

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions:

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- 1. Background information on the lead up to the 11 March 2002 and April 2002 protests on Liaoyang City; as well as**
- 2. Information on subsequent flow-on events.**

RESPONSE

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March 2002

An article dated July 2003 in *The China Labour Bulletin* provides extensive information on the March 2002 labour protests in Liaoyang. The article provides useful information on why the protests occurred and how they were dealt with by the Chinese Government. The following extract summarises the events but is no way exhaustive. For more details, please refer directly to the article which is included as Attachment 1:

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. 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.

...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 ('The Liaoyang Protest Movement of 2002-03, and the Arrest, Trial and Sentencing of the "Liaoyang Two"' 2003, *China Labour Bulletin*, July <http://www.china-labour.org.hk/public/contents/article?revision%5fid=18683&item%5fid=2938> – Accessed 5 October 2006 – Attachment 1).

A report dated August 2002 by Human Rights Watch also provides useful information on the March 2002 protests in Liaoyang. The following extract summarises the response of the Chinese government. For more details, please refer to pages 2-3, 15-25 and 35-37 of the report which is included as Attachment 2:

From March through May 2002, well-organized workers' protests in three cities in northeastern China brought unprecedented numbers of disaffected, laid-off, and unemployed workers into the streets. In an area of high unemployment, extensive poverty, conspicuous wealth, and what is widely viewed as endemic corruption, workers protested non-payment of back wages and pensions, loss of benefits, insufficient severance pay, maneuvers intended to bypass elected workers congresses, and unfulfilled government promises to help the unemployed find jobs.

Like previous demonstrations in other areas of the northeastern "rust-belt," the protests emerged from several years of privatization, down-sizing, and bankruptcies of state-owned enterprises in which workers had been promised lifetime employment and broad benefits. The protests in 2002, however, involved tens of thousands of workers from dozens of factories and mines, and lasted longer than any protests since the violent suppression of the 1989 Democracy Movement.

The Chinese authorities, in response, offered carrots and sticks, but mainly sticks. Government assurances of concern and payment of some benefits and wage arrears were coupled with a massive security force presence, refusal to issue permits for demonstrations, in some cases violence against unarmed demonstrators, short-term detention of protesters with release conditional on pledges to forgo further protests, interference with the right to counsel for detained and arrested workers, and threats to dock the pay of employed workers whose family members took part in rallies. In the city of Liaoyang, four protest organizers were formally indicted on March 30, 2002 after leading a four-year effort to bring workers' grievances to the local authorities.

... Worker protests represent a qualitatively different kind of problem for Chinese authorities. They challenge the legitimacy of the Chinese Communist Party, which claims to rule in the name of the working class, in a way that other social movements do not. CCP leaders, moreover, are likely wary of the potential power of a united labor movement given the role of such movements in overturning regimes in, for example, Poland and South Africa. In its effort to avoid worker cohesion across occupations, industries, and regions, the Chinese government has tried to avoid fanning worker unrest; it has not, therefore, seized large numbers of labor protesters as soon as they took to the streets. Instead the government has managed protests through a seemingly successful low-key combination of limited force and limited payouts. According to a report, Beijing also instructed officials in the northeastern provinces to avoid coercion whenever possible. The provincial governments, in turn, instructed local governments to keep security forces on high alert.

Although local governments deployed large numbers of security personnel to intimidate protesters, there were few clashes, arrests were selective, and formal charges limited to some few organizers. In Liaoyang, some 30,000 workers took part in protests; to date, four have been indicted.

... The policy appears to be working, in part because much of the protest has come, not from still-employed workers who could shut down production and seriously jeopardize economic growth, but from laid-off (*xia gang*) or formally unemployed workers who have little, if any, ability to affect production even in key industries such as oil or coal.

Treatment of protesting workers in the northeast is not a reflection of a generalized hands-off attitude to unsanctioned labor organizing.

... A better explanation of the less aggressive response in the northeast relates to the government's understanding of the inherent power of militant, independent, and democratic unions, and its preoccupation with preventing emergence of a national labor movement. The key for the government is maintenance of divisions within the working class. Laid-off (*xia gang*), unemployed, and retired workers have been responsible for the vast majority of labor protests. With production unaffected, the authorities usually can afford to wait out demonstrations (Human Rights Watch 2002, *Paying the Price: Worker unrest in Northeast China*, August, Vol 14, No.6 (C), pp.2 & 35-37 – Attachment 2).

An article in *M2 Presswire* reports that Xiao Funliang was released from prison on 23 February 2006, three weeks ahead of completing his four year sentence. Upon release Xiao Funliang was put under house arrest with visiting family and friends facing harassment and intimidation by police. Yao Fuxin remains in prison and is not scheduled to be released until March 2009. Guy Ryder, General Secretary of the International Confederation of Free Trade Unions (ICFTU) reports that both men are "in very poor health after having repeatedly been denied proper medical attention in prison" ("Chinese government releases labour political prisoner but harassment continues" 2006, *M2 Presswire*, 1 March – Attachment 3).

