriously violated the Bankruptcy Law's regulations: the financial affairs of the factory were left unsettled, those responsible were not dealt with, no measures were put in place to implement statutory re-employment or welfare policies and even several years of unpaid wages were left in arrears. We believe that company bankruptcies can be caused by a whole range of internal and external matters. But no matter what the circumstances, if there is no other alternative, the bankruptcy proceedings must follow the national Bankruptcy Law and

procedural documents released by the central government. Ferroalloy's bankruptcy was not the result of the economic restructuring any more than it was brought about by poor sales. It was the direct result of co-ordinated embezzlement of national assets and leaching on the workers' sweat and blood, by Fan Yicheng and his gang of parasites with the collusion and support of former mayor Gong Shangwu. These people do not care if working people live or die, neglect their managerial duties, wreak havoc with financial discipline and lend or borrow public funds at their own whim. Many forms of open and covert waste, totally unmanaged and unquestioned dripped, leaked and oozed its way out of the deeply flawed production operation. Billions of yuan of national property simply disappeared as a result of shocking criminal behavior that has left us so angry that no punishment would atone for it.

The entire workforce at Ferroalloy reacted with profound indignation in the face of such contrary and even perverse behavior and organized a three-year struggle against corruption. To our regret, we failed to achieve any effective results and the enforced bankruptcy of our factory has been implemented leaving the workforce in a state of poverty. We have no pensions or medical insurance and there is also no minimum livelihood fund. To date, the promises of adequate welfare that the government made in a draft document prior to the bankruptcy have not been met. The bankruptcy went through leaving the workforce in tears and the corrupt officials laughing all the way to the bank. Moreover, they are now using the embezzled funds to set up a new privately-run enterprise(s). As if by magic they have metamorphosed into entrepreneurs using the workers' sweat and blood as building blocks for their nest of corruption. Illegal activities have produced a legal company and the government has done its utmost to cover up and collude in this almost perfect crime. Where on this earth are we to go to find reason and justice? Is it possible that a Chinese nation under the leadership of the Communist Party can leave no space for workers? Is there no other road except this road to tragedy?

The Chinese Communist Party has led the broad mass of the Chinese people through eighty years of bitter struggle that continues to this day. The party's aim has been to serve the people and their pursuit of prosperity and well-being. Ever since the deeply respected Chairman Mao's conception of serving the people, to your respected self's concept of the "Three Represents", all levels of the people's government have worked unstintingly, especially following your "July 1" speech, to strike root in the hearts of the people, encourage the people's aspirations, inspire their energy and provide hope! But to our regret, the Liaoyang government leaders have simply paid lip service to the concept of the Three Represents, and failed to implement your directives. In reality, rather than represent the interests of the broad mass of the people, they have represented interests of venal officials. When workers have put forward reasonable and legal propositions to oppose corruption and provide welfare, they have resorted to myriad ways of perfunctory solutions, procrastination, delay, connections, gerrymandering and the use of force to counter the working masses. In essence, they have openly shielded and tolerated a clique of corrupt people who have committed the crime of harming the people, clearly not followed the Central Committee's instructions. In fact, they have sung an entirely different tune from the government's policies of making proper arrangements for laid off workers and the livelihoods of workers from the bankrupt factory – a case of publicly agreeing but privately sabotaging, deceiving their superiors and duping those below them in their base behavior. (Fan Yicheng and the other parasites' few days in detention was billed as house arrest and having to report in regularly to the authorities. But they are all now safely in their homes and have got off scot-free).

Respected and beloved Secretary General Jiang, we do not oppose the leadership of the Party or the socialist system. Aside from demanding our legitimate and legal rights, all our efforts have aimed to help the country dig out and eliminate all the corrupt worms boring way at and ruining our socialist economic system. The Liaoyang government has

used violent suppression against us while corruption has been glossed over leaving nearly all of us wondering and perplexed. We fear that bankruptcy has no precedent in China and it is a strange and new experience that has come into our lives. We believe that pushing several thousands of workers to the edge of destitution will have a profoundly negative influence on social stability and totally goes against the spirit of the directives in your "three represents theory".

Since the reforms started, the Chinese working class has been the Party's source of fresh, combat-ready troops in the economic battles that have faced our country. From our studies of Central Committee documents and your "Three Represents" speech, we know that working class is still society's foremost source of wealth and also it's driving force. To ignore this truism would be an irreversible mistake and could even put the country into great peril. The vast majority of workers have been driven beyond the limits of forbearance by this group of people who have colluded together with Liaoyang government leaders in a swamp of corruption to shore up their own interests, maintain their official jobs and positions and ignore both party discipline and national laws. As such, we six thousand workers eagerly wait your being able to find time in your busy schedule to give us a clear answer and shed light on the confusion in our hearts. We do not have the capacity to take the Liaoyang government through the courts and currently face a future of barely being able to put food on our table. Where would we get the money? It would be prohibitively expensive and even if we had the funds, it would be impossible to win such a case. Over the past three years, we have petitioned the Disciplinary Committee, the courts, the procuratorate at provincial level and in Beijing, as well as the General Office of the State Council and the Economy and Trade Committee on many occasions. We have sent documents and materials by post and delivered it personally by hand, but all to no avail.

Faced with this tragic scenario and with no other option or way out before us, we hope that you, as our leader, can lead us out of this darkness and put us back on the right track. Send us a team of good cadres to investigate and clean out the crimes of these corrupt people and deal with this matter in the spirit of justice. We fervently hope that you will read this letter. It is perhaps more than we deserve that you hold-up your valuable time but there are genuine reasons for our actions. We had no option but to write directly to you.

Finally we wish you a long and healthy life and offer our deepest respect,

Yours sincerely

The unemployed former workers of the bankrupt Liaoyang Ferroalloy Factory, Liaoning province.

Appendix Two:

A Long and Winding Road: Two families devastated A personal viewpoint*

On Tuesday mornings, Xiao Yu steps onto the bus, which takes her to meet her father at the Liaoyang Municipal Detention Centre. The journey takes half an hour. She can only visit her father on Tuesdays and since his trial on 15 January, the Xiao family have been going to this detention centre on this same bus for months. Before this, she and her mother traveled to visit Xiao in detention centres in Tieling, Anshan and Sujiatun - 45 km was the shortest distance they had to travel. Each time, she brings her father some food, or some clothes to make his life a bit better and from time to time she credits a few hundred dollars [RMB] into her father's prison account.

Since the sentence was announced, Xiao Yu has been worrying about when her father will be sent away - she has no idea how her father will be able to survive the four coming years in jail with his deteriorating health.

On 9 May, at the hearing, holding the bars tightly, his weak and trembling body about to collapse at any moment, Xiao turned to the judge in outrage and shouted out "Shame on you! You never sentence the corrupt people but instead turn the accuser into the defendant!" Having seen this, Xiao Yu cannot picture how he can survive the four years imprisonment. She adds, "He might not be able to survive till the end of the year let alone another four years!"

When she recalls the scene, she cries, "It is really awful! My father used to be a strong man, he always stood upright... and now he is ruined. When he said that to the judge, it was like he was saying it with his last reserve of strength. He tried to cry out against their viciousness... oh my god!" One can still hear the fear in her voice

In a visit to the doctor on 17 April, the doctor diagnosed that one of Xiao Yunliang's eyes was blind with cataracts and the other one was seriously affected by floaters. Xiao's wife, Su Anhua was forbidden by the police to talk to the doctor and she blames herself saying, "of course that doctor didn't want to talk to me, I am just not educated enough." Self effacing and perhaps uneducated she may be, but who knows how much effort it took for her to get permission to accompany her husband to the hospital?

Su Anhua herself has been ill, but since Xiao's eye problem, she has been continuously visiting the public security bureau, the detention centre, any and all departments concerned. All she wants is better and urgent medical care for her husband. "You know every time I visit those departments, I have to lay down for at least half a day, I can hardly move afterwards... it is always like this, I feel so fed up and out of spirits and I only feel better the next day."

After the sentencing, Su Anhua told CLB her belief that the injustice done to her husband will one day be redressed is now the only "reason, which makes life bearable". "I couldn't live if I could see nothing but darkness... but I still believe one day it will be bright again..." she sighs.

Su Anhua is only 56 years old but Xiao Yu already describes her as an "old lady". In the past 12 months, her mother's hair has turned white and she has lost her comfortable roundness. Even their neighbours have noticed that her mother has been losing weight. Recently Xiao Yu bought her a radio - Su Anhua seems to get some small pleasure from it and her life is not totally dull anymore. She takes the little radio everywhere, "It is

amazing! The radio seems to bring her some comfort. We used to think we were the most desperate people but lately, through the radio, we have discovered that we are not in that bad a situation, a lot worse things are happening everyday." Xiao Yu said.

Another family, that of the workers' representative Yao Fuxin was also devastated by the hearing on 9 May 2002.

"Oh goodness, it is really bad! If they [the government] really want to punish him, what can we do to fight it? We are simply helpless!" said Guo Xiujing. "If you want to help, then please publicize the case, get the attention of the central government and then they might send somebody to investigate... oh...it is really an injustice... you know they [government officials] want to guard their interests and they would do anything for that...even now they want to mark as us the 'enemy' - which is fateful...you can't really talk reasonably with them" she continues.

Guo Xiujing retired from the Ferro-Alloy Factory in 1996. With 400 Yuan [RMB] pension a month, she and her husband Yao Fuxin, a Steel Rolling Mill worker led a poor but stable life running a small store in the workers' residential area. She would never have imagined that her family would get involved in this now infamous labour movement, nor indeed that her husband would be charged with "subverting state power". Not only was Guo Xiujing surprised at the turn of events, but also old neighbours ask themselves "how can Yao be capable or willing to subvert the state? What nonsense!"

Since 1998, Ferro-Alloy workers have been negotiating with the municipal government for the payment of their long term wages arrears, welfare benefits and the declining profits of the factory caused by the corruption of the factory leaders. The workers' representatives even went three times to complain in Beijing. In November 2001, the factory was forced to go bankrupt and with this terrible disappointment, the workers finally realized that their peaceful attempts to stop the corruption and protect their basic rights and interests was only leading to their own unemployment. After the bankruptcy, there was no possibility of retrieving the huge wage arrears owed to the workers [Xiao Yunliang himself had not been paid for two full years] nor has there been any new employment provided for the thousands of workers. Brought to the brink by poverty and injustice, the workers finally drafted an open letter and began their massive protests. They could not bear to see the corrupt officials getting away with the money they, the workers, had earned through their hard work and they wanted them punished. That was when and how Yao Fuxin was elected as a workers' representative.

"We don't mean to be confrontational or difficult towards the municipal or central government, we do understand that it is a tough job to solve the Ferro-Alloy workers' problems. But initially we workers believed that if we revealed the corrupt officials and made them return the money they embezzled from us and owed to us, then our problems would be solved... our idea was that simple...but then it got worse and worse and now they [the government] are blaming us for all this." Guo Xiujing says.

Her sorrow is a far cry from her reaction to the news that one of the factory's former leaders, Fan Yicheng, the man most believe to be responsible for the bankruptcy was sentenced to 13 years for smuggling and dereliction of duty. Although the charges were nothing compared to the worker's accusations, on hearing the news Guo Xiujing said, "I believe that evil can never prevail over good and...in the end we will win the battle."

When Guo learned that Yao had torn up the appeal documents in anger at the injustice of the criminal sentence she too felt the same rage but add that; "we must appeal - even if we lose everything there is no return to where we came from. You know my husband has already suffered so much in the past year and now he faces another seven

years of suffering." His 24 year old daughter, Yao Dan, is also deeply disappointed at the judgment.

Since the arrest of her father, struggling she has started to share the families burden. She visited her father's lawyer, Mo Shaoping in Beijing several times and each time the police made things difficult for her. In March 2003 she was forced back from Beijing by the police and when she arrived in Liaoyang she was taken by them for eight hours of intensive questioning in an unknown place. Yao Dan says, "I could only afford to buy a hard-seat [third class] ticket to Beijing and after 4 hours in the train, my legs would become badly swollen. Even after so much effort, my papa still has to face that heavy sentence. You know I was so desperate at the hearing, I felt that I was not helping enough."

Still life goes on and she is pulling herself together, she tries to answer everything with "it is not that bad". "Well, it is not that bad, at least it is not a life-imprisonment... there is nothing we can do besides being positive" she concludes. When her mother gets fierce or depressed at times, she can only tell her, "there are only two of us at home and I don't want to see you in this shape... it upsets me so much! I beg you to carry on."

It is almost as if she had been an innocent youth forced to join in an army campaign unwillingly at the very beginning but now she has become a valiant warrior for her father. "There is a Chinese saying; 'you are whom you are close to - you become bright if you get near to the colour of red and dull with the colour of black - and I think it is quite true. I understand and accept what my papa has done and now I think and act like him... I am doing what I think should be done."

Appendix Three: Personal Profiles

Yao Fuxin

Yao Fuxin, born on 29 September 1950 and now 52 years old. Yao is a former worker at Liaoyang Steel Rolling Mill in Liaoyang. His interest in local affairs and the redundancy of his wife, Guo Xiujing, who used to work at the Liaoyang Ferro-Alloy Factory led in part to his involvement in the protests. He was elected in an informal election as one of the representatives of the protesting workers and had been involved in helping organize the workers for several years before his detention in March 2002.

Yao Fuxin, was detained on 17 March for his role in leading 2,000 workers from the Ferroalloy Factory along with a further 15,000 workers from five other factories in Liaoyang in a protest on 11-12 March 2002 against corruption and demanding the payment of wage arrears and pensions. On 30 March Yao Fuxin was formally charged with "Illegal demonstration and assembly". At his trial Yao Fuxin denied all charges of subversion and restated his belief in the government and his original desire to see the plight of the workers resolved.

Yao Fuxin had received little formal education after he was 'sent down' to the countryside as a youth in the 1960's. However, he is an avid reader and taught himself law among other things. Yao Fuxin is of medium height and used to be slightly plump before his detention. According to his family he is frank and trusting with a sympathetic face. His hair has turned grey while in detention.

Yao is married with one daughter, Yao Dan who is 25 years old. Yao Dan has been tireless in supporting her mother and trying to obtain her fathers' release. After he became unemployed Yao and his wife Guo set up a small grocery store for neighbouring homes. This small store became a place neighbouring workers - most of them from the Liaoyang Ferro-Alloy Factory - came to sit, drink tea and discuss the events in Liaoyang and the plight of the unemployed workers. Xiao Yunliang was among the frequent visitors. For this reason, the local PSB viewed the shop as a hotbed of labour activism and it was often targeted in surveillance.

The family told CLB that Yao Fuxin and his wife often gave free goods to the poorest families living nearby. One family in particular received frequent meals and free goods from Yao and his family. While detained, his family told CLB that he had given away his warm clothes to prisoners who were cold and weak

In another story given to CLB Yao and Xiao Yunliang both intervened with Factory officials to successfully get months of missing medical benefits for a local man in his 70's. This was after they had seen his wife begging on her knees in front of the Factory manager who has ignored her pleas for money.

Xiao Yunliang

Xiao Yunliang was born on 6 May 1946 and now 57 years old. Xiao is a retired worker from the Liaoyang Ferro-Alloy factory and he had not been paid any wages or other benefits for the 24 months prior to the March demonstrations. He used to belong to the People's Liberation Army and it is said that that is where he got his upright bearing. Since his detention he has reportedly changed from being a tall man of medium build into a hunched and painfully thin old man. His wife, Su Anhua used to be a plump middle aged housewife but she too has become thin and is weak.

Xiao Yunliang was detained on 20 March 2002, with two other workers from the Ferro-Alloy factory, Pang Qingxiang, and Wang Zhaoming, after a demonstration demanding the release of Yao Fuxin. On 30 March Xiao Yunliang was formally charged with "illegal demonstration and assembly". At his trial Xiao Yunliang also denied all charges of subversion and restated his belief in the government and his original desire to see the plight of the workers resolved.

According to his family Xiao is a serious and candid man who is quick to speak out against injustice and wrong doing. His honesty often irritates some but he has earned the respect and trust of many. Xiao is married with three daughters.

While in the detention centre at Tieling, he reportedly attempted to stop fights from breaking out between inmates and several of the ex prisoners have sent words of encouragement and support to his family. While in the centre he often told others that he would leave before them - unfortunately he now faces four years in prison.

In late April 2003, one ex prisoner visited the family to express how much respect they had for Xiao - such a "good" man and how much sympathy they had with him and his struggle for the rights of ordinary people.

