



CHINA'S WORKERS WRONGED

AN ORAL HISTORY OF WORKERS' STRUGGLES DURING THE ECONOMIC RISE OF CHINA

BY HAN DONGFANG , RADIO FREE ASIA

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FOREWORD

The workers that I talk with on my Radio Free Asia program Labour Bulletin (劳工通讯) all have one thing in common: They are all the victims of injustice. Many have been injured at work and refused compensation, others were cheated out of their wages or their pensions, and many were simply thrown onto the scrap heap as China's economic reform and high-speed growth gathered pace.

The interviews expose the dark side of China's economic miracle, revealing the collusion between corrupt government officials and greedy, arrogant businessmen who think they are above the law. Their stories reveal how China's official institutions of redress have so often let workers down, leaving them with no option but to take extreme or dangerous measures to press their case, which usually only makes matters worse.

Many people will see these interviews just as sad stories, but for me they are thought provoking and inspiring. They have helped me understand the problems faced by workers in China today and allowed me to develop strategies that can address those problems. In just nearly every interview I emphasize the legal rights of the workers and how legal action can be effective if it is well thought out and the goals are realistic. In many cases, China Labour Bulletin has provided worker plaintiffs with experienced labour lawyers who can help them through the legal process. This has meant that workers are not burdened by any additional costs and do not have to deal with the local government bureaucracy or the courts by themselves. Even if some of these legal cases were ultimately unsuccessful, they still helped generate publicity and highlighted many of the widespread problems workers have to deal with as well as the deficiencies of China's legal system.

After many years and hundreds of interviews, however, it was obvious to me that focusing on individual cases would not bring about long-term progress—there were simply too many cases of injustice to take on. Ultimately, we need to create the conditions for workers' unity and solidarity that can prevent these injustices from occurring in the first place. China's workers have demonstrated very clearly that they have the will and the ability to take collective action in defence of their rights and interests. However, they are prevented from moving the labour movement further along by a wholly ineffective trade union that is in league with the Communist Party and the factory bosses, and does nothing to represent the workers.

Going forward, the key task for China's workers is to reclaim the trade union and make it an effective bulwark against employer abuses. This of course is a huge challenge because China's official trade union is highly resistant to change. But, as the interviews in this book demonstrate, the desire and need for an effective trade union is there, and ultimately this will create enough pressure to bring about change. The spirit of solidarity and collective action is there for all to see. The challenge for us now is to channel that spirit into sustainable institutions that can help create and maintain a fairer, more democratic workplace where disputes and grievances can be resolved through compromise and peaceful dialogue.

Han Dongfang
Executive Director, China Labour Bulletin
June 2016

ACKNOWLEDGMENTS

This book is a collaborative effort involving two organizations, Radio Free Asia (RFA) and the China Labour Bulletin (CLB), and dozens of individuals working together over a nine-year period from 2008 to 2016. The book is based on 88 interviews conducted by CLB's Executive Director Han Dongfang with ordinary Chinese workers, which were broadcast on RFA's Mandarin Service program the Labour Bulletin.

More than 10 people in China, Hong Kong, and the United States were involved in the transcription and proofreading of Han's broadcasts. Their combined efforts eventually produced more than a thousand separate Chinese language transcripts in total. Based on these transcripts, each interview was translated into English and summarized with the most important quotes left intact so as to retain the voice of the interviewee. Half a dozen different translators were involved in the project over the years. The summaries were then posted on the Workers' Voices section of CLB's website with a link to the original RFA broadcast.

The primary author of this volume is Jan Channing, who also translated many of the original interviews that the book is based on. CLB's Communications Director Geoffrey Crothall edited the book. RFA's multimedia designer Vincent Meadows illustrated the book and developed the text into the finished product. RFA's Executive Editor Dan Southerland oversaw RFA's work on the book.

Finally, of course, this book would not have been possible without the Chinese workers who agreed to share their stories.

CHAPTER ONE: BROKEN LIMBS AND BLIGHTED LUNGS

2008. It is the 13th of the month, payday morning. By a bridge on the road leading to the Daxia Mine deep in Sichuan Province, a crowd of 20 to 30 sick and injured mineworkers wait, some on crutches or in wheelchairs. The boss, Liao Xing'an, has to drop by this day. As worker Huang Houming explains: "If two or three people go after him, he will not give us the time of day. But if there are 20 or more of us, he will be afraid of a disturbance and might give a little money to each person, at most 300-400 yuan. We depend on this money for medical costs and food." They had a nickname for the boss: Castrator Liao. According to workers, his management style was ruthless, his business ways corrupt, and his mines accident-prone. In 2005, there was a major flood at Daxia, a subcontracted pit. Two years later, a worker was crushed to death when a two-ton vat of earth tipped over. The widow was bribed to keep silent with an inflated compensation payment; she had to say an underlying sickness struck suddenly while he was underground. When a falling roof support caused a shoulder injury to another worker, Liao allegedly saw to it that the degree of injury was underestimated so that compensation would be correspondingly reduced. The worker casualty list at Liao's pits is long. Liu Yuanzhong had his leg injured in a steel wire accident. Su Mingying suffered leg injuries when winding machinery failed; he was forced out of the county hospital when his money ran out. Wang Zhenghua suffered a fractured knee, and he too was evicted from hospital for money reasons. Huang Houming injured his hand in a machinery accident; he was still owed compensation and could not pay his medical bills.