23 April 2002

No information on a protest held in Liaoyang City on 23 April 2002 was found amongst the sources consulted. Absence of information does not necessarily indicate that the protest never took place. There are a number of possible reasons why such a report would not have been found amongst the sources consulted including:

- Numerous protests occur in China every year. Not all protests are reported, some are reported in the Chinese press only and the Chinese government also exercises some restrictions on such reporting. For more details please see Question 2 of *Research Response CHN17741* (RRT Country Research 2006, *Research Response CHN17741*, 11 January – Attachment 4); and
- The Liaoyang Protest Movement continued during this time and may have drawn attention away from other smaller protests.

Recent General Information on Worker Protests

According to Chinese government statistics and reported by the US Department of State, there were 87,000 “public order disturbances” in 2005 including worker protests:

The vast majority of demonstrations during the year concerned land disputes, housing issues, industrial, environmental, and labor matters, and other economic and social concerns. During the year over 87 thousand “public order disturbances” were reported, according to government statistics, up 6.6 percent from 2004. Some of these demonstrations included thousands of participants. Incidents described as mob violence rose by 13 percent over 2004, according to the Ministry of Public Security, which said that the number of demonstrations continued to grow and protesters were becoming more organized.

... Worker protests occurred throughout the year. Most involved actual or feared job loss, wage or benefit arrears, allegations of owner/management corruption, dissatisfaction with new contracts offered in enterprise restructuring, or discontent over substandard conditions of employment (US Department of State 2006, *Country Reports on Human Rights Practices 2005 – China*, 8 March, Section 2b & 6b – Attachment 6).

According to official Chinese government figures and reported by Human Rights Watch, there were 74,000 protests in China in 2004 involving 3.5 million people including “workers, farmers, people forcibly evicted from their homes, victims of police abuse, and HIV/AIDS activities, among others” (Human Rights Watch 2006, *World Report 2006 – China*, 18 January, p.244 – Attachment 7).

A report by the US Congressional Research Service dated 8 May 2006 provides the following information on the Chinese government’s response to social unrest:

The PRC government’s efforts to address social unrest have been hampered by tensions between the central and local governments, institutional weaknesses, inconsistent policies, and the inability or unwillingness to undertake fundamental political reforms. The central government has acknowledged that the grievances of many citizens have been legitimate, and occasionally has corrected local policies that have violated the law or punished local officials for employing excessively violent tactics against protesters. However, the state has reserved the authority to arbitrarily determine which protest activities are acceptable. It has not developed adequate institutions that protect human rights, cede political power to social groups, ensure judicial independence, and resolve social conflict. **Many small**

demonstrations have been tolerated, but marching, organizing, and talking to reporters have brought harassment and repression by government authorities. At the end of 2005, the central government pledged a number of additional reforms aimed at rural unrest, including better management of land use, strengthening the legal system, protecting farmers' land, raising rural incomes, increasing social spending on health care and education, and abolishing the national tax on farmers. However, these policies will likely be resisted by local officials whose power remains unchecked and who are desperate to attract investment and prone to corruption.

The PRC government, at the national and local levels, has applied a carrot and stick approach, or a combination of appeasement and scare tactics, toward controlling restive social groups. Experts have noted a pattern whereby government authorities allow demonstrations to grow, and even publicly sympathize with protesters, while taking time to identify group leaders. Arrests of activists often take place only after some efforts have been made to mollify aggrieved individuals by meeting some of their demands. According to reports, public security agents typically use both torture and rewards to extract expressions of wrongdoing or guilt and to pit activists and neighbors against each other. Scare tactics — the use of arbitrary detention and the employ of untrained security agents (“hired thugs”) to beat up protest leaders — help to quell further protest activity. When demonstrations get out of hand, the government strictly controls reporting of them, although in many cases, news leaks through the Internet. News of events in Dongzhou spread, despite a blackout on media coverage, through the use of disguised language on the Internet, smaller bulletin board sites, and access to English and overseas Chinese websites.

According to some analysts, Chinese leaders diverge on how to respond to protest activities: One government view regards peaceful demonstrations as a legitimate way to express grievances and emphasizes developing institutions for protecting rights and resolving disputes. In March 2006, Premier Wen Jiabao made some conciliatory remarks following the annual National People's Congress session regarding the protection of the property rights of farmers. Another view, often associated with President Hu Jintao, stresses fortifying police forces and cracking down hard on large public demonstrations. According to some experts, the escalation and vehemence of protests in the past year have convinced some top leaders to take a tougher line, particularly in light of the “color revolutions” that have taken place in post-Communist countries. The December 2005 Dongzhou case gave rise to varied government responses. Two weeks after the incident, an editorial in the official English weekly, *Beijing Review*, quoted intellectuals in China and Hong Kong who criticized police methods, PRC government policy toward social discontent, and official corruption. Nearly three months later, the Guangdong governor suggested that the police commander “made mistakes,” most protesters were “innocent,” and a few local officials were “corrupt.” However, he also stated that the shooting was “caused by a small group of criminals.” The local government promised to “improve social services” for villagers but did not offer any concessions on the disputed construction of the new power plant.