Xiao Yunliang is now in poor health. He is reportedly suffering from an eye condition which if not treated could reportedly lead to blindness. His failing eyesight has been noted since his trial when he was barely able to walk and could not see further than a few feet. On 17 April, Xiao was diagnosed as being blind in one eye with a cataract - a condition easily treated with simple surgery. He is at grave risk of losing the sight in his other eye because of the condition 'floaters' which he is believed to have developed after he was pushed into the police car when he was arrested. There are additional reports that he may be suffering from tuberculosis, probably contracted while in detention.

Appendix Four: Selected and abridged interviews with Liaoyang workers, officials and the families of Yao Fuxin and Xiao Yunliang during March 2002.

1/ Abridged Voice of America Report on Liaoyang Workers' Demonstration

Yang Ming
12 March 2002

(The following is China Labour Bulletin's transcript of the report and has not been checked by the original reporter)

(Voices chanting slogans:
Leader: Workers want to eat!
Crowd: Workers want to eat!
Leader: Workers want a job!
Crowd: Workers want a job!)

Journalist:

On Tuesday morning ten to twenty thousand laid-off Liaoyang workers gathered in front of the city government office chanting slogans, demanding that the leaders of the city government solve the problems of laid-off workers' livelihood and punish Ferroalloy (Tiehe Iin) Factory's corrupt officials. They also protested against police detention of the workers' representatives. One worker said:

Worker:

Some factories have given us some living expenses but still others don't. They're only paying us for two years! And after two years, won't we still have to live? Are we going to hang ourselves? Won't our wives and children have to live? Won't our old folks have to live? Won't the children have to go to school? Whatever they say is a lie.

Journalist:

A woman worker who had never spoken in front of so many people said:

Worker:

Gentlemen, compatriots, just as this friend already said, why do they arrest good people and not the corrupt officials?

(The crowds shout: That's right!)

Worker:

I just want to say these few words: if they try to arrest our representatives, will you let it happen?

(The crowds shout: No, we won't!)

Worker:

This government doesn't stand for the people; they cover up for the corrupt officials. Why don't they arrest our factory officials, who embezzled over a hundred million yuan? It's like worms eating up the factory; hundreds of millions of yuan have disappeared. Why are they not

arrested? They arrest us, workers. Who is this government for?

Worker:

Our fathers' generation gave their blood and sweat for the prosperity of the country and the prosperity of Liaoyang. Now everybody is saying "You offer your youth to the Party, but when you get old no one looks after you." All we want is 180 yuan [a month] for living expenses, is this a crime? ...It's more difficult for us to see the government officials than Kuan Yin Bodhisattva. We have requested meetings with the leading cadres of the government and senior officers of the police, but they wouldn't see us. How come that once the workers started demonstrating, they initiated a meeting? Can we only solve problems through demonstrations?

The reporter also interviewed Mr Pang, a worker laid off from Tiehejin Factory. Pang and another 12 workers' representatives held a dialogue with the city government who agreed ...to have a meeting with the workers' representatives. The workers waited for over an hour in the meeting hall of the city government. Twelve officials, including the Deputy Secretary of the City Party Committee, two Vice-Mayors, secretary of the Policy and Legislation Committee, Chief of Justice of the Court, Prosecutor-General, and the director of the Public Security Bureau (PSB), met the workers. ..

Representative:

They said, "We are very concerned about the problems put forward by the workers. We will definitely do something about them." They were trying to reassure everybody.

Journalist:

Did they offer any specific measures to solve the problems?

Representative:

No, they didn't. They didn't draw any conclusions. We are a little disappointed. But they guaranteed they would do something to solve the problem...Yesterday they issued a warning to the workers' representatives, saying that it was illegal for the workers to demonstrate and shout slogans, and that the police hadn't ... approved the demonstrations. .. the only result of today's meeting is that the government officials and the PSB chief guaranteed that no arrest would be made. They told the workers' representatives they could stay at home and not to worry that they would get arrested. The city leading officials asked the workers' representatives prepare their material and in a couple of days, when the General Secretary of the Liaoyang Party Committee returned they would set a time for another dialogue.

**2/ Over 30,000 Liaoyang Workers
Demonstrate to Demand Yao's Release**

(Abridged Radio Free Asia [RFA] Broadcast on
18 March, 2002 – Han Dongfang)

On the morning of 17 March Yao Fuxin was picked up near his home by plain-clothes police officers despite promises that no representative would be detained. The next morning, 18 March, more than 30,000 workers demonstrated demanding Yao's immediate release. When I inquired about Yao's arrest at the Liaoyang government office, the cadre who answered the phone refused to acknowledge the incident.

Cadre:
Nothing like that has happened. I don't know anything about it.

Han:
Well if you people at the government office don't know anything about it, who does?

Cadre:
You need to ask the Complaints Office. They will know what's going on. Ask them.

I phoned the Complaints Office:

Cadre:
I need to report to our chief first. We are just office staff here and can't tell you anything concrete about the incident. I need to report to the chief first before I say anything.....um...How can I tell you I know about it? I am just an individual clerk. How can I comment on government policies?

I rang the Public Security Bureau (PSB - the police)

PSB Officer on duty:
I don't know about the situation.

Han:
Well if the PSB doesn't know what's going on, who can explain the situation to me?

PSB Officer:
I couldn't tell you. I don't know.

Han:
Who is responsible in the PSB for this kind of ...[phone line is cut]

The following is an account of the events leading up to Yao Fuxin's detention from his daughter, along with a description of the events on the morning of 18 March when more than 30,000 Liaoyang workers demonstrated in demand of Yao's release.

Daughter:
Following the initial several days of petitioning, the chief-of-police and 10 other government

leaders promised us that they would not make any further arrests. [there were several people detained for short periods after the first protests But when my Dad left the house to buy some cigarettes he was detained before he got to the end of the street. It wasn't uniformed police who picked him up but people in civilian clothes.

Han:
When was he detained?

Daughter:
About 8 o'clock yesterday morning. You could say he was kidnapped. We went to the police station but they wouldn't acknowledge he had been detained. They said they didn't know anything about it and all this hadn't happened.

Han:
Have the workers been to the government to demand his release?

Daughter:
Oh yes. They've been to the police station as well. But the police leaders are just hiding.

Han:
How many people took part?

Daughter:
Between 30 and 40,000 from almost all the major enterprises in Liaoyang. They have returned now. Many people are quite old and can't carry on for long. They've all come back now and will demonstrate again tomorrow.

Han:
Now that Mr. Yao has been picked up, are there any other leaders from the Ferroalloy Factory?

Daughter:
Yes. And right now all the workers' representatives are under the protection of other workers. But they can't hide very well. Liaoyang city is only so big, there is nowhere you can hide

Han:
So the situation is that workers from the various factories are providing physical protection for their leaders.

Daughter:
Yes. Everyone has gone back to their neighbourhoods and are sitting around the representatives' houses in order to protect them This is what we have to do. One of us has already been taken away and if others are arrested then who is going stick their necks out and speak up. Especially with this terror going on, we have to rely on the pressure of public opinion at your end. Being just workers, there is no way we can talk to them [the authorities]. The only other way is to lie across the railway tracks. There's not much else we can do. We've been to the central [government], we've been to

everyone we can think of, but nobody takes any notice.

Han:
Have you been to Beijing [to petition]?

Daughter:
Yes, four years ago, but we didn't get any response. No body took any notice of us. The workers from the Ferroalloy Factory know the score. First they went to the city authorities, then the province-level and then finally to the central [government]. Level by level, but it still didn't work. Now the government is saying they will repress us all – arrest everyone.

Han:
There are so many people here, tens of thousands. How can they arrest everyone?

Daughter:
Well of course they can't, but they will still try! There is no way they can really meet the demands of the workers. Their corruption and embezzlement has led to debts too great to cancel out. They can't arrest all the workers. The people who have demonstrated are on the edge of existence with nothing to lose. There're too many for them to arrest all. These people haven't committed crimes. We are simply asking for our wages so we can carry on living – what's wrong with that? I want to live and eat. I don't want to eat fancy food, just enough to get by. Right now, there are so many laid off workers in Liaoyang with no dole and no wages. We are all being squeezed tight. Think about it, if you're 30 to 40 years old and they pay you off with a few thousand bucks – how long is that cash going to last for?

Han:
Are people united?

Daughter:
We're united. How could we not be? Workers from all the city's enterprises have formed alliances. The only reason the workers from the Ferroalloy Factory haven't blocked the railway tracks is that this will give the government an excuse to grab our representatives and lock them up. If it wasn't for this, then we would have blocked the tracks already. With things as they are, why should we fear death?

3/ Update on Liaoyang Workers' Protests

(Abridged RFA Broadcast on 21 March, 2002)

For three continuous days since Monday, 18 March, approximately 4,000 workers and their families from the Liaoyang Ferroalloy Factory have been collectively petitioning the Liaoyang government for the release of their representative Yao Fuxin. Their actions have attracted over 20,000 onlookers and supporters. On the morning of 20 March, the government

ordered anti-riot police to use violence against the protestors and detained three more workers' representatives. Here follows Yao Fuxin's daughters description of the protests in front of government offices.

Daughter:
The situation today was much more serious than the previous two days. There were three representatives detained today, Xiao Yunliang, Pang Qingxiang and Wang Zhaoming. All three were taken away. Today they used the People's Armed Police (PAP) and the Public Security Bureau's (PSB) own cadre police. They all came out and there were three truck loads of guys from a PAP unit in front of the gates to the government offices. The PAP pushed us out [of the government compound] into the rain where we were drenched, including 70 and 80 year old women. The ones wearing steel helmets are the anti-riot police.

Han Dongfang:
Did they use force against the workers?

Daughter:
Yes...
It poured down with rain in Liaoyang today. We all got soaked during the petition and went home when the weather cleared up after deciding we would come back tomorrow. There were about 30-odd people protecting the workers' representatives on the way home. Then the police and the PAP turned up and violently snatched the representatives right there on the main road. Some of the older folks were knocked down and trampled during the pushing and shoving. Lots of people were hurt.

Han:
So it happened when everyone had withdrawn and were on their way home?

Daughter:
Yes that's right, on Democracy Road.

Han:
So does this mean that all the workers' representatives have been detained?

Daughter:
Basically yes. A few people are still here; they are all younger ones who have stuck their necks out, several of whom are under our protection.

Han:
Are they in hiding?

Daughter:
Yes, they're in hiding. ..They also detained another of our representatives, Gu Baoshu, when we were inside the government courtyard. He was trying to talk to the people from the Complaints Office to help us contact the leaders. He was dragged into a small room when nobody was looking. An old woman inadvertently saw

what was happening. About 100 of us went up to the room to get him out. We forced opened the door and released him.

Han:
So he was released?

Daughter:
Yes. Only because we forced the door open.

Han:
Who was inside the room?

Daughter:
The city PSB chief Gong Yi!

I telephoned the Liaoyang government duty office to try and get more information on today's petition.

Duty Office:
I don't know much about this business. They didn't come to us. Ring the Complaints Office, they know about it.

I rang the Complaints Office:

Complaints Office:
No, no, nothing happened. You asked them [the workers]? They are talking rubbish.

Han:
Absolutely no one was detained?

I rang the alternative Complaints Office number:

Office:
You need to talk to the Party Committee's External Affairs and Publicity Office about this matter. They are responsible for all communication with external bodies.

I rang the Party Committee's External Affairs and Publicity Office and asked:

Han:
I heard that several workers were detained. Is this true?

Publicity Office:
Well 'hearing' about something is a bit too convenient. It's your lookout if you are going to [rely on] gossip.

Han:
This isn't gossip. It was the family member of a detained worker who told me.

Publicity Office:
Well you must be much more intelligent than I am. There you are so far away and you know everything and here's me on-the-spot and I know nothing. So what's the point in interviewing me? If you already know, why are you asking me?

Han:
The people at the Complaints Office said you would know what was going on.

Publicity Office:
I am responsible for all the publicity and information work. All news and information has to go via my desk – and I don't know.

Han:
Did the workers come out and petition today?

Publicity Office:
No comment.

Han:
Was anyone detained?

Publicity Office:
No comment.

Han:
These aren't answers.

Publicity Office:
China is a country ruled by laws, and matters must be handled in accordance with the law. I have to keep to legal procedures in my work and this includes reporting and approval procedures. Don't you journalists have to work in accordance with the law as well?

Han:
But don't you think citizens have a right to know what's going on?

Publicity Office:
I do not have the authority to casually pass on information to people.

Han:
Generally speaking, what kind of approach has the government adopted to the workers' demonstrations?

Publicity Office:
No Comment.

Han:
You can't comment on this either?

Publicity Office:
No comment. It's diplomatic language.

Han:
Diplomatic language?

Publicity Office:
It's a diplomatic term we use. No Comment.

I then telephoned Liaoyang Federation of Trade Unions (LFTU) not far from the government offices and the person who answered the phone told me what he knew about the workers' protests and living conditions in Liaoyang.

LFTU:

My home is near the station and I can see the demonstrations and banners around the station. The demonstration started up at nine o'clock.

Han:

What was written on the banners?

LFTU:

It looked like they weren't too happy with the city's leaders...Gong Shangwu. The head of the People's Congress. ...before he was Secretary of the Party Committee. [There have been] three days of demonstrations. There were more people the first two days, three to four thousand.

Han:

How do the ordinary citizens of Liaoyang view the Ferroalloy factory workers movement?

LFTU:

They support it...The city leaders are in the wrong. If they weren't then the workers wouldn't be demonstrating. They don't have enough to live on. Living standards should generally improve. But theirs are not.

Han:

How many Liaoyang workers are living in financial difficulties?

LFTU:

Many. So many people are laid off or have no work. There are two people in my family who are university graduates and they are still at home waiting for work.

Han:

University graduates with no work?

LFTU:

They can't find work. Spend Rmb 30,000, get a reference from the mayor and then you can get work. We can't afford all these gifts and bribes. If you don't hand over the goodies then they don't give you any work.

Han:

What is the percentage of families in Liaoyang who are in this kind of situation?

LFTU:

Between 50 and 60%.

Han:

That many?

LFTU:

Yes of course. There are too many people without an income. The minimum living standard is just no guarantee at all.

4/ Talking to a Liaoyang trade union official

(Abridged RFA Broadcast on 30 March, 2002 - Han Dongfang)

At the beginning of March, Gong Shangwu, head of the local People's Congress and former Mayor of Liaoyang city, Liaoning province, told the National People's Congress in Beijing that there were only laid-off or sent home (xiagang) workers but no unemployed workers in Liaoyang. And for those who are unemployed, the city government could still guarantee them payment of 280 yuan living expenses a month.

The speech, which was broadcast on Liaoyang Television, immediately ignited the anger of the impoverished Liaoyang workers who were not receiving benefits. From 11 March, over 10,000 workers from six major enterprises, including the Liaoyang Ferrous-Alloy Factory, participated in spontaneous street demonstrations demanding the city government fulfil the promises Gong Shangwu said in his Beijing speech and immediately pay the workers' salaries as well as the pension funds, year-end bonuses and medical funds owed to the workers by the enterprises. They also asked that Gong Shangwu resign unless he delivered what he had said was the situation.

I talked to a Liaoyang trade union official about what role the trade union should play after the workers' rights had been damaged and the workers' representatives had been arrested.

Han Dongfang:

Has the trade union contacted the government to free the detainees?

Official:

Ask the government complaints office about that they have more precise information.

Han:

But now I would like to ask what the trade union did.

Official:

I am not sure about the details of what our trade union did.

Han:

So, who would know?

Official:

I'm not sure; I don't know who would know about this problem.

Han:

But what is the role of the trade union when something like this happens?

Official:

I really don't know, don't ask me about this. I am just not sure.

Han:

What I would like to ask is what role the trade union can play in this.

Official:
So, what do you say, what role should our trade union play in this?

Han:
That's why I am asking you; is the role the union plays such a big secret?

Official:
It's not a secret at all, but even so I can't discuss it with just anyone.

Han:
Has the Legal Department of the Union offered legal service to the families of the worker's representatives; for example represent (the families) and visit them in the detention centre?

Official:
We don't really know how they got arrested, we are not clear about that either.

Han:
The trade union is the representative of the workers, so...

Official:
Would the police have to report to your trade union about the arrests?

Han:
If the police make unreasonable arrests, the trade union must intervene...

Official:
What is unreasonable? How do you know if they were unreasonable?

Han:
Well, did the trade union enquire if the arrests were reasonable?

Official:
I am not sure. You always call and ask these difficult questions, what am I supposed to reply?
...

Han:
But arresting people will exacerbate the conflict; that's for sure, isn't it?

Official:
I can't tell if arresting people will exacerbate the conflict.

Han:
But isn't it true that arresting people will not solve the problem?

Official:
Neither the papers reported, nor the police or the government told us whether people got arrested or not, if they were arrested or detained or what. I suggest you call the government complaint bureau, or call the phone

number of the Mayor, 12345, talk to them about these questions, ask them if arresting people will exacerbate the conflict.