There was also disease. Xiao Huazhong, a now-retired miner, developed the fatal lung illness pneumoconiosis after working many years at Liao's pits. As China's coal-mining sector boomed, wages rose to 3,000 yuan or 4,000 yuan per month. "When miners get that much money," his son told Han Dongfang, "they don't care. Their attitude is, as long as I get out of here alive, then it's okay." Xiao worked at relatively safe, low-gas mines. But dust levels were high, he said. "Miners hacked away with clawing tools in a day-long miasma. They had no protective gear, nor was there any company health insurance. The men just have their piece rate wages, that is all." When Xiao's pneumoconiosis manifested after he had left the mines, Liao wanted nothing to do with him. "When you leave his mines, all relations are severed," his son said.

Yet Liao was not merely an employer of over 400 exploited workers at three poorly operated mines. He was also vice-president of the Qu County Federation of Industry and Commerce and a Dazhou Municipal and Qu County People's Congress deputy. He had "both money and power." He was able to muzzle the media. He had power over local government. Xiao was told by the Labour Bureau that he had contracted his illness at another mine that he had never worked at; he was unable to get Liao to provide his health report or even confirm an employment relationship. When Xiao's son attempted to petition the authorities in Beijing, the party was stopped by police from Tiananmen Square and taken home, where they were accused of "blackening the name of Qu County." When the son appealed to work safety and other agencies, the unions, and even the local mayor, all he got was a warning that "the waters run very deep in Qu County."

2007. In the late 1990s, China's state-run railways embarked on a massive retrenchment that resulted in hundreds of thousands of dismissals and forced early retirements. All over China, workforces at state enterprises were being slashed. Abuses occurred all over the country, but few were as brazen as the tactic adopted by the Shenyang Railway Authority in the industrial northeast. According to two former employees, Song Yuman and Liu Zhongwen, workers were falsely told that they would get higher pensions if they brought their retirements forward a year to 1997 on medical grounds, although all were healthy. Altogether, 38,000 workers were affected by the cutbacks. Some were told quite simply to "pick a disease" from a list of six presented to them in the boardroom of the Jinzhou Rolling Stock Department. Said Liu Zhongwen: "I did not know which was suitable so I asked the doctor. The doctor said, 'Which should I write?' I said, 'I don't know, you choose whatever is suitable.'" A disease was circled.

Later, said Liu, the relevant paperwork disappeared from the files. The cost of this fraud only became evident to the pair later. Song and Liu discovered when they retired that they were receiving between 300-

400 yuan less per month than those workers who had retired a year later. They estimated that the shortfall totalled ten million yuan for all the workers affected.

When Liu tried to flag this on his personal website, he was accused by the Public Security Bureau of collaborating with foreign forces, because the religious group Falun Gong and U.S.-based Infinite Universe had picked up the story. “On the basis of this charge, I don’t know how many hours were spent investigating me,” he said. “They came from all over the place.” The worker activists also petitioned the government. “Each time, Shenyang always called in the Public Security. They came to our homes to curtail our movements. On 20 September 2004, many of us went to Beijing, and four of us were detained. Chang Guangwen of Jinzhou and Comrade Yang Fengying of Tonghua were each detained for 15 days. I was detained for 10 days. Comrade Jijian was detained for seven days.” (He had political connections and got out sooner.) “Everywhere we went, the local cops tailed us. Even now, they still have us under surveillance, forbidding us to travel to Beijing.” In response to this crackdown, workers in 2006 took the bold step of trying to sue the Ministry of Railways for administrative misconduct, but the courts refused to accept the case.

These two case studies typify the abuse of workers and the disregard for rule of law that have been endemic in industrial relations in China in recent decades. They are two particularly egregious examples from 88 interviews with wronged workers conducted by telephone by Han Dongfang for the thrice-weekly Radio Free Asia show Labour Bulletin (劳工通讯), and summarised as articles in the Workers’ Voices section of the China Labour Bulletin website.

Most of the subjects of Workers’ Voices fall into two groups, rural migrant workers, as at Qu County mines, and former employees of state-owned enterprises (SOEs), as on the Shenyang railways. The following pages form a summary of the experiences of abused workers interviewed by Han from 2007 to 2015, although many of the cases actually date back to the 1990s or even before.

The cases discussed represent the hidden face of China’s economic miracle. It was a period of rapid economic growth and market liberalization that saw some get rich but many more left behind. Exploited workers gradually became more assertive, and in response the Chinese government introduced a raft of new laws and regulations designed to protect workers’ interests. However, these laws were rarely enforced and business owners, in collusion with local government officials, could often cheat workers out of their legal entitlements.

Before looking at these case histories in detail, we should perhaps ask, what is it that drives Chinese villagers to leave their beloved family and the fields of home to risk their lives as migrant workers in jobs that could be fatally dangerous, in distant towns or cities where, thanks to the discriminatory hukou system, they are second-class citizens?

While absolute, grinding poverty is now a thing of the past in most of China, albeit the very recent past, Chinese villages remain isolated places, litter-strewn clusters of shabby houses connected by a long concrete strip with the nearest main road, offering mainly monotonous manual work and basic pleasures, where disposable income is one-quarter that of urban levels and few can afford a car. An anonymous blog translated by China Labour Bulletin in 2008 gives a fascinating picture of modern life on the land in the eyes of a gifted young Anhui Province villager who left to become a student in Shanghai. It documents the sense of claustrophobia and the pressures that induce young men and women to leave.