Some analysts argue that the PRC government's common response to mass demonstrations, which is to appease protesters, punish organizers, and do little about underlying causes — also known as “buying stability” — encourages civil disobedience as the only effective means of winning redress. Many demonstrators in China now express the following mantra: “Causing a big disturbance gets you a big solution; a little disturbance gets you a little solution; and no disturbance gets you no solution” (Lum, Thomas 2006, *Social Unrest in China*, 8 May, US Congressional Research Service website – Attachment 8).

According to the US Department of State's *Country Reports on Human Rights Practices 2005*, some worker protests were tolerated in 2005, however the Chinese government “took swift action to halt protests that became large or that officials deemed embarrassing”:

Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them. It also permits sentencing without trial to as many as four years in reeducation through-labor camps and other administrative detention. Because the government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. According to 2003 government statistics, more than 260 thousand persons were in reeducation-through-labor camps. Foreign experts estimated that more than 310 thousand persons were serving sentences in these camps in 2003. ...The government also confined some Falun Gong adherents, petitioners, labor activists, and others to psychiatric hospitals.

...Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views, but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in reeducation-through-labor camps and other forms of administrative detention. The government did not grant international humanitarian organizations access to political prisoners.

...At times police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently.

...Worker protests occurred throughout the year...While some were tolerated, the government took swift action to halt protests that became large or that officials deemed embarrassing. Police sometimes detained protest leaders and dispersed demonstrations. In some cases workers were offered payments that met at least a portion of their demands (US Department of State 2006, *Country Reports on Human Rights Practices 2005 – China*, 8 March, Section 1d, 1e, 2b & 6b – Attachment 6).

According to the International Confederation of Free Trade Unions (ICFTU) 2006 *Annual Survey of Violations of Trade Union Rights*, “many workers found themselves detained or arrested, charged and imprisoned for their involvement in collective protest action during the year”:

While it remains difficult, if not impossible, to estimate the total number of worker protests in China due to media censorship and continuing secrecy regarding statistics, it is clear that the trend of increasing protests has continued throughout 2004. In addition to regular collective protests against non-payment of wages, fake and genuine bankruptcies and corruption involved in the privatisation of state-owned industrial assets, there has also been a rise in individual protest. Some media reports have concentrated on workers who have jumped or threatened to jump off buildings to claim unpaid wages. This is a tactic of some workers, aimed at attracting attention, either through physical harm or risk thereof, or through arrest. Hardly ever do people actually jump. The workers who have developed this tactic are almost exclusively migrant workers.

... In addition to several detained workers mentioned earlier, the plight of many workers detained during labour protests remains unclear. While it is assumed most are usually released after a few days or weeks in administrative detention, no formal notification is forthcoming (International Confederation of Free Trade Unions 2006, *China, People’s Republic of: Annual Survey of Violations of Trade Union Rights (2006)* – Attachment 9).

According to Department of Foreign Affairs and Trade advice dated 19 August 2005, “Authorities often detain, without proceedings to formal arrest, the leaders of public

demonstrations and sometimes detain those who are robust in making complaints to the authorities” (Department of Foreign Affairs and Trade 2005, *DFAT Report 399: RRT Information Request: CHN17444*, 19 August – Attachment 10).

List of Sources Consulted

Internet Sources:

Government Information & Reports

Immigration and Refugee Board of Canada http://www.irb.gc.ca/cgi-bin/foliocgi.exe/refinfo_e

UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

United Nations (UN)

UNHCR <http://www.unhcr.ch/cgi-bin/texis/vtx/home>

Non-Government Organisations

Amnesty International <http://www.amnesty.org/>

Human Rights Watch <http://www.hrw.org/>

Topic Specific Links

China Labour Bulletin <http://www.china-labour.org.hk/public/main>

Greater China Business Net <http://www.gcbnet.com/>

International Confederation of Free Trade Unions

<http://www.icftu.org/default.asp?Language=EN>

Search Engines

Google <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. 'The Liaoyang Protest Movement of 2002-03, and the Arrest, Trial and Sentencing of the "Liaoyang Two"' 2003, *China Labour Bulletin*, July <http://www.china-labour.org.hk/public/contents/article?revision%5fid=18683&item%5fid=2938> – Accessed 5 October 2006.
2. Human Rights Watch 2002, *Paying the Price: Worker unrest in Northeast China*, August, Vol 14, No 6 (C).
3. 'Chinese government releases labour political prisoner but harassment continues' 2006, *M2 Presswire*, 1 March. (FACTIVA)
4. RRT Country Research 2006, *Research Response CHN17741*, 11 January.
5. 'Liaoning Tieling Valve Factory' 2000, Greater China Business Net website <http://www.gcbnet.com/members/machinery/10009/main.html> – Accessed 6 October 2006.
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10. Department of Foreign Affairs and Trade 2005, *DFAT Report 399: RRT Information Request: CHN17444*, 19 August.