...

Official:
Do you believe in the government?

Han:
Sometimes I can't.

Official:
Sometimes you can't? When can't you?

Han:
When they break their word.

Official:
When did the government break their word?

Han:
On the 11th and 12th the government public security bureau said they would not make any arrests.

Official:
Tell me, why did they want to make arrests? Why did they want to break their word? How did the government break their word?

Han:
On Sunday they arrested a worker.

Official:
On the 17th?

Han:
Yes, on the 17th they arrested a worker's representative. The government broke their word. The on Monday, the 18th, the workers held street demonstrations and they arrested three more workers' representatives. The government is getting tougher and tougher; isn't this exacerbating the conflict?

Official:
The government has also devised different ways to alleviate this conflict. They created employment opportunities to these Ferrous-Alloy Factory workers; they created jobs for them. Only today, they created jobs and work conditions for them in the Ferrous-Alloy Factory Club.

Han:
But this is not an excuse to arrest people!

Official:
I cannot understand why you only want to discuss these arrests.

5/ Workers' Voices from Liaoyang Prior to the 16th Party Congress

(Abridged RFA Broadcast on 6 November 2002 - Han Dongfang)

Led by Ferro-Alloy workers, state workers demonstrated again in front of the government offices on 5 & 6 November demanding the release of the Liaoyang Four and the payment of unemployment allowance they were entitled to in accordance with the laws and the refund of the housing scheme fund, which their factories collected from them previously. A retired worker from the Ferroalloy factory, Guo Xiujing talked about the demonstrations.

Guo Xiujing [Guo]:

We went [to the city government offices] again today, but not many were going. It's rather cold here these days. We did not have that many people today, our factory [Liaoyang Ferroalloy Factory], plus the Steel Rolling Factory. There are about 200 of us.

Guo

The police were not too ruthless; they just wanted to drive us away from the square, but their attitude was not too bad. Yesterday we had lots of people [in the demonstration], a lot were from the other factories. I guess there were three to four thousand people. Workers from Liaoyang Textile Factory, Liaoyang Flax Mill, Canning Factory, Ferroalloy Factory, Steel Rolling Mill and some small factories [joined the demonstration]. We hoisted up a red banner that read "Welcome the 16th Party Congress and Implement the Three Represents" and a white banner reading "What Crime have the Liaoyang Four Committed?". After a while, the police [from Liaoyang Public Security Bureau] didn't allow us to hoist the white banner, but they were very friendly. The PSB chief, a new one, was there and said, "I promise we won't arrest anybody". That chief assumed his post lately and his attitude was really good.

Han:

They have got a new PSB chief?

Guo:

Yes, already a while.

Han:

When was it?

Guo:

Before May.

Han:

After the start of the protests?

Guo:

Right. After that and before May, about two months after Yao Fuxin and the others were arrested.

Guo said that three open letters were posted a few day ago in different workers' residential areas, signed in the names of "Party members", "young workers" and "retired workers". The open letters made four demands and appealed to the workers to gather in front of the city government offices on November 4, 5 and 6.

Guo:

First, we demand the release of our four representatives and a clear decision. Second is the heating subsidy; they canceled the heating subsidy and we have to pay by ourselves, The Finance Bureau pays only for the retirees and the rest have to pay by themselves, and they would really be in trouble if they have to pay for the heating. Then, that housing fund, and lastly two years' unemployment allowance and the basic living allowance which is stated in government regulations. The workers are out of job, and the government should pay the basic living allowance. For instance, in Liaoyang, it should be 182 yuan each month. And if a couple both got laid off and could not find another job, they should be paid the basic living allowance. But no, the government is not paying that.

Han:

What did the government say?

Guo:

In the broadcasts, the city party committee and the mayor announced that 120,000 out of 130,000 retrenched workers had been re-employed, something like 96% of the city's previously unemployed workers had found new jobs. But we are all staying idle at home. The Liaoyang city [government] is always good at cheating the central government while bullying the ordinary folk. We have no way out! Corruption! Ferroalloy workers care no more about it because these few guys ended up in jail. What is the point fighting corruption? Now we only want to have the four people [Liaoyang Four] back, and also our welfare which they should have given us.

Han:

Are you afraid, as the 16th Party Congress is approaching?

Guo:

Afraid? How could we be afraid when we have so many troubles? Who could be scared? We all stay at home, living on our savings; our money was not even enough for paying the insurance, heating, and all others. We have to pay everything by ourselves, and we don't know what to do. How can we survive? What could scare us? We have been forced to come forward, and we fear nothing.

A retrenched worker from the Paper Mill, next to the Ferroalloy Factory, talked about his family's financial difficulties.

Worker:
The Ferroalloy Factory and the Paper Mill are neighbors. I was retrenched, with a big group of workers and we did not receive any living allowance.

Han:
Since when?

Worker:
Already for eight to nine years. There are three generations in my home and I am in the middle, having one kid. My parents are not working; they are quite old, eighty something and from the village.

Han:
Do they all depend on you?

Worker:
Yeah, and we do have a hard life.

Han:
Are there many cases like yours in your neighborhood?

Worker:
Sure, a lot. Hmm, about half or one third are like this...Actually people are sympathetic. They think it is right [to protest], as there is no other way out.

Han:
What is their view of the arrested workers in March?

Worker:
People think that it is unreasonable to arrest them. They are just worker representatives and they have to have some representatives. I mean it is impossible to negotiate with several thousand and tens of thousand workers. So they need some representatives and you just can't arrest them, isn't it?

When asked if he had any expectation of the upcoming 16th Party Congress, the paper mill worker said:

Worker:
Of course I have expectations. The immediate interests and livelihood of workers are not guaranteed. Some retrenched workers might have 10,000 bucks [when they are retrenched] but there isn't much left after they pay the pension insurance. It's all about our livelihood. Now, workers keep going and protesting the city government and all their actions are all for this single issue. If their basic livelihood is guaranteed, they wouldn't bother to go, right? Who wants to go out in such a cold day? Isn't it? It is all for their livelihood.

Another worker from the Liaoyang Carton Factory shared his views on the protests over

the past two years and the upcoming 16th Party Congress:

Worker:
My view on the worker's action is this: those workers from the Ferroalloy Factory have made a complaint directly to the city party committee about the unfair situation, and they have marched in protest to urge the party committee to deal with them. But for the Carton Factory workers, whether laid off, retired or retrenched, damn it, we don't have the courage, and we don't have a clue about it.

Han:
As a worker, what do you expect from the 16th Congress?

Worker:
What do I expect? ... I expect that at the 16th Congress...Well, for those laid-off and jobless workers, the government will do something for them. After all, these common people... are people of the Communist Party. We shouldn't let them worry about every single meal, just like my case. This is what I think.

Han:
Do you have to worry about every single meal now?

Worker:
Not now. But I'm afraid this won't last long. We're almost there basically.

Han:
Say, in your case, how much longer can you hold on?

Worker:
Me? A year or so, I guess.

6/ The Liaoyang Interviews: CLB Follows up Accusations of Violence against Yao Fuxin by ACFTU Leader

(Abridged RFA Broadcast on 12 November 2002 - Han Dongfang)

On 11 November 2002, at a press conference held during the recent 16th Party Congress in Beijing, ACFTU Deputy Chair Zhang Junjiu claimed that Yao Fuxin and three other labour organisers who had organised protests against corruption at the Liaoyang Ferroalloy Factory were being held for car-bombing. The next day, the official newspaper Shang Bao (Commercial Times) reported Zhang Junjiu's remarks that people involved in violent activities such as burning cars, beating, smashing property and looting would be dealt with according to the law in any country.

However when asked if Yao Fuxin or any other of the detained workers representatives had

blown up any cars during their petitioning activities, an official at the Liaoyang government's General Office said that he had not heard anything of the sort.

Official:
I haven't heard of or seen anything like that.

Han Dongfang [Han]:
You haven't heard anything?

Official:
No. Not at all.

Han:
Did they take part in any other kind of violent activities?

Official:
No. Not that I have heard of.

Chairman Su of the Liaoyang Federation of Trade Unions (LFTU) told me that such talk of car-bombing by Yao or the other representatives was sheer fabrication.

Han:
Hello. Is that the LFTU? Is Chairman Su in there please?

Chairman Su:
Who is speaking?

Han:
Are you Chairman Su?

Chairman Su:
Yes.

Han:
Hello. My name is Han and I am calling from China Labour Bulletin. I'd like to clear up a matter concerning the Ferroalloy Factory petition back in March this year. When they were petitioning, were there any incidents of car-bombing?

Chairman Su:
Absolutely not!

Han:
None at all?

Chairman Su:
No!

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

Chairman Su:
No!

Han:
It was all peaceful?

Chairman Su:
Yes. Everything was peaceful.

Han:
We have heard reports that Yao Fuxin was involved in car bombing.

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

Han:
None at all?

Chairman Su:
No. No!

Han:
What was the most serious incident?

Chairman 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.

Chairman Su:
Not that I can see.

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

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

Han:
But you can confirm there was no car-bombing?

Chairman Su:
Absolutely! That is a rumour.

An official from the Liaoyang government security office also confirmed that there were no incidents of car bombing. He said there was one incident during the petitions when a large number of workers poured into the government office's canteen during lunch hour and ate all the canteen's steamed bread.

Han:
Is that the Liaoyang government security office?

Security Office:
Yes.

Han:
Can you confirm for us that during the Ferroalloy 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 into burning cars. Was there anything like that?

Security Office:
No.

Han:
Was there any violence in 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 was on a roll. Yao Fuxin was up on a platform shouting that there was food in the canteen so let's 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.

Retired Ferroalloy Factory worker Guo Xiujing said that the canteen incident had indeed taken place but this was not at the instigation of the workers' representatives. The four detained representatives had successfully stopped the workers from blocking the railway lines on many occasions so why would they encourage the workers to loot the public canteen?

Guo:
I heard that they went up to the canteen but it was nothing like they (the government) describe it. I mean, it's hardly likely is it. The representatives were very cautious as they were afraid of any repercussions. They were particularly worried about the younger workers getting carried away and there would be trouble. But they prevented anything like that happening. They had to act responsibly or there would have been trouble and then what could they have done? They did not lead the workers into illegal activities. That's just not possible and they were very prudent. At the time when people were on the streets they were telling everyone that they

had to respect the law and regulations. That's what they were telling people.

Han:
What were the most extreme demands of the workers?

Guo:
To block the railway tracks.

Han:
And how did the workers' representatives react to that demand?

Guo:
They wouldn't allow it! They stopped it.

Han:
They stopped it.

Guo:
That's right. Otherwise how is it that there were no disciplinary problems with the Ferroalloy workers? Everything was under control and there were no problems. The representatives had to keep things like this and if it wasn't for them who knows what would have happened at Ferroalloy. That's why the workers haven't forgotten their representatives and feel remorse. Everyone figures that we chose them [as our representatives] and pushed them to the front of the struggle and now they have been detained. Some of the workers' demands have been met and others are still outstanding such as welfare arrangements etc. Everyone feels very deeply about this business and they will not forget the people in detention.

7/ The Iron Fist of Repression Can't Stop the Workers' Movement

(Abridged RFA Broadcast on 4 January 2003 – Han Dongfang)

On 30 December 2002, The Liaoyang City Procuratorate gave verbal notice to the lawyer of Ferroalloy Factory workers' representative Yao Fuxin that they had handed an indictment to the court. Yao, who has already spent nine months in detention, is to be charged with "subverting state power". Relatives of XiaoYunliang, a fellow Ferroalloy Factory workers' representative who was detained at the same time as Yao also received notice from the court that the Procuratorate had indicted him with the same crime.

CLB spoke with the Yao Fuxin's daughter to find out more about how family members and the people of Liaoyang felt about the charges.

Daughter:
At first I was very worried about the case as I thought the workers would have been too afraid to come forward and give evidence on behalf of my father. But it is has not been nearly so bad

as I imagined. There have been many people who have come to my house on their own initiative and talk with me about the whole matter. They have asked me to let them go to court and give evidence. So I am still very confident about the case.

Han (Han Dongfang):
So people are jumping to your father's defence?

Daughter:
That's right. Everybody feels that there should be no misgivings about this matter and that it should be based on the truth - it is simply a case of protecting our rights. People feel very strongly that things should be done properly.

Han:
This reaction must be heartening to you?

Daughter:
Certainly.

Han:
If Yao Fuxin and Xiao Yunliang are sentenced on the charge of subverting state power, do you think that this will put an end to any talk of a working class regime?

Daughter:
That's precisely the point. Aren't they always telling us that the workers are masters of our country and how important they are? And yet they can't even obtain guarantees on basic rights. This will make all that sound like so much empty talk.

Han:
Do you think that by sentencing these two, the problems at other nearby factories such as Liaoyang Carton Factory - let alone factories all over the country - will be resolved?

Daughter:
(Laughing) You're kidding! It's not just the Carton Factory either. There's trouble at the textile plant, the hemp factory...there are many factories and work units in the same boat. Back in March there were tens of thousands of workers out on the streets all facing the same fate. That's the reason why so many people were willing to demonstrate and petition even in the freezing cold. What do you think?

Han:
Yes you're right. In Liaoning province alone [Liaoyang city is in Liaoning - Ed] do you think that is going to scare off other workers, in the towns of Dandong and Panjin for example?

Daughter:
Well. How can I put it?...They are thinking that by sentencing my father and Xiao Yunliang they can stop things getting out of hand generally. It's like the saying they're fond of -- "wiping out a situation before it takes seed" -- isn't it?

(Laughing). It seems they think [the Ferroalloy protest] represents the seeds. But in my view this is not something they can destroy. These seeds could slowly grow into a large tree.

Han:
Moreover, if they can really destroy [a movement] before it takes seed or frighten off the others by making an example of one or two people, people must basically content to start with.

Daughter:
Precisely!

Han:
What good will it do them to sentence these two? It's not going to solve the basic issues of poverty and jobs.

Daughter:
Right. It reminds me of another saying, that there are basically three types of people in the world: those who wait, those who act and those who watch. I think my father is one of those who puts all his efforts into taking action to uphold workers' rights. The other workers are waiting to see what will happen before they move. The last category is the more old-fashioned folk who sit on the sidelines watching it all happen. If my father really is sentenced, even these people will see just how bad things really are and that could lead to even more people getting involved [in protests].

Han:
As Yao Fuxin's daughter, would you persuade him not to get involved if you could turn the clock back?

Daughter:
Certainly not! I support my father one hundred percent.

Han:
Are you sure?

Daughter:
Yes. I am proud of my father and what he has done even though it has landed us up in a family crisis and hardship. I think it's worth it. It's me who should feel proud of my father. How... how can I put it? I stand with him. I don't necessarily think he is right on everything, but I understand his motives.

I called several telephone numbers in the Ferroalloy Factory district to try and gauge opinion on the charges laid against the workers' representatives. The following is a conversation with a farmer from a nearby village. I first of all asked if she had heard of the Ferroalloy workers' demonstrations:

Farmer:
Yes, I have heard about them.

Han:
Did you know that some people have been detained?

Farmer:
Yes, I know about that as well. I don't know if they have been released.

Han:
Have you heard that two of them have been charged with subverting state power?

Farmer:
Really? I didn't know that. There was a short spell last year when they were marching to the government offices twice a week. It was a big fuss at the time. .. I saw the Ferroalloy Factory banners. It was all very grand and said they had detained two people.

Han:
What do you think about the workers' mood and attitude? Do you think they are right or wrong - or completely out of order?

Farmer:
I wouldn't say they're out of order. But they are certainly not in a good frame of mind. Those who were laid off...well, the ones who received compensated redundancy got about one or two thousand yuan, but the ones who were laid off got nothing and it's really hard to find work. It's tough for them.

Han:
As someone who isn't directly involved, do you think that the charges of subverting state power laid against the workers' representatives are justified?

Farmer:
Of course they are unreasonable. Basically this is about workers' rights as well as individual rights.

Han:
Do you think the factory workers will be convinced [by the charges]?

Farmer:
No, I don't think they will. It's a question of workers' rights. The laid off workers... they really...there are two laid off Ferroalloy workers in my family and they are in real difficulties. There's not much chance of finding a job when you're the wrong side of forty or fifty even. You see what I'm saying? It's really hard for them. These are older people who don't have the physical strength to take menial jobs. And they don't have the skills for technical workers. Some people say they can farm a bit of land to get by but they can't do that either. I know someone else who was laid off from the Ferroalloy Factory and started making quilts, earning only three hundred yuan in a month - and it's pretty tough.

Han:
If these two are sentenced on the grounds that they have subverted the government, do you think it will scare off other workers from speaking out?