Around his village, he notes, “over 1,000 people have the same surname, and four families predominate.” The villagers live on around four mu (two-thirds of an acre) of land. The girls marry young: “To be a woman in the country means forgoing youth. After marriage and childbirth, she ages very quickly. A girl in her early twenties looks the same as a worn-out woman of 40 ... In the country, people often say that happiness is ‘having enough to eat and drink, and escaping illness and disaster.’ But if one day they do fall ill, it can mean death. A minor illness, untreated, will deteriorate into a serious one. Then it is just a matter of time.” Until recently, adequate health insurance was rare in the countryside.

Returning, he says, was a “leap from post- to pre-modernism, from the 21st century back into the mediaeval world, and it left me with a mix of feelings—anger, sadness, bitterness, impotence and much else.” Many village children drop out of school or complete junior middle school and become migrant labourers. “In the rural areas, people often say ‘what’s the point of going to university—you will still end up a migrant labourer.’” Sometimes my parents say, half in jest and half in anger, it would have been better to have kept me out of university, ‘for if we had done that, we now would have had a grandson to hug.’”

“At that time, university meant security, it meant you could wash off the mud of the fields, go to the city and become a ‘respectable person.’ Indeed, the nostalgic attachment all country people are supposed to have to the land is fading steadily. A lot of the wealthy people in the village have moved to the town or elsewhere in the county to buy a house. Normally, they live in the town, and only come back twice a year when there is a lot of farm work. ... Everybody says that Chinese people are influenced by Confucianism, but in the villages, you see very little humanity or fellowship. All you see is selfishness, greed, stupidity and ignorance, the law of the jungle and infighting. Fights, quarrels, adultery—all are commonplace. Especially during the Spring Festival, gambling, drinking, or small grievances can lead first to quarrels, then to beatings and finally to grievous bodily harm ... Gambling of all kinds occurs, and even women and the elderly get involved. For our local police, gambling arrests have become a new form of revenue-raising ... The kids have never heard of the World Trade Organisation, but they know about McDonald’s, about online dating, and how to use QQ to find a girlfriend.”

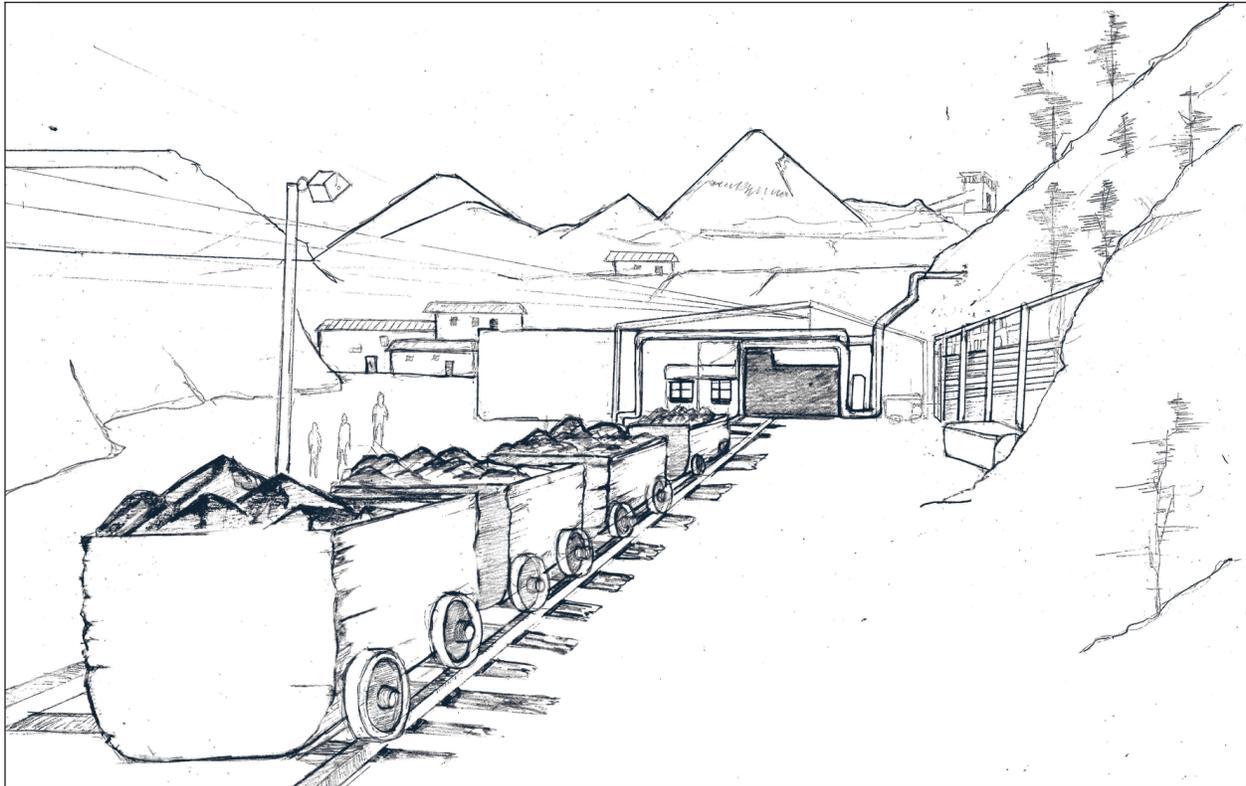
This, then, was the kind of life rural migrants left behind when they headed for the east coast in hopes of making their fortunes. In the early 2000s, no industry offered better chances of fast bucks (and an early grave) than coal mining. Coal was essential to keep the economy roaring, and mineworkers’ wages were as high as 2,000-3,000 yuan a month, three times the typical minimum factory wage. China was in its high-growth phase at that time, and registered collieries could not keep up with demand. At the end of 2004, the peak of the mining boom, there were over 23,000 small pits in China, accounting for 90 percent of all coal mines. Of them, a huge number were operating illegally without all, or any, of the six licenses needed for mining. Many were death-traps. By the mid-2000s, 45,000 workers had died in Chinese coal mines, peaking in 2002 at 7,000 fatalities that year. Despite these staggering figures, former factory workers and rural migrants flooded down the shafts, most of them unskilled in and unqualified for the work. Many interviewees were among those who took the risk and paid the price.

LIFE AND DEATH IN CHINA’S COAL MINES

Xia Shihua saw a stint in China’s coal mines as a shortcut to the good life. Xia was from a village in Hubei Province. He had graduated from technical college and had tried to find a good job in Beijing, but could only get low-paid temporary work. He knew from friends and relatives that the work was hard and very dangerous, but felt it was probably worth the risk. He headed to Henan Province, where, for a year, he moved from pit to pit doing different jobs until February 12, 2008, when his luck ran out. A large rock fell and broke his foot, leaving him with a permanent injury. Lacking an employment contract and unable to get any kind of formal compensation, he had to make do with a private payoff that was at best one-third of what he was legally entitled to.

Li Jianguo’s luck turned for the worse on June 5, 2008, when he and two other miners were caught in a pit cage accident after their shift, near Pingdingshan in Henan Province. The cause was never officially determined, but it left Li unable to work and suffering from double incontinence. The two other miners suffered broken legs. The injured men were taken straight way to the local hospital, only to be told there was a power outage and that they would have to wait for repairs before getting any medical treatment. Li’s wife demanded that her husband, who was the most seriously injured, be taken to the municipal hospital in Pingdingshan, but the mine management refused. After much argument, Li was transferred to the Baofeng County People’s Hospital and was hospitalised for nearly six months. However, the mine boss paid only for the first two to three months’ worth of medical expenses, including surgery.

Accidents are not the only hazard in Chinese mines. Pneumoconiosis, a chronic respiratory disease caused by inhalation of mineral dust over a long period, has long been the bane of the mining industry. It leads to inflammation and fibrosis of the lungs, causing sufferers to complain initially of coughing, shortness of breath, and influenza-like symptoms. Its latency period ranges from five to 20 years, long enough to make proof of origin extremely difficult. As the disease progresses, victims lose their strength and all ability to work. In the vast majority of cases the disease is fatal. It is estimated that there are more than six million people with pneumoconiosis in China (many of who have already died) but, because of bureaucratic hurdles and collusion between business owners and government officials, probably only ten percent of those cases have been officially registered.



Illustrations by Vincent Meadows, Radio Free Asia

The odds are heavily stacked against any worker in China seeking redress for occupational illness or injury, but pneumoconiosis cases are particularly difficult. The bureaucracy is very complicated, entailing separate procedures for verification, assessment of severity, labour capacity assessment and benefits entitlement. The typical paper chase is as follows. Following initial diagnosis by a general physician, a second diagnosis (□□) confirming an occupational link is needed from an officially accredited hospital, say a provincial Hospital for the Treatment and Prevention of Occupational Disease. Within one year of getting this written certification, the worker or a close relative must then apply to the local Human Resources and Social Security Bureau for certification of a work-related injury or disability (工伤认定). This is the key document, enabling official classification of incapacity and application for welfare benefits. Theoretically, a worker with an accredited Grade 1 injury (severe and debilitating) is entitled to a one-time disability allowance amounting to 24 months' pay, 22 months' pay for Grade 2, 20 months' for Grade 3 and so on to Grade 10, the mildest injury level.

But many of the documents needed for diagnosis are in the hands of the employer. They include employment history, a copy of occupational health monitoring files, and occupational health examination results testing

and evaluation documents from worksites with occupational injury or disease risk. If an application for certification is unsuccessful, the case can then be taken to arbitration and, if that fails, to court, though judges will seldom strike down a prior arbitration award. Courts generally are reluctant to take personal injury lawsuits from victims of occupational disease. Moreover, win or lose, the process can end up taking many years. It hardly needs adding that employers and local authorities are seldom cooperative, and use a wide range of manoeuvres, legal and illegal, to evade responsibility and derail worker compensation claims.

Gu Chaoxin began working at the poorly ventilated Liujiang mine in Dazhu County, Sichuan in 2003. For four years, he worked 8 to 9 hours every day raking out coal after blasting and drilling operations. “We used hand tools ... After you had raked out the coal, it was piled on a conveyor belt. This produced high concentrations of dust. The dust hung suspended in the air during the process. They relied entirely on natural ventilation, not mechanical, and it was bad at the bottom. At that time, we did not have masks or other protective equipment.”