Farmer:
No. The workers won't just stop at that and will continue to petition. There are still people who will take the lead...They won't be able to scare them. Doing that will just make matters worse. It's not just the workers from the ferroalloy plant. Before that, there were miners on the streets though I don't know what that was about.

Han:
As a third party who wasn't employed at the Ferroalloy Factory and not directly involved, what advice would you give to the government?

Farmer:
Well obviously I would ask them to release the people in detention and also look at the whole issue from the point of view of the workers and the poverty they are in. I'm telling you, it really is hard for them and they feel it is very unfair. How could they have kept them in detention for so long?

Han:
Do you think the best way out of this mess is to go ahead with the sentences or release them?

Farmer:
Release them. Don't you agree? I reckon that's the best way.

Farmer:
Back when they were demonstrating, we saw the workers, they were just ordinary people dressed in ordinary clothes out there in freezing weather. If it was me like I was laid off or my neighbours or people from my work unit being sentenced for leading the protests...if that happened to me, I would definitely continue to petition the authorities. It's only right.

8/ Trial Date of Liaoyang Labour Activists Has Yet to be Decided?

(RFA Broadcast on January 13, 2003)

On January 8, Liaoyang Intermediate People's Court confirmed with us that Yao Fuxin and Xiao Yunliang, the two representatives in the workers' struggle of Liaoyang Ferroalloy Factory, had been charge with subversion against the state and the trial will be held on January 15. On January 13, two days before the trial, a spokesman of Liaoyang Intermediate People's Court told me that as they have not yet decided whether it would be an open trial, how the sentence would be measured, whether the trial would proceed as planned, and whether it would still be open to the public. This spokesman said

that the court is waiting for the notice of the higher leadership:

Court:
The final schedule hasn't been decided yet.
Don't worry.

Han Dongfang (Han):
Haven't they decided that the trial will take place the day after tomorrow?

Court:
Well... Who told you that it's the day after tomorrow?

Han:
I called the court last week, and they said that the trial has been set on 15 January.

Court:
You haven't called this number. Listen to me - It hasn't been decided yet. I'll let you know when it's confirmed.

Han:
So it hasn't been decided that the trial will take place on 15 January?

Court:
Let me see... it is still under review. It hasn't been decided yet.

Han:
Why?

Court:
I can't answer you. This is the business of the leadership.

Han:
Will the trial be open to the public?

Court:
That hasn't been discussed. No decision yet. I will give you a firm answer when it's decided.

Han:
That means there hasn't any decision on the trial date and on whether the trial will be an open one.

Court:
Last time you heard that the trial would start on 15 January, right?

Han:
Right.

Court:
Oh, no decision on the time and date yet. When that... is decided... I will tell you. We are still waiting for instructions, do you understand? You are not the only one who called; many people called us too.

Han:

Is there a chance that they will withdraw the charge in this case?

Court:
I'm not able to answer your question. (laugh)

Han:
Any possibility?

Court:
It can only be decided in court. It is difficult to say at this stage whether they will withdraw the case or not.

Han:
Do you think there is such a chance?

Court:
I really can't tell you that. It can only be decided in court.

Han:
Well, the trial will definitely proceed, right?

Court:
I think so.

Han:
And when it comes to the sentence, it is a different issue, isn't it?

Court:
Yes, yes. Your answer is correct this time!
(laugh)

Han:
Will they be given a...lighter sentence?

Court:
Yes, yes. Some are in favor of such an opinion.

Han:
In favor of this opinion?

Court:
Mm... Right.

Mo Xiaoping, the lawyer who represents Yao Fuxin, went to Liaoyang to meet with Yao Fuxin last Friday. He said that he is prepared for the trial on 15 January.

Han:
You've met with Yao Fuxin, haven't you?

Lawyer:
Yes, I have.

Han:
When did you see him?

Lawyer:
Last Friday. The case will be tried on Wednesday in the main chamber of the Liaoyang City Intermediate People's Court. There are probably more than 200 seats in that chamber - as told

by the Judge – around two to three hundred seats. He has been charged with “subversion against the state” .

Han:
Have you seen the files?

Lawyer:
I’ve seen them.

Han:
After reading the files and discussing them with Yao Fuxin, what do you think about the chances of a not-guilty defence. ?

Lawyer:
It is difficult for me to say now! We are still studying the case. As he is brought to trial openly, we can only come to a preliminary conclusion after all the evidences have been put forward in the court publicly.

Han:
Did he confess that he has participated in any subversive acts?

Lawyer:
No, he didn’t. Yet it still depends on his attitude when he faces his trial in the court.

Han:
How is Yao Fuxin’s health?

Lawyer:
He is in good condition. The Public Security Bureau sent him to the hospital to have a medical check when he was sick. He stayed in the hospital for 3 months, so he should be in excellent condition.

Han:
How about his mental state?

Lawyer:
It’s good too. He has a clear mind towards all these things... all these issues.

A laid-off worker from the Liaoyang Water Meter Factory told me on the phone that not only will he try to see the trial, but he will also tell his friends and ask them to go together.

Worker:
Tomorrow [15 January] we will go there!

Han:
Is it far away from your place?

Worker:
Quite far away. But no matter how far away it is, we are all people in Liaoyang, so we should go there to see what’s going on! Others may also go too.

Han:
You mean you will tell the people you know?

Worker:
Right. I will talk to them, and ask them to go if they have time.

A worker from the Liaoyang Chemical Factory told me that it was inappropriate to charge Yao Fuxin and Xiao Yunliang with subversion. He continued to point out that if any one of them is found guilty, the Ferroalloy Factory workers will react against it.

Worker:
It’s all like this. There’re tens of millions of laid-off workers; everywhere in our country is the same, not just in the city of Liaoyang. It is so common. In the current situation, the main conflict within the country is the problem of employment, isn’t it? How to say this, the problem... people are starving, and they are now being....if they are really convicted of this ‘subversion] charge, people will certainly take some extreme measures!

Han:
Do you think that worker’s actions on the streets will lead to the “subversion of the state”?

Worker:
No. ..It shouldn’t be like this. They have to feed themselves! Nothing else. It’s not that serious. They only want to feed themselves!

Han:
If they are found guilty of subversion, what would you think?

Worker:
I think it would be inappropriate.

Han:
Will it cause a reaction among the workers if they are found guilty?

Worker:
Definitely, we will be upset. Well, like the slogan says, [our actions] are for the sake of feeding themselves, nothing else. As long as they have food to eat, that’s okay.

Worker:
We have this sense of crisis. This at least has given a blow to many people in Liaoyang City. Those representatives are caught not for the sake of their own interests. I think many workers from the Ferroalloy Factory will go there they are more concerned about the case, because it involves their personal interests. The factory is close to us. It has been closed, and the people have gone home.

Appendix Five:

Chronology of events in Liaoyang 1998 – May 2003

1998

Yao Fuxin and 9 other workers' representatives visit Beijing to complain about the corruption in the Liaoyang Ferroalloy Factory.

15 May 2000

Some 5,000 workers and retired workers stage a demonstration, blocking the main Zhenxing highway which connects Liaoyang and Shenyang in protest at 18 month wages-arrears.

16 May 2000

- At 1 am, 700 public security officials and 200 armed police take action and violently disperse workers, injuring at least 50 workers with batons. Three workers representatives, Xiao Yunliang, Pang Qingxiang and Lu Ran are detained.
- At 8 am, more than 5,000 angry workers protest at the municipal government offices with banners "wage-arrears are a crime" and "Release workers' representatives". About 1,000 public security officials and armed police set up a roadblock to stop them and conflicts occur. The three men are later released.

17 May 2001

Instructed by the municipal court officials, some 50 men break into the factory at night and remove ore used in production. The factory's security chief informs Yao Fuxin immediately and Yao comes with eight other workers. However, the workers are powerless to stop the theft. More than 2,000 tones of ore are stolen and some 3,000 Ferroalloy workers protest the next morning. A representative from the Liaoyang municipal government promises the workers a full investigation and report on the theft within seven days but this never materializes.

Mid-October 2001

- A Workers' Congress meeting is held to vote if the Ferro-Alloy factory should go bankrupt [This is a legal requirement before an enterprise can be declared bankrupt - clearly this meeting was seen as a formality only by the factory management and as a foregone conclusion].
- Liaoyang PSB deploys riot police [with helmets, shields and batons] and many police vehicles near the factory entrance. Plainclothes police and vehicles are assigned to guard the workers' residential area. Workers' representatives are put under close surveillance by the PSB in case they organize another protest. The voting hall is divided into 13 areas and guarded by plainclothes police so that the workers cannot communicate freely. Some workers refuse to vote and leave as they find the supervision unbearable. Some vote no to the bankruptcy in the ballots but their ballot sheets are torn up by the police.

5 November 2001

- The municipal government and the court announce Liaoyang Ferro-Alloy Factory

"bankrupt".

- About 100 factory officials and workers with good connections, including the factory's trade union chairman continue to work in the two workshops which are still operating.

3 March 2002

- Ferro-Alloy workers release an open letter, containing detailed arguments about the true cause of the factory's bankruptcy. The letter expresses their wish to solve the problems raised by the bankruptcy, such as reemployment and compensation in reasonable means.

5 March 2002

- An open letter "*Four years of fruitless accusations against corruption: The General Secretary [of the CCP Central Committee] must help us*" signed by 6,000 unemployed workers from the bankrupt Liaoyang Ferro-Alloy Factory is addressed to Jiang Zemin, the President of China. The letter contains a full description of the factory's bankruptcy including the alleged corruption and illegal dealings between the factory leaders and government officials, the massive embezzlement of state property, the causes of the illegal bankruptcy and the workers' current situation without income and compensation. The letter also states that since 1998, the workers have organized themselves and complained to the municipal, provincial and central governments, but their complaints have not been heard. The letter asks Jiang Zemin to help solve the worker's troubles using the "Theory of Three Represents".
- The unemployed workers also send an open letter to the Liaoning Provincial Governor Bo Xilai describing the bankruptcy of the factory and the corruption and bribery of the former factory leader Fan Yicheng. The letter asks for Fan to be punished and for the welfare payments and basic living expenses owed to the workers to be paid.
- The National people's Congress [NPC] begins in Beijing.

11 March 2002

More than 10,000 workers demonstrate in front of the municipal government offices. They demand the government recall the Liaoyang municipal representative of National People's Congress, Gong Shangwu, as they believe he has not done a proper job in representing the workers and supervising the local government. Several people were briefly detained.

12 March 2002

- Some 10,000 to 20,000 unemployed workers demonstrate in front of the Liaoyang municipal government. The workers demand that government leaders solve the issues affecting their livelihood, punish the corrupt factory leaders and express their discontent with the brief detention of the workers' representatives by the PSB.

- After a long discussion, the municipal government leaders finally agree to meet the workers' representatives at noon. The deputy secretary of the Municipal Party Committee, two assistant mayors, the secretary of the Political and Legal Affairs Committee, president of the court, procurator-general and PSB chief [12 officials in total] meet the workers' representatives. According to a worker, the workers' representatives raise the issues of corruption, bankruptcy, unemployment and the detention of the other workers' representatives to the government leaders. It is reported that the only achievement of the meeting is the promise by the officials [including the PSB] that no more workers will be detained.
- According to sources, the police then adopted a repressive strategy in an attempt to take control of the situation. They sent warning letters to workers' representatives proclaiming the illegality of the demonstrations which did not have prior PSB approval.

17 March 2002

Ferro-Alloy workers' representative Yao Fuxin is taken away by several plainclothes police near his apartment in the morning.

18 March 2002

- Yao's family goes to the PSB to ask for Yao Fuxin, but the PSB denies that they have detained him.
- By noon, more than 40,000 workers from some 20 factories protest to demand the release of Yao Fuxin. The factories include: Ferro-Alloy Factory, Textile Mill, Piston Ring Factory, Instrument and Meter Plant, Leather Factory, Precision Instrument Plant, Carton Mill, Printing Factory, Liquefied Gas Tank Factory, Paper Foils Factory, Metal Forming Factory, Shoushan Machinery Factory and Qingyang Chemical Plant.
- Other workers' representatives are protected by fellow workers to avoid further detentions.

19 March 2002

Workers continue to protest and ask for the release of Yao Fuxin.

20 March 2002

- At 8.30 am, more than 2,000 Ferro-Alloy workers gather at the entrance of the municipal government offices to ask for the release of Yao Fuxin. Gu Baoshu, another worker representative goes to the government office to negotiate and is immediately apprehended. A witness reports this to the workers waiting outside and many workers immediately rush inside to rescue him. They smash the door of the room where Gu is held and release him.
- At about 11 am, the Liaoyang municipal government sends a troop of armed police to detain three Ferro-Alloy workers' representatives on the demonstrators' way home. About 40 older workers surround Pang Qingxiang, Xiao Yunliang and Wang Zhaoming on their way home in order to protect them from arrest. However, when they are still in the vicinity of the government offices, about 100 armed police break up the protective barrier

and take the three men away.

21 March 2002

- In the morning, about 1,000 Ferro-Alloy workers meet at the municipal government entrance and request the release of the 4 workers' representatives. Pang Qingxiang's wife, Guo Suxiang, is also detained in this protest. A bystander from a fabric factory who complained that this was unreasonable is also detained.
- Liaoyang PSB's Baita District Office serve the 4 workers representatives' families with official notices of detention for "illegal demonstrations" [article 296 of the Criminal Law]. The four are held at Tieling City Detention Centre, Liaoning.
- Pang's wife Guo Suxiang is released in the afternoon, but no news is heard about the other worker from the fabric factory detained at the same time.
- In the evening the PSB allows Yao Fuxin to call his wife in the hope that it will diffuse the situations and will deter workers from further protests.

22 March 2002

The police inform Guo Xiuqing that her husband Yao Fuxin is seriously ill and has been admitted to hospital.

28 March 2002

- International Confederation of Free Trade Unions [ICFTU] lodges a letter of complaint demanding the immediate release of the five Liaoyang workers' representatives [this includes the man detained when Guo Suxiang was detained who was released shortly afterwards]
- Some Liaoyang workers and families of the detainees gather by the entrance of the municipal government to ask for details of the detainee's current situation.

29 March 2002

Warrants for arrest are sent to Yao Fuxin, Xiao Yunliang, Pang Qingxiang and Wang Zhaoming. They are charged with "illegal assembly, marches and protests".

11 April 2002

Yao Fuxin's wife Guo Xiuqing is allowed to visit her sick husband in the Tieling City Detention Center, Liaoning.

15 April 2002

Ferro-Alloy workers visit the municipal government office to ask for the release of the workers' representatives. To avoid confrontation and further detentions, they do not gather to demonstrate but send a few representatives to the government's complaints office to ask to see the mayor.

16 April 2002

- At around 8 am, police break into Ferro-Alloy workers' representative Gu Baoshu's home and take him away bound and gagged. When the workers learn about this they go to his home in a futile attempt to stop the police taking him away.

- The workers send an application for a permit to hold a march to the new secretary-general. However they are told that the application is invalid unless all organizers names are given. The workers refuse to provide a name list [to avoid further arrest] and make clear that if they are not allowed to protest and if Gu is not released they will deliver a collective complaint to Beijing or block the railway.
- Under pressure from the workers, PSB releases Gu Baoshu at night.

23 April 2002

- Since the workers started their mass protests, the government has met many of the economic demands initially raised. For example; medical fees have been reimbursed, 50% of wages arrears has been repaid and pension insurance cards have been given to workers.

29 April 2002

- Ferro-Alloy workers apply again for a permit to march but again it is rejected without a list of the organizers names and details.

1 May 2002 [Labour Day]

Yao Fuxin's wife Guo Xiujing tells CLB that the secretary-general of Liaoyang municipal government told the workers that the Liaoyang Four "had been found guilty and no release could be made". It is also reported that the taskforce assigned to calm the situation at the factory has left.

5 May 2002

- At midnight, a "Letter to our Fellow Liaoyang Citizens" is posted on walls of the Ferro-Alloy workers' residential areas. According to Guo Xiujing, the letter demands:
 1. the unconditional released of the workers' representatives and an apology to the workers;
 2. an investigation into the bankruptcy of the factory must be carried out and responsibility must be allocated;
 3. an investigation into the embezzlement of 3 million Yuan of public funds must be carried out;
 4. those who forcibly apprehended Gu Baoshu on 16 April must be punished;
 5. the rights of unemployed workers must be protected.

The letter calls on the workers to meet at the government offices on 7 & 8 May. The letter is removed by PSB officials.

7 & 8 May 2002

- 400 to 500 workers gather by the entrance of municipal government.
- In the morning of May 8, Guo Xiujing and 3 other workers' representatives deliver an application for a march and protest, signed by some 20 workers' representatives. The PSB refuses to accept the application.