For the sake of his impaired health, Gu returned to his home village to plant crops and rear pigs, staying away from the migrant labour trail completely—until 2009, when his old team leader got in touch and asked him to return to Liujiang, which was expanding and facing a labour shortage. Before taking him back on, the coal mine management had Gu and his colleagues sign an agreement absolving them of any liability for future pneumoconiosis problems. Though he could not read it properly, he agreed to the terms. Then he was sent to work underground again, in spite the risks and in contravention of China’s Pneumoconiosis Prevention and Treatment Regulations, which require that victims or suspected victims be placed in a dust-free workplace. In fact, Gu was assigned to an even dustier environment than before, involved in blasting and underground coal transport. He continued working under these conditions for several years until 2013, when the mine management suddenly barred him and around nine of his colleagues from going underground, citing tightened government occupational health regulations which now required that Gu’s group be covered by an insurance plan. Because the mine management could not get cover for Gu and the others, they were sent home. Of these dismissed workers, few resisted. Some left to work elsewhere, feeling that there was no hope of compensation or of bringing the management of the mine to account for endangering their health. The fact that Gu had been away from the mines so long made it even harder to prove his illness had been contracted at Liujiang. He had no money to launch a lawsuit anyway, and was sick, unemployed, and without income at the time of his interview with Han in 2013. Gu estimated that by then about 80 percent of his former colleagues had also contracted pneumoconiosis.

Ma Jixing had already reached the terminal third stage of pneumoconiosis when he spoke to Han Dongfang. The Shandong native had worked in “dry” drilling at the coal face in a small, dusty mine outside Beijing for more than a decade before he was diagnosed in 2006. Ma then ran up against a familiar problem in Chinese industry, where employment relations are often informal. Without a copy of his contract, he could not prove an employment relationship with his former boss. Also—and this happens frequently too—the company had changed its management in the period after he stopped working there. Ma did, however, obtain official recognition of his condition and token compensation. But he was countersued by the company, which argued that Ma had not actually been hired by the company. The court agreed. The judge airily told him that the court was not interested in anything that had happened more than a year previously. Ma spent between 40,000-50,000 yuan on legal and other costs, running out of money in December 2010.

The case of Shao Hongzhen, who died during the night in a workers’ dormitory after a double shift in 2007, raised a different problem. A pit hoist operator, she was just a year or two shy of retirement, having worked at the company for decades. It was eventually established that she had died of stroke from rheumatic heart disease, but it was difficult to prove this was the result of a long period of overwork. But when widower Sun Shengqiang presented a document listing reasons why this was a case of occupational illness, the company officials he approached refused to look at it. He was told, “‘You can do whatever you want or go to whomever you want, but this was not a work-related illness.’ Their attitude was that the death of a human being was just like the death of a little chicken or dog,” he said. The company, owned by China National Coal Group Corp., the second largest coal company in China, did not offer compensation or even a word of comfort.

Of the numerous cases involving victims of China's coal mines who have talked to Han Dongfang over the years, one is particularly poignant, but also emblematic of the indomitable spirit of Chinese country people. The central figure, however, was not a miner. Her name is Wang Huiping, and she is the younger sister of a mining accident victim.

In 1995, Wang Huiping's brother, Wang Jinmin, left his home town in Gansu Province for a coal-mining job in the Kazakh autonomous prefecture of Yili in Xinjiang. A year later, his family lost contact with him. After two more years, 15-year-old Wang Huiping, then about to start high school, set out to look for him. While working in Yili, she posted flyers all over the streets and, after several years, finally found somebody who told her that her brother had died at a coal mine in January 1999. But local authorities insisted they had no record of her brother. Nine more years would pass before Huiping found that mine.

During the 2000s, Huiping carried on the search, getting by driving taxis, repairing pipes in the Gobi Desert and even trying her hand at making solar ovens. Eventually, she located the grave, and persuaded the Public Security Bureau to search their records. When told they had none, she told an official that she did not believe them: "I took my shoes off, and I said to him, 'you look at my feet. Look at how hard I've worked to find my brother.' My feet were so bad I was using toilet paper to wrap them and blood was oozing out of my socks." The official relented. "I found the record on page 1,999, with name, ID number, and home address, all on a flimsy sheet of paper," she said.

Huiping eventually found out that her brother had died from coal-soot poisoning, probably from a stove he had used, while living in a cave which served as dormitory accommodation for the mineworkers. This was only an assumption; there was no autopsy report, and the coal mine and Public Security Bureau had no medical records. The Public Security Bureau offered her 25,000 yuan in compensation for their negligence. Huiping sued the owner of the coal mine and, after an appeal, was awarded 150,000 yuan (compared with a national compensation benchmark of 200,000 yuan for such cases). This sum fell short of her expectations, but it was difficult to prove a clear occupational link with her brother's death. The saddest thing was that she felt unable to tell her parents what she had discovered. "My mother's health is not good," she said. "My brother was the only son in our family. My parents would not be able to cope with it. I don't dare to tell them." Her priority was ensuring that her brother's teenage children were cared for and got a good education. "You can say the reason I did not get an education was because of our family's situation. I can't let them fail in their studies. My brother's son is in his second year of high school. I don't dare to tell them. I've only said I found his father, and when he grows up I'll take him to see him."

DUST EVERYWHERE

Occupational illness and injury are endemic in all forms of mining in China. Metal mines are safer than coal mines because they are largely free of the risk of gas explosion. Nonetheless, like coal mines, they are hotbeds of pneumoconiosis. Zhao Wenhai was one of several metal miners interviewed. He was at the terminal stage when he spoke to Han in 2014. Enveloped all day in a cloud of rock dust created by the pneumatic drills, the only protection he and his co-workers had was flimsy masks. Dust density was never tested. He had left the gold mines in 2004 without ever learning the name of the disease that would plague him for the rest of his curtailed life. His efforts to obtain redress were stymied by misdiagnosis, lack of paperwork and other obstacles. He got some help after his remote and desperately poor Gansu village of Heisongyi made headlines nationwide when activists and journalists brought together a group of more than 300 pneumoconiosis-stricken gold miners and their families on New Year's Day, 2011. But overall, he said, "the government has just paid lip service to protecting people's rights. They did nothing of substance."

In October 2012, former lead and zinc miner and prominent labour rights activist Chen Xiezhong finally lost his battle with pneumoconiosis. His colleague Liu Guangqian was one of those who vowed to continue the struggle for compensation. But Liu faced an obstacle course. Over a decade had passed since they had worked as miners. The mines in Ganluo in Sichuan Province had been shut down in 2003 after 20 miners were killed in an accident. The mine was then sold off to another company at a state auction, leaving the

stricken former miners with no one to sue.

Local authorities were willing only to make a charitable payment on condition that “we would have to stop making trouble and not do any more petitioning, that kind of thing,” Liu said. “If we did make a fuss again, the money would dry up. We were also banned from getting in touch with people like activists, journalists, especially overseas journalists, and lawyers. Local government did not want us causing trouble.” In 2011, Liu and his former co-workers filed suits against the county government and the regulatory authorities who had issued the licenses but had not inspected the mines. Their efforts ended in failure. “The courts would not handle the case because they are afraid to take on the government.”

Another industry plagued by pneumoconiosis is gemstone-cutting. Lucky Jewellery, a Hong Kong-invested company in Guangdong, was one of a cluster of gemstone-processing factories around Huizhou and Shenzhen whose workforces were ravaged by silicosis, a form of pneumoconiosis acquired by inhaling fine particles of silica dust over time. The disease, which slowly reduces sufferers to gasping, coughing wrecks, is incurable. Lucky became a byword for the obstacles and injustices faced by the victims of occupational disease generally in China. Dozens of workers were diagnosed with the illness and tried to get compensation, but few received more than a stopgap sum that would last only a few years, and many got nothing at all. Speaking in 2010, Xiong Gaolin described conditions when he joined as a stonecutter in 1997:

“You could see clouds of dust in the air. A layer of dust would gather on the machinery in one or two days. There was no ventilation and we had no cloth or gauze dust masks. When we were cutting stones, the water we used was all stagnant water from the surrounding countryside. There was no running water. The atmosphere in the whole workshop was like a winter fog.”

As the first cases of silicosis were diagnosed, the company relocated operations within the region and repeatedly changed its name. In 2008, an ailing Xiong was diagnosed with an “increase and thickening of markings” and “hollowness” in his lungs. But when he asked the factory management to hand over his medical records and other documents, the factory refused, saying the disease had nothing to do with them.



Illustrations by Vincent Meadows, Radio Free Asia

His silicosis suspicions were brushed aside by health-care officials.

With his health failing, Xiong continued working in the cutting shop because the company refused to give him a different position. In 2007, the management took employees to the Haifeng County Centre for Disease Treatment and Prevention. Some employees showing lung symptoms had to write resignation letters. They were told they would get compensation of three months' wages, but nothing if they refused to sign. "The factory did not care whether or not it was acting illegally," Xiong said. "If you got sick, they fired you."

Xiong remained in his job, knowing that if he cut his relationship with the company all hope of redress would be lost. In 2009, Xiong got a call from the hospital confirming his occupational disease diagnosis, stage one-plus silicosis. But at the time of interviewing, he had received no treatment: "I cannot afford the drugs I need. I'm on unapproved sick leave."

Another Lucky worker, Chen Shisheng, found that local doctors refused to confirm an occupational illness diagnosis, ostensibly for fear of upsetting the provincial hospital: "He did not dare to tell me his conclusions," Chen said. In 2008, Chen, now downgraded to janitor, was told that the management was going to unilaterally terminate his employment, "but would square all wage and other matters" if he would go quietly. Legal action was fruitless. "I took the money. I know the factory should not have been able to dismiss me, because at that time I had health problems. But in the end, I had no option." Chen and his wife had to borrow 20,000 yuan in medical, legal, and travel expenses.

Tang Feng worked for six years at artificial diamond manufacturer Haoxin Hardware Jewellery Co. Ltd. in Foshan. He was employed as a driller using glass and silicon pestles in a dusty, smoky environment as a member of a small team on the assembly line. "When a shift went on, their hair and nostrils got white with dust. We used to joke about it. Your hair had turned white like an old man when you left work." Only in 2005 were masks or other protective equipment provided. Medical checks were carried out rarely, and results were withheld from employees. Problems began to emerge that year when workers had health-checks at their own expense and a dozen found that they had contracted pneumoconiosis. In protest, the workers went on strike, blocking an expressway and triggering the dispatch of more than 1,000 police. The more than 70 workers diagnosed with the illness were hospitalised and awarded state compensation of around 300,000 yuan each. However, all were then dismissed and lost all their social security coverage.

The company then started to test its workers regularly. Soon after, workers with damaged lungs started to vanish from their posts. "People left the plant for various reasons," Tang said. "But the suspicion was that anybody who had anything more than slight shadowing was effectively terminated." This is what happened to Tang. When he was dismissed, he joined protests and helped file a lawsuit against the company, but it was rejected because the deadline had been missed.