9 May 2002

- Ferro-Alloy workers continue their protests in front of the municipal government for three successive

days demanding the release of those detained. The workers want Gong Shangwu, the municipal representative of the NPC to fulfill his promise at the NPC that 280 Yuan is being given to retrenched and unemployed workers.

- At 9 am, several hundred workers bring banners calling for the release of the detainees to the government offices.

10 May 2002

- Ferro-Alloy workers continue their protest in front of the municipal government. Two officials from the government's Complaints Office ask them to select some representatives to meet the mayor but this is rejected by the workers who fear they may be detained. Finally the head of the complaints office accepts a letter of protest from the workers and promises to take it to the mayor immediately. The letter consists of five demands which include the release of the detainee and visits from their families to be allowed.
- Ferro-Alloy workers meanwhile prepare for a long struggle and start to raise money for the transportation of aged and sick workers during the protests.

13 May 2002

- Liaoyang municipal government allows Yao Fuxin's family to visit him in Tieling Detention Centre. He is reportedly in ill health.

15 May 2002

- Several hundred Ferro-Alloy workers stage a peaceful protest in front of the municipal government offices. At 10 am, some 10 plainclothes police from the government building take away workers' banners and several workers are beaten including a old retired female worker. When the son of the retired worker complains to the PSB he himself is beaten and detained briefly.

16 May 2002

500 to 600 Ferro-Alloy workers again protest outside the government building for the release of the detainees. Two retired workers meet the government officials, who agree to arrange a meeting for workers' representatives and the mayor the next day.

17 May 2002

Three workers representatives meet with the deputy mayor and ask for the release of the detainees. The deputy mayor states that he will try to resolve the situation and a release could be expected if the detainees have done nothing wrong.

20 May 2002

- Some 500 Ferro-Alloy workers go to ask the municipal government office if the detainees can be released. The deputy mayor tells them that he has reported the case to the mayor.
- According to Guo Xiujing, the Central Discipline Inspection Commission has sent a representative to Liaoyang and arrested several factory officials for corruption. She says she expects the detainees will be released soon.

26 May 2002

International Liaison Committee 'Mission for Supporting Chinese Liaoyang Workers', formed by five French trade union activists and one translator, go to Liaoyang to pass on overseas support to the Liaoyang workers. They want to meet local government officials, visit the detained workers' representatives and ask for the release of the detainees. They also carry a letter of appeal co-sponsored by CLB which calls for the immediate release of the detainees and is signed by several thousand people. However, they are detained on their way to the Ferro-Alloy Factory and taken to Shenyang by police. The next day they are taken back to Beijing.

28 May 2002

- At 3:50 pm, the Mission arrives in Hong Kong and gives a press conference.

2 June 2002

- The ICFTU issues a formal complaint to the ILO on the events in Liaoyang and the violation of the right to freedom of association by the Chinese government. China, as a member of the ILO, must reply in full within three months [2 September]

18 June 2002

Workers' representatives meet deputy mayor Chen Qiang and other officials for further discussions on the release of the men. According to Yao Fuxin's wife Guo Xiujing, Chen says he has reported the case several times to his seniors and unless legal proceedings are carried out, the men should be released. Chen promises a reply on the case within a week.

10 July 2002

International Day of Action to release the Liaoyang detainees. Trade unions' representatives from 27 countries send petitions to Chinese embassies and consulates worldwide. CLB, Hong Kong Confederation of Trade Unions, Hong Kong Christian Industrial Committee and Asia Monitor Resource Center hold a march and send an open letter to Jiang Zemin.

19 July 2002

Some workers, who had joined the early-retirement scheme, protest at the municipal government offices demanding the release of Liaoyang Four and repayment of wages arrears.

26 July 2002

Liaoyang procuratorate issues an arrest warrant for the Ferro-Alloy Factory's previous manager Fan Yicheng.

2 August 2002

According to Mo Shaoping, Yao Fuxin's lawyer, he applied to meet Yao in early July but has not yet received a reply.

20 August 2002

500 to 600 Ferro-Alloy workers deliver to the procuratorate written accusations consisting of six charges against the municipal government, court and the PSB. The procuratorate refuses to accept it.

September 2002

Liaoyang PSB claims that Yao Fuxin's case concerns "state secrets" and that is why his lawyer Mo Shaoping could not meet him. Mo has however not received any written explanation of his unsuccessful applications to meet Yao.

9 October 2002

Liaoyang Four's families are allowed to visit them in the detention centre.

28 October 2002

Yao Fuxin has been sick since his detention on 17 March. His daughter Yao Dan sends an application for bail on medical grounds to the PSB, but it is rejected.

4, 5 & 6 November 2002

- Several different public letters signed by "Party Members" "Youth Workers" and a "Retired Workers", are posted around the Ferro-Alloy workers' residential area. They urge the workers to gather at the government offices on 4, 5 & 6 November.
- From 4 November onwards, many state-owned enterprises' workers demonstrate at the municipal government. They demand the release of the detainees, the distribution of heating fees for retrenched, but not yet retired workers, unemployment allowance, pension insurance and the refund of their housing scheme funds.

5 November 2002

- The first anniversary of Liaoyang Ferro-Alloy Factory's bankruptcy.
- 3,000 to 4,000 workers from Ferro-Alloy Factory, Textile Mill, Spinning Factory, Cannery, Steel Rolling Mill and some other small factories meet at the entrance of municipal government office. Banners with red texts "to welcome the 16th Central Communist Party Congress," and other banners are held up. The police ask them to remove a banner asking "What crime did Liaoyang Four commit?"

6 November 2002

- According to Yao Fuxin's wife Guo Xiujing, more than 200 workers, mainly from the Liaoyang Ferro-Alloy Factory and the Steel Rolling Mill demonstrate in front of the city government offices on 5 & 6 November.
- Workers involved in the protests and worker's representatives' and their families are under close surveillance in preparation for the 16th CCP Congress in Beijing.

8 November 2002

16th National Congress of the CCP begins in Beijing.

11 November 2002

At the 16th CCP Congress, Zhang Junjiu, the Vice-chairman of All-China Federation of Trade Unions [ACFTU] states that Yao Fuxin was not "arrested for organizing labour movements, but for violation of the Chinese Criminal Law - he committed acts of violent destruction, such as igniting vehicles". CLB conducted interviews with Chairman Su of Liaoyang municipal trade union, officials at the municipal government office, municipal health bureau, Yao's wife and many different officials from Liaoyang and they all denied Zhang's accusation.

19 November 2002

- A reply is issued by the Chinese government in response to the United Nations Working Group on Arbitrary Detention [UN WGAD] complaint [G/SO218/2] on 11 July. The reply states that Yao Fuxin planned a "series of destructive acts, such as breaking into the government offices, disturbing the government's operations, breaking public vehicles, blocking roads and disrupting social orders. Yao and his fellow workers' criminal actions caused serious deficits in Liaoyang city's production, living and working orders, certain loss of public security and properties".

The reply also states in response to the workers complaints the Liaoyang government has provided three solutions;

1. punishing corrupt officials in accordance with the law- one previous manager has been sentenced already and another seven cases are being investigated;
2. more funds have been raised in order to protect workers' basic livelihood;
3. the promotion of re-employment programs for retrenched workers.

20 December 2002

Pang Qingxiang and Wang Zhaoming are released on bail pending trial. They have been detained without charges since 20 March. Wang is notified by the city's prosecuting authorities to prepare a lawyer.

26 December 2002

The Liaoyang City Intermediate People's Procuratorate notifies Yao Fuxin's wife, Guo Xiujing, by phone that Yao's case has been submitted to its office.

27 December 2002

The Liaoyang Intermediate People's Court submits the subversion cases of Yao and Xiao to the court.

30 December 2002

- Yao Fuxin's Beijing-based lawyer, Mo Shaoping, confirms that he has received verbal notification from the Liaoyang Procuratorate that it has submitted charges of subversion against Yao Fuxin and Xiao Yunliang.
- Xiao's daughter states that their family has not received formal notice on the charges. The reason given by the court is that Xiao has not prepared a lawyer.
- Wang Zhaoming and Pang Qingxiang,

released on bail, have been notified that they will not be charged due to their minor offences.

31 December 2002

Wang Zhaoming reports to the police upon their request and is detained. He returns home at night after being warned not to discuss the trial or communicate with outsiders or media.

2003**4 January 2003**

The home phone of Yao Fuxin has been cut off from incoming calls. His family cannot be reached. Police officers keep the family of Xiao Yunliang under surveillance and warn his wife not to join any demonstrations.

8 January 2003

It is announced that the case of Yao Fuxin and Xiao Yunliang will be tried at the Liaoyang City Intermediate People's Court on 15 January. An official at the court states that it should be an open trial.

Xiao's home phone is cut off from incoming calls.

9 January 2003

ICFTU writes to President Jiang Zemin, urging him to drop all charges against the worker representatives and to release those still in detention immediately. It also rejects the accusations of violence against them.

10 January 2003

Yao Fuxin meets his lawyer for the first time. His lawyer, Mo Shaoping, says that Yao is in good health.

ICFTU writes to the ILO, calling on the general director to intervene in the trial of Yao and Xiao. It also writes to the newly-appointed ACFTU chairman. The International Liaison Committee, which attempted to send a solidarity delegation to Liaoyang last May, launches another international appeal for their unconditional release. CLB launches online Campaign urging all charges be dropped against the Liaoyang Four and those still detained be released.

13 January 2003

A spokesperson at the Liaoyang Intermediate People's Court states that the trial date has yet to be decided despite the date of 15 January being given out by the same court on 8 January.

Trades Union Congress, Britain, writes to the Chinese ambassador in London expressing its concern over the Liaoyang trial, especially in the light of China's accession to the Governing Body of the ILO.

14 January 2003

The same spokesperson of the Liaoyang Intermediate People's Court confirms that the trial will be held on 15 January. She says that all the visitors' permits have been issued (about 300 in all).

avoid protests occurring during the NPC [4 to 18 March].

15 January 2003

The trial of Yao Fuxin and Xiao Yunliang, the two Liaoyang workers' representatives, is held at the Liaoyang Intermediate People's Court at 8.30 a.m. Yao is the first defendant and his defense lawyer is Mo Shaoping, while Xiao is the second defendant with Xiao Yunji and Zhang Bingbing as his defense lawyers.

- Yao Fuxin and Xiao Yunliang are accused of "subversion against the state" including contacting 'hostile elements'. The lawyers and both men deny the charges. The trial lasts for approximately four hours without a verdict being delivered.
- Before the trial, the judge informs Xiao's family that Xiao has been not well. After less than 10 minutes in the courtroom, Xiao Yunliang faints and has to sit down for the rest of the trial. It is reported that "he can still walk but his eyes could no longer see".
- Yao's 81 years old mother, his wife Guo Xiujing, daughter Yao Dan and sister attend the trial. Xiao's wife, daughter and sister also attend. Only a dozen or so workers are allowed to observe the trial, the rest attending [some 200] are government officials and plainclothes police.
- It is reported that roads around the court have been blocked since 5am.

23 January 2003

Four PSB officers visit the families of Yao and Xiao and warn them not to speak to outside groups or media.

January to early February

Wang Dawei drafts an open letter calling for the release of the Liaoyang Two with more than a hundred signatures collected from Ferro-Alloy workers. The letter is removed by PSB officials.

20 February 2003

Workers, including Wang Zhaoming, Pang Qingxiang and Wang Dawei go to the municipal government to negotiate. Workers from the Liaoyang Cement Plant are already holding a protest at the offices of the Ferro-Alloy workers arrange a meeting the following week.

24 February

- Plainclothes policemen from Liaoyang PSB are assigned to watch over Yao's and Xiao's families. The families are warned not to join any protest or to complain to the provincial or central government. They must also inform police before they leave the house.
- The workers are planning a protest in March to commemorate the first anniversary of the Ferro-Alloy Factory Workers' protests. Wang Dawei, a workers' representative is detained and questioned by the PSB and later released. PSB officials also visit each of the workers' representatives and key members of the protest to warn them against continued protesting.
- The neighbourhood where most Ferro-Alloy workers live is under heavy police surveillance to

25 February 2002

- Yao's daughter Yao Dan and Xiao's daughter Xiao Yu deliver an application for a march on 11 March to the PSB in the name of Yao's wife Guo Xiujing and Xiao's wife Su Anhua. Some 10 workers also sign. The PSB states that the application is not in accordance with the *Law of The People's Republic of China on Assemblies, Processions and Demonstrations*, which says that the named people in the permit application must deliver the application. The application is therefore rejected.

27 February 2003

- The deputy mayor Chen Qiang and officials from the Complaints Office meet 15 Ferro-Alloy Factory workers, including Wang Zhaoming, Pang Qingzhang, Gu Baoshu and Wang Dawei in the morning. The meeting lasts for about 3 hours and the workers demands include; the release of Yao Fuxin and Xiao Yunliang, a solution to the problem of worker payments raised by the bankruptcy of the factory and for the corrupt officials to receive punishment for their actions.
- Chen promises to solve all payment problems, except for pension arrears by the end of June. This includes wage arrears, heating expenses, children's insurance, housing scheme fund and medical fees.

3 March 2003

- Yao Dan and Xiao Yu are in Beijing to talk to Yao's lawyer. At midnight, about 20 plainclothes police from Liaoyang and Beijing PSB arrive at Yao Dan and Xiao Yu's hotel room in Beijing. The police say they will take Yao and Xiao to a [nicer] hotel but instead they take them to a hostel and search all their belongings, including their phone books. They are then driven back to Liaoyang by the police. At around 9am, they reach Liaoyang and are sent to an unknown government office and questioned for 8 to 9 hours. They are finally released at 8pm and warned not to speak to the media.

10 March 2003

The spokesperson of the Liaoyang Intermediate People's Court notifies journalists of the trial judgment on the case of the Liaoyang Ferroalloy Factory's leaders. The judgment states that Ferroalloy Factory's former director and general manager Fan Yicheng was irresponsible, causing state-owned properties to be defrauded and losing state-owned properties. He is found guilty of dereliction of duty and smuggling in ordinary goods. He was sentenced to 13 years imprisonment. The previous managers and trustees Liu Yongjia, Liu Zhe, Cao Ce and Wang Youguang were charged with negligence at work or embezzlement of public funds, and sentenced to various terms of imprisonment.

11 March 2003

The first anniversary of the Liaoyang Ferro-Alloy protests.

12 March 2003

- Yao's wife Guo Xiujing and Xiao's wife Su Anhua visit Liaoyang PSB's Baita District Office to hand in an application for a procession and demonstration. Officials try to persuade them to drop the planned protest as they will not be allowed a permit.

The reasons for the proposed demonstration are:

1. The Ferroalloy workers believe that the procuratorate and the court did not properly and efficiently protect workers' right in accordance with the law;
2. The workers demand that the Liaoyang municipal government repay their retrenchment fees, housing scheme fees, wages arrears and distribute the basic living allowance and other welfare payments;
3. The workers believe that the handling of the detention and trial of the Liaoyang detainees has not been in accordance with the law and that there have been serious violations of basic rights; they also call on the court to come to a just decision in the case.

The slogans of the proposed demonstration include:

1. "Implement the Three Represents, fight against corruption"
 2. "Release the workers' representatives, enhance the rightful judiciary"
 3. "Protect the workers' rights granted by the Law"
- PSB states that although it agrees with the rights of the workers to demonstrate, it cannot accept the application due to the current situation. PSB officials say that they will reconsider the application and contact the relevant departments to see if they can do anything. However, the application is again rejected as the route of the planned march is said to be unclear. Guo Xujing agrees to discuss the plans with the fellow workers.

16 March 2003

Wang Zhaoming is detained by the PSB for questioning and given a warning in response to a recent interview he gave to a foreign radio station.

17 March 2003

The anniversary of Yao Fuxin's detention.

18 March 2003

The plainclothes police, who have stayed in the homes of the detained men and the Ferroalloy Workers' Residential Area since 24 February, leave after Chinese People's Political Consultative Conference and the National People's Congress finishes.

20 March 2003

The anniversary of Xiao Yunling, Wang Zhaoming, Panq Qingxiang's detention. Wang and Panq were

released on bail on 20 December 2002 and Pang was later released without charges.

- In the morning, Guo Xiujing and Su Anhua [wives of the Liaoyang Two], together with retired workers and retrenched workers go to negotiate with the municipal government. Thirty people are supposed to join the action, but Wang Zhaoming, Wang Dawei, Pang Qingxiang and Guo Baoshu are stopped by the police and not allowed to leave homes. The municipal government staff say the high level leaders are not there so the workers talk to two staff from the complaints office. They ask the government ensure a just decision is made in the case of Yao and Xiao and ask for family visits to the two men as soon as possible. There has been reports that Xiao Yunliang is ill. Reports from recently released prisoners at the same detention centre as Xiao state that he is coughing blood[a possible sign of tuberculosis] and that he had been moved to a single cell.