"We're not begging, we don't want sympathy," Tang said. "For the management, the money is just numbers, but for us, with our damaged lungs, it can make a huge difference. At the very least it could be some kind of palliative."

HARD STEEL

The Chinese steel industry is a notoriously dangerous place to work, and worker injuries can be particularly severe. Nonetheless, steelworks management is often no less neglectful and unscrupulous than many mine operators. When a cauldron of molten metal tipped over, leaving 26-year-old Yu Jianhong with burns to 75 percent of his body, Yu should have received substantial compensation and long-term care. But the company had ignored its legal obligation to buy employee insurance. The boss was stuck with the bill and simply refused to pay it. The plant in Tangshan, Hebei Province, met initial care bills of around 10,000 yuan a day for only a few days after Yu was admitted to hospital. Then the money dried up. In desperation, the family decided to petition the local government. Said Yu's uncle, Yu Chunming:

“I asked the hospital to give us a stretcher so that we could take my nephew to the government office. If he was to die, he would die at the government office.”

In the end, Yu’s family blocked the front of the government office for three or four days, but the officials slipped in through the back door. Although the local government did nothing, the factory manager came up with a makeshift solution. He got the hospital to continue treatment on a promise of future payment.

Yu should have been able to sue the local government for failing to supervise the plant, but “because the government is involved, the court would not allow us to file the case.” In the end, fate intervened. The steel mill was closed and sold off, freeing up assets. This enabled the family to get 880,000 yuan in compensation, a relatively high amount but little relief for a case of lifelong disfigurement at just 26 years of age.

“The fact that the enterprise did not protect its workers, as required by the law, was common knowledge,” Yu Chunming told Han in 2014. “But workers were willing to accept it because of the lack of other job opportunities. China is different from other places. China has a big population. If you don’t take the job, somebody else will.”

Likewise left in the lurch was riveter Song Sheng, whose lower legs were crushed by a falling steel beam at the Huifeng structural steel factory in Xinxiang, Henan Province, in 2012. For this life-changing injury, Song was awarded living expenses that lasted little more than half a year until he was fitted with prosthetic limbs. Here too, informal employment relations muddied the waters. Said Song: “None of us signed an employment contract when we joined the plant. If the plant is large, the company will give you something to sign, but not a run-of-the-mill place like this.” Instead, everybody was employed on the basis of personal introductions. They would do a stint, make their money, and leave, Song said. As is often the case, management had not bothered with work-related injury insurance, which meant Song had no access to state disability benefits.

The company thought they were untouchable. “Go ahead, do as you like. We are not afraid,” Song was told when he threatened legal action. Their confidence was not misplaced. In several years of legal action, all Song was able to obtain was an offer of 210,000 yuan, pending the confirmation of an employment relationship by the arbitration committee. Even without this major proviso, the lump-sum payment “would not even cover the cost of replacement of prosthetic legs, which has to be done every three years. Never mind the fact that I have got to provide for myself, get work, and support my family at home in Shanxi Province.” He refused the offer, considering it inadequate. Unable to walk without crutches at the age of just 35, Song had effectively lost the ability to work. His legal bills stood at between 10,000-20,000 yuan at the time of interview.

Pneumoconiosis is also a risk in Chinese steel mills, as Jiao Jianlong, a blast-furnace worker in the ferro-alloy unit of Jiuquan Iron and Steel Group in the northwestern province of Gansu, can testify. He joined the enterprise in 2008, and by October 2010 was already showing early signs of the disease—coughing, shortness of breath, and chest pains. But he could not get a formal diagnosis. He was told it was TB, and then that “dust can accumulate in the lungs of normal, healthy people ... because in the northwest of China, the wind is always very strong and the air people breathe daily is laden with sand.” He saw eight uncooperative doctors at his plant alone. This cat-and-mouse game went on for three years. Then the company—by far the biggest local employer—agreed to make payments, but Jiao was not allowed to name his ailment. He had to write “lung fibrosis” to get access to the assistance. This designation shielded Jiuquan from the much higher compensation and benefits obligations triggered by a formal pneumoconiosis diagnosis. In March 2012, Jiao was placed on sick leave. At the time of the interview, he remained a full-time contracted employee at the company, receiving just over 1,300 yuan per month.

A POISONOUS ENVIRONMENT

In the chemical industry, the main hazards to worker health are benzene and lead poisoning, pneumoconiosis from glass fibre and other dusty materials, and machinery accidents. The characteristic

risk is poisoning.

Hu Fengchao joined Sino-Japanese joint venture China Hualu Panasonic AVC Networks Co. Ltd. in Dalian as a paint sprayer in March 2010, helping to produce DVDs and Blu-ray discs. “The basic colouring is black and you have to change it into different colours” he said. “Then you post on the trademark or whatever and respray. These processes use benzene, toluene, and xylene.” A few years later, at the age of just 28, Hu was hospitalised with severe aplastic anaemia—a condition in which a minor bump can trigger a fatal haemorrhage. “If there had been no exposure to benzene, my bone marrow would not have been destroyed,” he told Han in 2014. “That affects my ability to renew blood. That leads to the anaemia.”