21 March 2003

In the morning, a police representative from the Ferroalloy Workers' Residential Area visits Xiao's family. And asks his wife, Su Anhua, not to worry about her husband saying the reports are just rumours. He states Xiao has lost some weight but it is not ill. He gives no more details.

1 April 2003

- The deputy mayor Chen Qiang visits Xiao Yunliang in the detention centre.

2 April 2003

Staff from the Liaoyang Detention Center take Xiao Yunliang to the hospital where he is diagnosed as having "floaters" and that he may lose his eyesight if no further treatment is given. It is believed that he may have been injured when he was first detained and pushed into a police car.

5 April 2003

Yao Fuxin's daughter Yao Dan goes to Beijing to meet her father's defense lawyer Mo Shaoping in Beijing to discuss what they can do for Yao Fuxin as no verdict has yet been announced. She is stopped by the PSB at the train station and taken to cities nearby for a 'vacation'.

9 April 2003

- More than 2 and half months have passed since the first trial of the Liaoyang Two's case without any verdict, which is the maximum duration to keep a suspect without a precise conviction and sentence after the trial in accordance with *The Law of The People's Republic of China on Criminal Procedure (Revised)*.
- Xiao's defense lawyer Zhang Bingbing visits Liaoyang Intermediate People's Court to ask for a verdict from the judge of Xiao's case Nian Tiepeng. Nian says he will "try to deliver a judgment as soon as possible".

- Zhang asks for Xiao to be released on bail pending sentence [in accordance with article 74 of the Criminal Procedure Law]. His appeal is ignored. Zhang also visits Xiao Yunliang in the Liaoyang City Detention Centre. According to Zhang, apart from some medicine he received on 2 April he has not yet received proper treatment. Xiao tells Zhang that staff from the detention centre told him that they had no money for his treatment.

13 April 2003

- Yao Dan takes a night train to Beijing to discuss with Mo Shaoping her father's situation.

15 April 2003

- Plainclothes police follow Yao Dan to Beijing. While she is talking to Mo Shaoping in a car, 2 cars and a motorcycle follow them. Guo Xiujing and Yao Dan later point out that they have to the right to speak to the lawyer. Yao Dan returns to Liaoyang at night.

16 April 2003

- Workers' representative Gu Baoshu has been released on bail for a year but has not received any further notification about his case.
- In the morning, about 15 Ferroalloy factory retirees, retrenched workers and Su Anhua go to the municipal government but are told that the government leaders and complaints office head are not there. Then they go to the court to look for Judge Nian Tiepeng. Nian is told by a retired worker that *"we won't allow it if you sentence them, they have been suffering for us for the entire year and no one knows when it will end. If you sentence them, we definitely won't allow it. We will go to Beijing, to kneel down on the Tiananmen Square to appeal for them"*.

17 April 2003

- Xiao Yunliang visits the doctor for the second time after the trial. His wife Su Anhua accompanies him. According to a detention center staff's description, the doctor said one eye was totally blind due to cataracts and the other one was almost blind due to "floaters". Su is forbidden to talk to the doctor directly.
- Su goes to PSB every morning to urge them to provide Xiao with sufficient medical care.

19 April 2003

- In order to prevent American embassy personnel and reporters visiting Liaoyang from meeting workers' representatives, Liaoyang PSB detains many workers' representatives, including Wang Zhaoming, Pang Qingxiang and Wang Dawei. They are warned and threatened not to conduct any interviews.

21 April 2002

- At 8 am, police from Liaoyang PSB break into Yao's and Xiao's homes in order to stop their families contacting American embassy personnel and reporters. They remain in the house until 22 April.

9 May 2003

- Sentences for Yao Fuxin and Xiao Yunliang are announced in the Liaoyang City Detention Centre.

Yao is sentenced to seven years imprisonment, deprived of political rights for three years and Xiao to four years imprisonment and deprived of political rights for two years.

- Before the hearing, more than 300 Ferroalloy Factory workers gather in front of the detention centre to show support for Yao and Xiao. Liaoyang municipal government sends some 300 policemen to guard the entrance of the centre. Only Yao Dan and Xiao Yu and two other workers are admitted to the hearing and the rest of the observers are police and officials from the provincial government. No media are allowed in. The final closing statements of the two men are not allowed to be heard. Their defense lawyers were only notified of the hearing date three days in advance and lawyer Mo Shaoping could not reach Liaoyang in time as he was requested to undergo ten days' quarantine for SARS.
- After the hearing, Yao Dan and Xiao Yu are taken away by separate police vehicles. The wife of Xiao Yunliang is beaten to the ground when she tries to stop the police taking her daughter away. She is later taken to hospital and the daughters are released.

21 May 2003

- Yao's and Xiao's lawyers both lodge an appeal to Liaoyang Intermediate People's Court. It is believed that due to the immense pressure put upon the original lawyers, new lawyers for Yao Fuxin and Xiao Yunliang may have to be found.

27 June 2003

Announced at a secret hearing that the appeals of both Yao Fuxin and Xiao Yunliang have been rejected and the original sentences upheld.

Appendix Six:

Extracted Text relating to events in Liaoyang from the 330th Report of the Committee on Freedom of Association, at the Governing Body of the International Labour Organisation meeting in Geneva in March 2003⁴²

Case No.2189: Complaints against the Government of China presented by

- the International Confederation of Free Trade Unions (ICFTU) and
- the International Metalworkers' Federation (IMF)

Allegations: *The complainants allege the use of repressive measures, including threats, intimidation, intervention by security forces, beatings, detentions, arrests and other mistreatment meted out to leaders, elected representatives and members of independent workers' organizations at the Ferrous Alloy Factory (FAF) in Liaoning Province and the Daqing Petroleum Company in Heilongjiang Province, as well as violent police intervention in a workers' demonstration at Guangyuan Textile Factory and sentencing of workers rights' advocates in Sichuan Province. Finally, the complainants allege the detention, arrest and mistreatment in Shanxi Province of an independent labour activist for trying to set up a federation for retired workers.*

385. The complaint is contained in communications from the International Confederation of Free Trade Unions (ICFTU) dated 27 March, 2 June, 19 August 2002 and 10 January 2003. The International Metalworkers' Federation (IMF) associated itself with the complaint and made additional allegations in a communication dated 3 April 2002.

386. The Government sent a reply to some of the allegations in a communication dated 26 September 2002.

387. China has not ratified either the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), or the Right to Organise and Collective Bargaining

A. The complainants' allegations

388. In its communication dated 27 March 2002, the International Confederation of Free Trade Unions (ICFTU) lodged a formal complaint against the People's Republic of China for violations of the principles of freedom of association, on the basis of the facts detailed below and in attached documents, including two letters sent on 15 and 27 March 2002 to President Jiang Zemin.

389. The two letters in question concern repressive measures, including threats, intimidation, intervention by security forces, beatings, detentions, arrests and other mistreatment meted out to leaders, elected representatives and members of independent workers' organizations in

⁴² INTERNATIONAL LABOUR OFFICE GB.286/11(Part I), 286th Session, GB286-11(Part I)-2003-03-0226-1-EN.Doc 91 - CASE NO. 2189, INTERIM REPORT. This complaint also raised cases of labour unrest, the arrests of workers and alleged police brutality in Daqing, Sichuan and Shanxi provinces. The extracts here only relate to Liaoyang. For the full text please see <http://www.ilo.org/public/english/standards/re/m/gb/docs/gb286/pdf/gb-11-p1.pdf>

Heilongjiang, Liaoning and Sichuan Provinces. All the events described therein occurred in the course of March 2002.

390. Ranging at the very top of the ICFTU's concerns in this context is the personal situation of Mr. Yao Fuxin, aged 56, leader of the independent workers' organization at the Ferrous Alloy Factory (FAF) in Liaoyang arrested on 17 March 2002. The ICFTU adds that he has been severely mistreated by public security officials after being detained or, worse still, that he may actually have been killed while under official custody.

391. Mr. Yao Fuxin's arrest came just days after over 10,000 retrenched workers, mostly from FAF, staged a mass demonstration in Liaoyang, demanding that a solution be found to the economic and social problems encountered by the retrenched workers, that legal measures be taken against the corrupt managers of the factory and that the Public Security Service refrain from arresting any of the workers' freely elected representatives.

392. In response, the local authorities reacted with typical intimidation, threats and, eventually, brutal force. On 11 March, the Public Security Bureau (PSB) officials warned several organizers that they were involved in illegal activities. The ICFTU firmly and categorically rejects this charge, since the workers were doing nothing more than peacefully exercising their legitimate rights, guaranteed under ILO Conventions Nos. 87 and 98.

393. On the morning of 12 March, the workers marched on the headquarters of the Liaoyang municipal government, demanding a meeting with local officials, which was finally granted later that day. Mr. Pang Qingxiang, aged 58, and 12 other workers' representatives met with the China Communist Party (CCP) Liaoyang Committee's Deputy General Secretary, deputy mayors, the General Secretary of the Government and Legislative Committee, the Liaoyang Chief Justice, General Prosecutor and the head of the local PSB. Workers were assured that no arrests would be made.

394. Five days later, the PSB arrested Mr. Yao Fuxin and launched a large security operation to capture a dozen more independent workers' representatives. The next day, 18 March, over 30,000 workers from approximately 20 state-owned enterprises (SOEs) marched on the city government and PSB offices, demanding Mr. Yao Fuxin's release, but the police denied he had been arrested.

395. However, the authorities' repression of the independent workers' movement did not end with Mr. Yao Fuxin's arrest. On 18, 19 and 20 March, tens of thousands of Liaoyang workers from different factories gathered in front of the city government offices demanding Mr. Yao Fuxin's release. On 20 March, as more than 2,000 FAF workers had once again gathered in front of the City Hall demanding his release, another worker representative, named Gu Baoshu, went inside the security bureau headquarters to negotiate but was immediately detained. A worker who saw this informed the workers outside who then broke into the office and rescued Gu.

396. Meanwhile, the city government had deployed a large contingent of armed police in an attempt to stop the workers' protest. Towards the end of the morning, the workers decided to return home but, in order to protect their elected representatives, more than 40 elderly workers surrounded them in a circle. Not far from the City Hall, about 100 police attacked and beat the group of elderly workers. Forcing their way through the protective circle, the police arrested three of the representatives. Scores of elderly workers were injured in the police action, although their exact number, identities and present state of health are still unknown.

397. The three workers' representatives who were arrested during the police action on 20 March (in addition to Yao Fuxin, arrested on 17 March) are: Pang Qingxiang; Xiao Yunliang; and Wang Zhaoming. The next morning, around 1,000 workers from the FAF once again gathered in front of the city government offices. They demanded the release of the four arrested workers' representatives. In the midst of the protest action, Guo Suxiang (56 years old), wife of arrested leader Pang Qingxiang, was also arrested by the police (she was released the following day). Another worker from the Liaoyang Fibre Factory tried to intervene, shouting, "This arrest is wrong!". As a result, the police also arrested him and took him away. His name is still unknown but he remains in detention.

398. On 21 March, the city's Bai Ta District PSB issued a notice of detention to the families of the four workers' representatives for "illegal demonstration". They are being held at Tieling City

detention centre. Finally, the wife of Yao Fuxin had been visited by the District Director of the PSB at her place of residence, who informed her that her husband was "in a very serious condition at the hospital after having suffered a heart attack" and that "the PSB had already sent an amount of 10,000 yuan to the hospital for his medical treatment".

399. When checked with his relatives, it was determined that Mr. Yao Fuxin was in a perfect state of health at the time of his arrest and that he had never before experienced any heart problems. The ICFTU thus queried whether Yao Fuxin was in a critical state of health as a result of having been beaten, tortured or otherwise mistreated while in the custody of Liaoyang public security officials or, worse still, whether he might actually have been killed by such officials or by personnel under their direct authority. The International Metalworkers' Federation, in its communication dated 3 April 2002, also raised its concern over Yao Fuxin's health and the fate of the other detained workers' representatives.

400. The complainant also refers to a sit-in demonstration at Petrochina's Petroleum Administration Bureau (PAB) headquarters in Daqing, on or around 24 March (*not included here*)

Developments in Liaoyang (Liaoning Province)

404. In respect of the four workers' representatives arrested in Liaoyang in March 2002 (Yao Fuxin, Pang Qingxiang, Xiao Yunliang and Wang Yhaoming), the complainant adds that they were charged on 30 March with organizing "illegal demonstrations" – a charge that carries a prison sentence of five years.

405. The first of those arrested, Yao Fuxin was in very serious condition. On 11 April, Yao Fuxin's wife, Guo Xiujing, was allowed to see her husband, held in Tieling jail (120 km from Liaoyang), for the first time since he was picked up by police. Guo said her husband's right side was numb, his right hand shook and his right leg was weak. It is believed that he has suffered a stroke caused by the onset of heart disease, itself following his brutal treatment at the hands of the police. (Yao Fuxin had no previous record of heart or any other disease.) Although he had been briefly hospitalized in March, he was returned to the Tieling detention centre where his condition has since deteriorated. In spite of this, Yao Fuxin is being denied access to medical treatment, including a return to hospital or being released on medical parole.

406. The complainant indicates that, since its initial submission of the complaint, much more information has come to light about the events leading to the March 2002 protests. In fact, problems affecting the FAF and other enterprises in and around Liaoyang had already started several years earlier. This information, as well as details of the March 2002 protests which were not available earlier, was attached to the communication.

407. On or around 11 April, relatives of Xiao Yunliang organized for a lawyer to take up his defence. However, police had turned down a request by Xiao's lawyer to visit him, saying Xiao had refused a lawyer.

408. On 15 April, Liaoyang workers went to the city government complaints bureau to seek the release of the four detainees. In order to avoid further arrests, the workers decided against further street protests, but instead sent several representatives, including Gu Baoshu (who was picked up the next day), to negotiate with the Government. Nevertheless, the workers' caution and attempt to enter into negotiations failed with Gu's arrest. On 16 April, two plain-clothes police knocked on Gu Baoshu's door. Then, they opened the door with a key, tied Gu up and beat him. After factory workers learned about this, scores of them rushed to the building where he lived and tussled with the police who arrested him. The police stationed outside pushed the blockading workers aside and took Gu in a police car.

409. The workers submitted on the spot an application for a demonstration to the Chief Secretary of the municipal government, who came to the factory to pacify the workers. However, the Chief Secretary immediately declared that the application should bear the name of the organizers; otherwise it would be invalid. The workers refused to enter any names on the application; moreover, they stated that, were Gu Baoshu not released and were the permission to demonstrate not approved, they would collectively visit Beijing to petition or they would block the railway. Under such pressure from the workers, Gu Baoshu was released the same night. He had been cruelly beaten by the officers during detention. Gu demanded that the PSB pay his medical costs

and investigate who was responsible for the beating. The authorities replied with further threats of detention.

410. On 5 May, around midnight, workers secretly posted notices on walls of the labour housing area, calling on workers to collectively petition the authorities on 7 and 8 May to release the detainees. The following morning, the notices were cleared by police. For two consecutive days thereafter, 400-500 workers who had heard about the notices posted on the walls earlier, gathered in front of the municipal government building again and requested the release of all arrested workers' representatives. Guo Xiujing and another three workers' representatives also submitted an application for demonstration, signed with 20 workers' names. The PSB rejected the application without giving any reason.

411. On 9 May, hundreds of workers once again gathered in front of the municipal government building and held up a banner saying "strongly demand the government release the arrested workers' representatives". Officials charged out from the government building and tried to seize the banner, but failed. The following day, workers demanded a dialogue with the Mayor. Two officials of the municipal government's complaints bureau appeared and said that, if the workers appointed representatives, they would arrange for them to meet the Mayor. But the workers refused because they were worried that the municipal government once again only wanted to pinpoint the workers' leaders to arrest them. Finally, the head of the complaints bureau came out and accepted a petition letter from the workers and promised to forward it to the Mayor at once. The petition letter sent to the Mayor contained five demands:

- that the government release the arrested workers' representatives; failing that, that court action begin as soon as possible, as the workers' representatives must not be kept locked up indefinitely;
- that the city government make public the report on forced bankruptcies and respond to the workers' reasonable demands within a time limit;
- an increase in the clampdown on corrupt officials and giving the FAF workers a clear statement about their claims in the near future;
- that the government lawfully punish those police officers who abused their legal positions and assaulted Gu Baoshu in a most cold-blooded way;
- that, for humanitarian reasons, the government should allow the FAF workers in separate groups and occasions to visit their jailed representatives in the Tieling (Iron Peak) detention centre.

The petition letter also expressed that the FAF workers would petition Beijing with collective demonstrations unless the city government speedily satisfy these demands.

412. On 15 May, several hundred workers from the FAF again assembled in front of the government buildings to raise banners and peacefully petition the Government for the release of detainees. At just after 10 a.m., more than ten plain-clothes police officers charged out of the government building's courtyard, attacked the workers with punches and kicks and seized their banners. Clashes followed as the workers protected the banners. During the clashes, the son of a retired FAF worker, whose mother had been beaten during the police assault, demanded to know why they had attacked his mother. As a result, he was severely beaten by the police and then taken away. In the end, the city complaints bureau arranged for the release of the woman's son.

413. In a separate incident, Wang Dawei, another key person in the FAF workers' struggle, went to Beijing to file complaints at numerous central government departments but was completely ignored. After he called Guo Xiujing's family once, early in his journey, to tell them about his progress with the complaints, he disappeared. He remains unaccounted for and the complainant fears that he has also been arrested.

....

427. Finally, in its communication dated 10 January 2003, the ICFTU expresses its deep concern over the impending trial of Yao Fuxin and Pang Qingxiang under the recently altered charge of subversion, a charge which may carry a punishment of life imprisonment or even death.

B. The Government's reply

428. In its communication dated 26 September 2002, the Government provides the following information.

429. The Government states that, in the past few months, it has made an extensive investigation of related individuals and incidents, including visits to such relevant departments as the Ministries of Public Security, State Security and Judiciary Affairs, the ACFTU and local governments.

...

Ferroalloy Group Ltd., Liaoyang City, Liaoning Province

431. The Liaoyang City Ferroalloy Group Ltd. in Liaoning Province, a municipalized enterprise, had suffered successive years of loss in production management ever since 1996. In October 2001, a proposal for bankruptcy was accepted after consideration by the Congress of Staff Representatives in the Liaoyang City Ferroalloy Group. In November, the bankruptcy process was formally put into motion.

432. From 11 to 21 March 2002, more than 500 persons from the Liaoyang City Ferroalloy Group, including staff members employed at the time and retirees, made a collective appeal to the municipal government, demanding that managers with corrupt behaviour in the enterprise be punished, that the standard for one-time settlement payments and financial compensation be improved, and that outstanding payments for wages and social security insurance be settled. In response to the workers' demands, an investigation group was immediately organized by the municipal government, and meticulous in-depth investigations were made of the issues put forward by the appellants. The following measures have been taken:

(1) *Punishment of corrupt individuals in accordance with the law.* Judicial bodies investigated illegal and criminal acts committed by corrupt individuals in the enterprise, and dealt with them in accordance with the law: one person received a sentence; legal proceedings are being taken against one person; one person is being held in custody as a criminal; three persons are on bail awaiting trial; and records have been established for the investigation of seven persons.

(2) *Multilateral mobilization of funds to ensure basic living necessities for the workers.*

The enterprise made an initial allocation of nearly 30 million Chinese yuan for settlement payments to the workers, and prepares to make retroactive payment of the workers' wages and social security insurance by means of converting bankrupt assets into cash. Key points of the settlement scheme include: a worker whose age is within five years of the legal age for retirement will be able to go through procedures for early retirement, his or her pension being paid monthly by social security insurance agencies; workers who were employed before the system of labour contracts was introduced will receive a one-time settlement payment equivalent to three times the average salary paid last year to workers of enterprises in the city concerned; workers who entered into employment after the system of labour contracts was introduced will receive a one-time financial compensation.

(3) *Assisting in the re-employment of laid off workers.* At the end of March and then at the beginning of April 2002, municipal departments of labour employment held two large-scale consultations on employment, the topic being the organization of employment assistance fairs for workers laid off by the Liaoyang City Ferroalloy Group. As a result, preliminary employment agreements were reached for a total of more than 1,000 person-times, thus solving the employment problem of some of the people concerned.

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.

...

439. The Government adds more generally that China is in the process of transition from a planned economy to a socialist market economy. In order to improve management and competitiveness, it is inevitable that state-owned enterprises would choose to conduct economic restructuring and lay off part of their workforce. There is no doubt that the reforms are moving in the right direction, and China will unswervingly move along the route of restructuring and opening to the outside world. As China is the largest developing country in the world with an enormous population, it would be hard to avoid the emergence of any conflicts in the process of economic restructuring. China has the determination and the capability to solve these problems through intensive reforms and to achieve simultaneous development in the economic and social fields.

440. The Chinese Government pays great attention to protecting the basic rights of laid-off workers, the unemployed, the retirees and other low-income social populations, and to properly arranging for their lives. Since 1998, the Chinese Government has creatively adopted a "triple security" system, which includes a scheme to ensure basic living necessities for workers laid off by state-owned enterprises, an unemployment insurance scheme and a scheme to ensure minimum living standards for urban inhabitants. Meanwhile, measures have been taken to ensure the timely and full payment of basic living allowances to workers laid off by state-owned enterprises and pensions to retirees.

441. China has made great efforts to reform its social security insurance system. Through more than a decade of efforts, it has established a preliminary social security insurance system independent of the enterprises. Particularly in recent years, systems for pension, health insurance, unemployment insurance, insurance against work-related injuries and maternity insurance have been improved, the collection of premiums has been intensified, and social security coverage has been further extended. Through its efforts to establish a social security system and to promote employment, China has provided a basic social security net for persons from every walk of life, effectively protecting the right of citizens to life and development (which is the basis of human rights) and the right of citizens to employment (which is the basis of decent labour). The results achieved and the experience created by China are important contributions to the work on international labour affairs, and have gained wide recognition among international circles.

442. The Government further asserts that it has always protected and paid attention to the democratic rights of all citizens, including the right to freedom of association. There are explicit provisions to this effect in the Constitution, the Labour Law and the Trade Union Law. As a responsible member of the International Labour Organization, China recognizes and respects all the principles stipulated in the ILO Constitution, including the principle of freedom of association, and has made unremitting efforts to achieve these principles.

443. It must be pointed out, however, that the incidents which occurred in 2002 in certain places in China as mentioned in Case No. 2189 are simply labour disputes resulting from the adjustment of interests during the reduction of the enterprise workforce, and are in no way related to the freedom of association. In Liaoyang City, Yao Fuxin and his three accomplices took advantage of certain workers who were making an appeal to the authorities, and repeatedly planned illegal activities to disturb public order and endanger public security. Such behaviour has nothing to do with freedom of association. No responsible government of a state governed by law would have sat by and watched.

Allegations from the ICFTU are at variance with the facts, and constitute a misunderstanding and misinterpretation of the facts.

444. The Government concludes that the facts concerned in this case are already fairly clear, and that there should be no need for discussion by the Committee on Freedom of Association. Nevertheless, in the spirit of promoting cooperation and enhancing understanding, the Government expresses its willingness to maintain dialogue with the Committee.

C. The Committee's conclusions

445. *The Committee notes that the allegations in this case refer to the use of repressive measures, including threats, intimidation, intervention by security forces, beatings, detentions, arrests and other mistreatment meted out to leaders, elected representatives and members of independent workers' organizations at the Ferrous Alloy Factory (FAF) in Liaoning Province and the Daqing Petroleum Company in Heilongjiang Province, as well as violent police intervention in a workers' demonstration at Guangyuan Textile Factory and the sentencing of workers rights' advocates in Sichuan Province. Finally, the complainants allege the detention, arrest and mistreatment in Shanxi Province of an independent labour activist for trying to set up a federation for retired workers.*

Ferrous Alloy Factory (FAF) in Liaoyang (Liaoning Province)

446. *The Committee notes with concern the specific allegations concerning the arrest and detention of Yao Fuxin, Pang Qingxiang, Xiao Yunliang, Wang Zhaoming, leaders and representatives of the independent workers' organization at FAF, on charges of illegal demonstration, following a mass demonstration in March 2002 in support of over 10,000 retrenched workers. The arrests on 20 March of the latter three representatives were reportedly accompanied by violent and forceful police intervention resulting in numerous injuries to many of the demonstrators. The complainant further alleges that Gu Baoshu, worker representative, and Guo Suxiang, wife of arrested leader Pang Qingxiang, were also briefly arrested and detained and an unidentified protesting worker from the Liaoyang Fibre Factory remains in detention. Besides the allegations of violent police intervention during the demonstration on 20 March aimed at the release of Yao Fuxin, further allegations were made of police violence and beatings in respect of subsequent demonstrations on 15 May.*

447. *The Committee also notes with deep concern the allegations that Yao Fuxin's health is in a very serious condition and the suspicions of torture or other mistreatment surrounding his detention. In particular, the complainant alleges that Yao Fuxin is suffering from a stroke caused by the onset of heart disease, itself following his brutal treatment at the hands of the police. After a brief hospitalization in March, he was returned to the Tieling detention centre where, despite the continuing deterioration of his health, he has allegedly been denied access to medical treatment, including a return to hospital or release on medical parole.*

448. *Allegations of mistreatment and beatings were also made by the complainant in respect of the brief detention of Gu Baoshu. The complainant further alleges that the police turned down a request by Xiao Yunliang's lawyer to visit him, stating that Xiao had refused a lawyer. Finally, the Committee notes the allegation that Wang Dawei disappeared following his interventions in respect of the FAF struggle.*

449. *As concerns the demonstrations at the Ferroalloy Group, brought about by the consequences of the factory's bankruptcy, the Government indicates that an investigation group was immediately organized to look into the claims put forward by the workers concerning corruption at the enterprise and financial compensation for wages and social security. It further notes the Government's report of measures taken to punish corrupt individuals, mobilize funds to ensure workers' basic living needs and to assist in the reemployment of the laid-off workers.*

450. *More generally, the Committee notes the various explanations given by the Government concerning the consequences of the process of transition from a planned economy to a socialist market economy and the multiple steps taken by the Government to solve the resulting problems and to protect workers' basic rights. While stating that it has always protected and paid attention to the democratic rights of all citizens, including the right to freedom of association, the Government adds that the incidents that are the subject of this complaint are simply labour disputes resulting from the adjustment of interests during the reduction of the enterprise workforce and are in no way related to freedom of association.*

451. *The Government links this general context to the particular case of the FAF workers, stating that Yao Fuxin, Pang Qingxiang, Xiao Yunliang and Wang Zhaoming took advantage of certain*

workers who were making an appeal to the authorities and repeatedly planned activities of terrorism and sabotage, severely threatening public security, disrupting public order and damaging public property. The Government states that they were summoned for trial in accordance with the law on charges of holding illegal meetings, parades and demonstrations, and that forcible measures were applied by the public security authorities. The Government concludes that the ICFTU allegations are at variance with the facts and constitute a misinterpretation of them.

452. While taking due note of the explanations given by the Government concerning the measures taken to respond to workers' demands and to ensure basic living needs, the Committee notes with regret that very little information has been provided in respect of the only issue before it for which it has any competence, that is the question of ensuring respect for the basic principles of freedom of association. This sparseness of information is all the more regretted in light of the detailed information provided by the complainants concerning the role and activities of the four FAF workers' representatives. While noting the Government's general indication that these workers' representatives allegedly planned illegal activities to disturb public order and endanger public security, the Committee observes that the Government provides no detail as to the specific illicit nature of their activities yet admits that the entire context was one of a labour dispute. In the light of the information provided by the Government, the Committee requests the Government to drop the charges relating to terrorism, sabotage and subversion.

453. In these circumstances, the Committee must recall that the detention of trade union leaders or members for reasons connected with their activities in defence of the interests of workers constitutes a serious interference with civil liberties in general and with trade union rights in particular [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, 1996, para. 71]. Further, noting that the Government has not supplied any information in reply to the specific allegations of violent police intervention in the workers' demonstrations, other than to state that the public security officials had applied "forcible measures" against the alleged lawbreakers, the Committee recalls that workers should enjoy the right to peaceful demonstration to defend their occupational interests. The authorities should resort to the use of force only in situations where law and order is seriously threatened. The intervention of the forces of law and order should be in due proportion to the danger to law and order that the authorities are attempting to control and governments should take measures to ensure that the competent authorities receive adequate instructions so as to eliminate the danger entailed by the use of excessive violence when controlling demonstrations which might result in a disturbance of the peace [see **Digest**, op. cit., para. 132].

454. In the light of the above, the Committee requests the Government to institute an impartial and independent investigation into the allegations of violent police intervention in respect of the demonstrations in relation to the workers' struggle at FAF in Liaoyang on 20 March and 15 May 2002. The Government is asked to provide detailed information to the Committee on the outcome of this investigation and to indicate the measures taken to compensate any injured workers. The Committee further requests the Government to institute an independent investigation into the allegations concerning the serious condition of Yao Fuxin's health and the suspicions of torture or mistreatment surrounding his detention. The Government is asked to inform the Committee of the outcome of this investigation and of any measures taken in the event that it is found that Yao Fuxin has been mistreated while in detention, including the measures taken to ensure that he receives any necessary medical treatment.

455. As for the brief detentions of Gu Baoshu, worker representative, and Guo Suxiang, wife of arrested leader Pang Qingxiang, the Committee recalls that the arrest, even if only briefly, of trade union leaders and trade unionists for exercising legitimate trade union activities constitutes a violation of the principles of freedom of association [see **Digest**, op. cit., para. 70]. Further noting the allegations that Gu Baoshu was beaten during his brief detention, the Committee requests the Government to institute an independent investigation into these allegations and to inform the Committee of the outcome and of any measures taken in the event that it is found that Gu Baoshu was mistreated while in detention.

Finally, it requests the Government to provide any information it may have in respect of the whereabouts of Wang Dawei.

456. As for the arrest and detention of Yao Fuxin, Pang Qingxiang, Xiao Yunliang and Wang Zhaoming, in light of the insufficiency of the Government's reply as to the precise nature of the

activities resulting in the disturbance of public order and endangered public security and the fact that the initial charge of illegal demonstration was converted to "subversion" nine months after the incident and two weeks before trial (a crime which reportedly carries a penalty of up to life imprisonment or even the death penalty), the Committee requests the Government to provide specific and detailed information on the charges brought against these four workers' representatives. In the meantime, the Committee recalls that it has considered the sentencing of trade unionists to long periods of imprisonment, very often on the grounds of "disturbance of public order", in view of the general nature of the charges, might make it possible to repress activities of a trade union nature [see *Digest*, op. cit., para. 64]. With this in mind, the Committee requests the Government to take the necessary steps for the immediate release of any of the FAF workers' representatives still detained and to ensure that the charges brought against them are dropped. It requests the Government to keep it informed of the measures taken in this regard.

457. As concerns the allegations concerning Xiao Yunliang's lawyer's lack of access to his client, the Committee recalls that detained trade unionists, like anyone else, should benefit from normal judicial proceedings and have the right to due process, in particular, the right to be informed of the charges brought against them, the right to have adequate time and facilities for the preparation of their defence and to communicate freely with counsel of their own choosing, and the right to a prompt trial by an impartial and independent judicial authority [see *Digest*, op. cit., para. 102]. The Committee requests the Government to ensure that due process of the law is guaranteed in respect of all the workers' representatives named in this complaint.

* * *

465. On a more general note, and giving full consideration to the context of transition described by the Government and its determination to achieve simultaneous development in economic and social fields, the Committee considers that it is precisely within this context that the only durable solution to the apparently increasing social conflict experienced in the country is through full respect for the right of workers to establish organizations of their own choosing by ensuring, in particular, the effective possibility of forming, in a climate of full security, organizations independent both of those which exist already and of any political party [see *Digest*, op. cit., para. 273]. While noting the Government's statement that freedom of association is guaranteed through the explicit provisions in its Constitution, the Labour Law and the Trade Union Law, the Committee must refer to its earlier conclusions in respect of certain significant legislative obstacles to the full guarantee of freedom of association. In particular, in its examination of Case No. 2031 [321st Report, para. 165], the Committee recalled that, during its examination of two previous complaints presented against the Government of China [see 286th Report (Case No. 1652) and 310th Report (Case No. 1930)], it had concluded that the obligations set forth in sections 5, 8 and 9 of the Trade Union Act prevented the establishment of trade union organizations that were independent of the public authorities and of the ruling party, whose mission should be to defend and promote the interests of their constituents and not to reinforce the country's political and economic system. The Committee had further noted that sections 4, 11 and 13 resulted in the imposition of a trade union monopoly and that the requirement that grass-roots organizations be controlled by higher level trade unions and that their constitutions should be established by the National Congress of Trade Union Members, constituted major constraints on the right of unions to establish their own constitutions, organize their activities and formulate programmes. Consequently, the Committee had concluded that many provisions of the Trade Union Act were contrary to the fundamental principles of freedom of association and had requested the Government to take the necessary steps to ensure that the provisions in question were modified.

466. In conclusion, the Committee strongly believes that the development of free and independent organizations and negotiation with all those involved in social dialogue is indispensable to enable a government to confront its social and economic problems and resolve them in the best interests of the workers and the nation. Indeed, a balanced economic and social development requires the existence of strong and independent organizations which can participate in the process of development [see *Digest*, op. cit., paras. 24 and 25]. In this context, the Committee requests the Government once again to examine the possibility of a direct contacts mission being undertaken to the country in order to promote the full implementation of freedom of association. The Committee expresses the hope that the Government will respond positively to this suggestion which has been made in a constructive spirit with a view to assisting the Government to find appropriate solutions to the existing problems.

The Committee's recommendations

467. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

(a) The Committee requests the Government to institute an impartial and independent investigation into the allegations of violent police intervention in respect of the demonstrations in relation to the workers' struggle at the Ferrous Alloy Factory in Liaoyang on 20 March and 15 May 2002. The Government is asked to provide detailed information to the Committee on the outcome of this investigation and to indicate the measures taken to compensate any injured workers.

(b) The Committee further requests the Government to institute an independent investigation into the allegations concerning the serious condition of Yao Fuxin's health and the torture or mistreatment surrounding his detention. The Government is asked to inform the Committee of the outcome of this investigation and of any measures taken in the event that it is found that Yao Fuxin has been mistreated while in detention, including the measures taken to ensure that he receives any necessary medical treatment.

(c) The Committee requests the Government to institute an independent investigation into the allegations that Gu Baoshu was beaten during his brief detention and to inform the Committee of the outcome of this investigation and of any measures taken in the event that it is found that he was mistreated. It also requests the Government to provide any information it may have in respect of the whereabouts of Wang Dawei.

(d) Given the Government's indication that the events occurring at the Ferrous Alloy Factory fell within the context of a labour dispute, the Committee requests the Government to drop all charges relating to terrorism, sabotage and subversion.

(e) The Committee also requests the Government to provide specific and detailed information on the charges brought against Yao Fuxin, Pang Qingxiang, Xiao Yunliang and Wang Zhaoming. In the meantime, it requests the Government to take the necessary steps for the immediate release of any of the FAF workers' representatives still detained and to ensure that the charges brought against them are dropped. The Government is requested to keep the Committee informed in this regard.

(f) The Committee requests the Government to ensure that due process of the law is guaranteed in respect of all the workers' representatives named in this complaint.

...

(h) In light of the numerous allegations in this complaint concerning the excessive use of force by the police in various disputes taking place in different parts of the country, the Committee requests the Government to consider preparing relevant instructions for the forces of law and order aimed at eliminating the danger of resorting to the use of excessive violence when controlling demonstrations.

...

(j) The Committee requests the Government once again to examine the possibility of a direct contacts mission being undertaken to the country in order to promote the full implementation of freedom of association. The Committee expresses the hope that the Government will respond positively to this suggestion which has been made in a constructive spirit with a view to assisting the Government to find appropriate solutions to the existing problems.

Appendix Seven:

**Intermediate People's Court of Liaoyang Municipality, Liaoning Province,
Criminal Verdict: Yao Fuxin and Xiao Yunliang***

(2003) *Xing-Yi-Chu-Zi*¹ No.1

Public Prosecution Organ: Liaoyang Municipal People's Procuratorate,
Liaoning Province

Defendant: Yao Fuxin, male, born on 29 September 1950, of Han ethnicity, educated to lower-middle school level, a resident of Liaoyang City. Formerly a worker at the Liaoyang Municipal Steel Rolling Factory. Resides at Group 12 of the Ferroalloy Residential Zone, Baita District, Liaoyang City. He was taken into criminal detention on account of the present case on 17 March 2002, was formally arrested on 30 March of the same year, and is currently held in custody.

Defenders: Mo Shaoping and Xie Wei, both lawyers at the Mo Shaoping Law Centre in Beijing.

Defendant: Xiao Yunliang, male, born on 6 May 1946, of Han ethnicity, educated to lower-middle school level, a resident of Liaoyang City. Formerly a worker at the Liaoyang Municipal Ferroalloy Factory. Resides at Group 1 of the Shipailou Residential Zone, Baita District, Liaoyang City. He was taken into criminal detention on account of the present case on 20 March 2002, was formally arrested on 30 March of the same year, and is currently held in custody.

Defenders: Xiao Yunji and Zhang Bingbing, relative and friend [respectively] of Xiao Yunliang.

In its Indictment (*Liao-Shi-Jian-Gong-Xing-Su*) No. 103 (2002), the Liaoyang Municipal People's Procuratorate charged the defendants Yao Fuxin and Xiao Yunliang with committing the crime of subverting the political power of the state, and it submitted to this Court a public prosecution case against them. After reviewing and accepting the case, the Court formed a collegial panel in accordance with law, and on 4 January 2003 delivered copies of the Indictment to the defendants. On 15 January 2003, a public hearing was convened in accordance with law and the case was tried. The Liaoyang Municipal People's Procuratorate of Liaoning Province sent Procurator Deng Hong and Assistant Procurator An Xi to appear in court in support of the public prosecution. Defendant Yao Fuxin and his defenders Mo Shaoping and Xie Wei, and also Defendant Xiao Yunliang and his defenders Xiao Yunji and Zhang Bingbing, appeared in court to participate in the proceedings. The case has now been heard and concluded.

The Liaoyang Municipal People's Procuratorate charged that, from 1998 onwards, Defendants Yao Fuxin and Xiao Yunliang actively took part in organizing and establishing the "Liaoning Provincial Branch of the China Democracy Party," and moreover that they carried out illegal activities in the name of the "China Democracy Party" [quote marks added] From the middle of February 2002 until 20 March, Yao Fuxin and Xiao Yunliang created incidents, fabricated rumours to delude the masses, and on numerous occasions incited members of the public who were unaware of the true facts of the situation to force their way into the Liaoyang City Government Offices, the Municipal People's Congress, and the offices of the police, procuracy and courts, thereby seriously disturbing the proper functioning of these state organs and seriously disrupting normal traffic order. Yao and Xiao also communicated on numerous occasions with extra-

territorial hostile elements and organizations, in an attempt to obtain their support and assistance.

The public prosecution organ presented the following main items of documentary evidence: "Charter of the China Democracy Party"; a statement from the "Liaoning Provincial Branch of the China Democracy Party"; and explanations of the situation provided by the Ministry of Public Security, the Ministry of State Security, and the Beijing Public Security Bureau. The witnesses were: Wang Wenjiang, Wang Dechen, Yang Chunguang, Wei Zhenjie, Pang Qingxiang, Gu Baoshu, He Ruoxue, Wang Dawei, Guo Xiujing, Su Anhua, Li Chunmeng, Xu Fuchen, Zhou Xianfeng, Tong Yanfeng, and Tong Yanling. The public prosecution organ held that the activities of Yao Fuxin and Xiao Yunliang should be dealt with as constituting the crime of subverting the political power of the state and be punished accordingly.

Defendant Yao Fuxin stated in his defence that since he had neither been a member of the China Democracy Party nor taken part in its activities, the charge of subverting the political power of the state could not stand. The principal arguments made by his defenders was that there was insufficient evidence to show that Yao Fuxin had taken part in the activities of the China Democracy Party; that the question of his involvement in the China Democracy Party had already been dealt with [by the authorities], and therefore there was no legal basis for proceeding further against him on this count; and that his actions had not been aimed at subverting the political power of the state.

Defendant Xiao Yunliang stated in his defence that since he had neither been a member of the China Democracy Party nor taken part in its activities, the charge of subverting the political power of the state could not stand. The principal argument made by his defenders was that the facts put forward as evidence by the public prosecution organ in charging Xiao Yunliang with the crime of subverting the political power of the state did not actually take place, and that therefore Xiao Yunliang did not engage or take part in any activities to subvert the political power of the state.

It has been ascertained in the course of investigation that during 1998, after Yao Fuxin and Xiao Yunliang learned that Wang Wenjiang (already sentenced) was scheming to organize and set up a "Preparatory Committee for the China Democracy Party in the Three [NORTH-?]Eastern Provinces" with the aim of subverting the political power of the state and overthrowing the socialist system, they went together to Anshan to find Wang Wenjiang and they expressed to him their willingness to join the China Democracy Party. On 27 September that year, Yao Fuxin and Xiao Yunliang took part in an illegal meeting at the Shengxiang Mansion in Anshan, where they colluded with others in scheming to establish a Liaoning Provincial Preparatory Committee of the China Democracy Party, for which Yao Fuxin was appointed to be the Liaoyang Coordinator. On 29 November the same year, Yao Fuxin, Wang Wenjiang and others secretly conspired at the home of Wang Zechen (already sentenced) to fix 5 December [1998] as being the date of the "First Liaoning Provincial Congress of the China Democracy Party," at which they would found the "Liaoning Provincial Branch of the China Democracy Party" and ratify the "Charter of the China Democracy Party"; none of this came about, however, due of the timely intervention of the public security organs.

During the same period, Yao Fuxin and Xiao Yunliang made contact with other people and exchanged information with them concerning the activities of the China Democracy Party; moreover, they frequently told people that they were [members of] the Democracy Party. In mid-1999, in an effort to expand the membership of the China Democracy Party, Xiao Yunliang gave to Pang Qingxiang (now exempted from prosecution) a copy of Issue No. 7 of [a publication titled] "Democratic Forum of the Opposition Party." Yao Fuxin urged Pang Qingxiang to join the China Democracy Party, but Pang refused to do so. From January 2002 onwards, Yao Fuxin communicated with

extra-territorial hostile organizations and elements, providing them with information on [his group's] illegal activities and soliciting help and support from them. From mid-February 2002 until 20 March, Yao Fuxin, Xiao Yunliang and others created incidents on numerous occasions; spread rumours to delude the masses; incited members of the public who were unaware of the true facts of the situation to force their way into the Liaoyang City Government Offices, the Municipal People's Congress, and the offices of the city's police, procuracy and courts; and made inflammatory speeches outside the door of the Municipal Government Offices. Moreover, they paid no heed to the admonishments given to them by the public security organs and they refused to implement the latter's order to disperse, so leading to a situation whereby the main roads in Liaoyang remained blocked for a long period of time. This seriously disturbed the proper functioning of the state organs and exerted a most pernicious influence.

The evidence serving to prove the above facts is as follows:

1. Documentary evidence: the Ministry of Public Security's declaration that the China Democracy Party is a hostile organization.
2. Documentary evidence: the "Charter of the China Democracy Party," which confirms that the China Democracy Party holds the political aim of putting an end to leadership by the Communist Party.
3. Documentary evidence: Anshan Intermediate People's Court's criminal verdicts No. 129 *An-Xing-Chu-Zhi*² (1999), No. 130 *An-Xing-Chu-Zhi* (1999) and No. 29 *An-Xing-Chu-Zhi* (2000), which show that Wang Zechen, Wang Wenjiang and Kong Youchen were all found guilty of subverting the political power of the state on account of their active involvement in the "Liaoning Provincial Branch of the China Democracy Party" and other activities, and that they were sentenced to six years, four years and one year of imprisonment respectively.
4. Witnesses Wang Wenjiang, Wang Zechen, Zou Ping and others testified that Yao Fuxin and Xiao Yunliang took part in the 27 September 1998 meeting held in Liu Jianping's office at the Shengxiang Mansion in Anshan.
5. Witness Wei Zhenjie testified that at the 27 September 1998 meeting, Yao Fuxin was appointed to be the [China Democracy Party's] Liaoyang Coordinator.
6. Witness Pang Qingxiang testified that Yao Fuxin had tried to induct him as a new member of the Democracy Party, and he confirmed that Yao had asked Xiao to lend him a copy of Issue No. 7 of the "Democratic Forum of the Opposition Party."
7. Witness Wei Zhenjie testified that Yao Fuxin and Xiao Yunliang took part in the 27 September 1998 meeting, and that he and Yang Liang had subsequently, on approximately 7 October, gone to Liaoyang to inform Yao and Xiao that news of the meeting had leaked out and that therefore the two of them should henceforth behave carefully.
8. Witness Gu Baoshu testified that Yao Fuxin organized illegal activities in the name of the China Democracy Party.
9. The public security organ's investigation records and also the list of items confiscated both show that a copy of Issue No. 7 of the "Democratic Forum of the Opposition Party" was among the items found at Pang Qingxiang's home.
10. Yao Fuxin stated in court that he had supplied information about his illegal activities and their consequences to the [abovementioned] extra-territorial hostile organizations and hostile elements.
11. Witnesses Pang Qingxiang, Wang Dawei and others testified that Yao Fuxin and Xiao Yunliang had organized and incited members of the public who were unaware of the true facts of the situation to force their way into the Liaoyang municipal government organs.

The aforementioned evidence was all presented at the court hearing and was examined and evaluated appropriately, and although the defendants and their defenders have raised dissenting opinions with regard to a portion of this evidence, they have not

presented any corresponding evidence to prove their various viewpoints. The facts of this case are clear, the evidence is solid and ample, and it is sufficient to allow a determination to be made.

This Court finds that Defendants Yao Fuxin and Xiao Yunliang, in disregard of the laws of the state, actively took part in, organized, and conspired to establish the "Liaoning Provincial Branch of the China Democracy Party," an organization devoted to subverting the political power of the state and overthrowing the socialist system; and that, in disregard of frequent admonishments given to them by the public security organs, they persisted in scheming to organize and incite members of the public who were unaware of the true facts of the situation to force their way into government offices. Their activities constituted the crime of subverting the political power of the state. The charges levelled against the two defendants by the Liaoyang Municipal People's Procuratorate are found to be justified, the evidence is solid and ample, and appropriate action must therefore be taken.

With regard to the defence argument put forward by Yao Fuxin and his defenders that he neither joined nor took part in the activities of the China Democracy Party, and that he did not hold the aim of subverting the political power of the state, our investigations have shown that Yao Fuxin was actively involved in organizing the [China] Democracy Party in Liaoning Province and that he took part in the Democracy Party's activities; there are witness statements to this effect from Wang Wenjiang, Wang Zechen and others, and Yao himself has also said as much on numerous occasions. In addition, his defence argument that his actions were not carried out with the aim of subverting the political power of the state is contradicted by the facts as established by this Court in the course of its investigations, and is therefore rejected. With regard to the argument put forward by Yao Fuxin's defenders that the question of his involvement in the China Democracy Party had already been dealt with [by the authorities], our investigations have shown that the public security organs merely summoned Yao Fuxin to receive education and suasion over the matter of his participation in the China Democracy Party, and that he was given no punishment by them at that time; but Yao continued as before to undertake activities in the name of the China Democracy Party, right up until the time when this case was uncovered. The Court therefore rejects this defence argument also.

In his defence statement, Xiao Yunliang argued that he had neither joined nor taken part in the activities of the China Democracy Party, and that he did not have the aim of subverting the political power of the state. The statements given by Witnesses Wang Wenjiang, Wang Zechen and others prove, however, that Xiao Yunliang did take part in the activities of the China Democracy Party, and the Court therefore rejects this argument. With regard to the argument put forward by his defenders that the [alleged] facts of his crime did not actually occur and that his behaviour did not constitute the crime of subverting the political power of the state: the defenders have not produced any corresponding evidence to prove these points, and so the Court rejects this defence argument also.

This Court's Adjudication Committee has now discussed and reached its decision on the case, and in accordance with the stipulations of Article 105 (Para 1), Article 106, Article 25, Article 55 (Para 1) and Article 56 (Para 1) of the Criminal Law of the People's Republic of China, we pronounce judgment as follows:

Defendant Yao Fuxin is found guilty of the crime of subverting the political power of the state and is hereby sentenced to serve a fixed term of seven years' imprisonment, with subsequent deprivation of political rights for a period of three years. (The sentence is to be calculated from the date of execution of this judgment, with one day to be subtracted for each day already spent in custody prior to the judgment's execution; that is, the sentence will run from 20 March 2002 until 19 March 2009.)

Defendant Xiao Yunliang is found guilty of the crime of subverting the political power of the state and is hereby sentenced to serve a fixed term of four years' imprisonment, with subsequent deprivation of political rights for a period of two years. (The sentence is to be calculated from the date of execution of this judgment, with one day to be subtracted for each day already spent in custody prior to the judgment's execution; that is, the sentence will run from 20 March 2002 until 19 March 2006.)

If the defendants disagree with this judgment then they may lodge an appeal, within a period of ten days starting from the day after they receive their copy of the judgment, either through this Court or directly with the Liaoning Provincial High People's Court; one original copy and two photocopies of the written appeal should be provided.

Judge: Nian Tiepeng
Adjudicator: Di Haibo
Assistant Adjudicator: Song Xiaofeng

9 May 2003

Recorder: Li Xiaohui

(This copy has been compared with the original and contains no errors.)

* Translated by China Labour Bulletin

¹ "Xing-Yi-Chu-Zi" is an internal court reference code.

² As above.