“When you do a job like this, you simply have to put up with the environment. In the beginning, I had great difficulty with the terrible smell. After a while, I got used to it ... You can make good money here. All the workers are from the land, farmers’ sons. They just wanted to make a bit of money and support the family, look after their parents, marry a girl. I didn’t think much about things either.”

But Hu did not have a formal diagnosis, and the company did not take him off spray-painting duty. After months of neglect of his condition and missed chances for immunotherapy, he underwent a 3-to-4 month antithymocyte globulin (ATG) treatment course in Tianjin. The management agreed to pay a lump sum of 300,000 yuan to cover this and other medical expenses, but to Hu’s amazement it turned out they had meant it as a loan, and he was obliged to write promissory notes. He was also required to drop his application for occupational illness compensation.

Hu took the cash. With drug expenses of 3,000 yuan a month, he was soon down to 80,000 yuan at the time of interviewing. “They think they are offering me humanitarian help. That’s the way they look at it,” he said. “But basically they are not fulfilling their legal responsibilities.”

Meanwhile, in Quanzhou, Fujian Province, Chen Changhong got a job cleaning off and melting down pieces of lead from old storage batteries at Dahua Battery Co. Ltd. He worked there for nine years. In May 2009, he began to feel weak and nauseated. His joints ached and he had abdominal pain. Admitted to hospital, the level of lead in his blood was found to be more than eight times higher than the danger level. He died two weeks later at the age of 37. Chen’s cousin and co-worker Chen Huofa claimed that the occupational illness diagnosis centre had colluded with the company to falsify the results of blood tests. The company did not provide health insurance and claimed that compensation was the union’s responsibility. It was only prepared to offer a 10,000 yuan payment. The family rejected a court settlement proposal of 30,000 yuan, as it did not even cover their expenses.

Looking back, Chen Huofa said that many workers tried to get by with old masks. Dust reduction equipment was installed on the factory floor, but dust was still “everywhere, all the time.” It was even coming out of the company’s wastewater pipes, he said. “Every worker comes into contact with lead; it’s just a question of how much. Five died the year before last,” he said. “One worker even died on the factory floor, during working hours.”

Industrial illnesses can go back a very long time. In 1965, Ding Suozhu answered the call to help develop the backward northwestern provinces. For over 30 years, he worked as an engineer in fibreglass plastic reinforced composite materials at Unit 5702, a People’s Liberation Army enterprise in Xianyang, Shaanxi Province. In 1972, he began to show signs of pulmonary dysfunction, but nothing was done. He inhaled fibreglass dust for another 16 years. Misdiagnosed with tuberculosis, a common “mistake,” he took sick leave, only to be accused of absenteeism. In 1998, he had more tests done at Xi’an Central Hospital, and was told he had anaemic hypoxia (deficiency of oxygen in the blood). Only after he was forced out of the job was he finally diagnosed with early-stage pneumoconiosis. Years of fruitless legal action followed. Ding found it difficult to find lawyers willing to take on his case because of the links between his unit and local court officials. In July 2011, when he talked to Han Dongfang, he was scratching out a living as a customer guide at a local shopping centre.

TRAFFIC ACCIDENTS AT WORK

Transportation injuries can result in particularly complicated situations, as they tend to occur away from clearly defined workplaces and involve outside parties. Theoretically, injuries sustained on the way to or from a workplace are treated as occupational as long as there is a work connection. In practice, things are not so simple. Zeng La'an was severely injured in January 2005 while working at Shima Logistics Co., a transportation firm in Wuhan's Qiaokou district. On the night of the accident, he was the foreman in a team of eight loaders. Ordered to move some goods across a highway to a storage area, he was hit by a car as he shouldered an over 100-pound load. His upper right leg was shattered and his lower leg broken in two places. Co-workers succeeded in stopping the car that hit him, but the driver brandished a knife and fled.

Even by the abysmal standards of public welfare in China, the treatment of Zeng in the following hours and weeks almost defies belief. When staff at the hospital discovered that he had no insurance and could not pay for his treatment, they refused to give him emergency surgery. If he couldn't pay, they said, the pharmacy would not give him the necessary drug prescriptions after the operation and he would be crippled. The hospital "pressed us every day to pay them saying, 'When you pay us, we'll give you the operation'," Zeng said. He promised them he would obtain the money as soon as possible, but eight days later his smashed legs had still not been treated. Moved to a smaller hospital where he had an acquaintance to pull strings, Zeng eventually had the surgery carried out against a personal payment guarantee from an acquaintance. Zeng said he would pay him back when he could.

Zeng's basic problem was that, like so many workers in China, he did not have an employment contract. As a result, the company owner was able to wrongfully refuse to acknowledge an employment relationship and reject liability for his medical expenses. After his nightmarish hospitalisation ordeal, Zeng faced a bureaucratic obstacle course. Because of his lack of a contract, the arbitration authorities would not take on the case. Legal action was also stymied by the fact that the driver was never traced. Because there was no defendant, the court was not interested. Zeng was told essentially that he had to "sue the car."

Though disabled for life, he was given an unduly mild injury grading of 10, which implied that he could go back to work. His boss tried to avoid him, and only after repeated entreaties paid him a few thousand yuan, "but would not listen to arguments from anybody after that." Zeng resorted to blocking company vehicles in the car park: "If you are not going to give me a penny, you can forget leaving. Go ahead and run me over if you want to." Eventually the boss let slip to the media that he had indeed employed Zeng, but even then the courts dragged their feet. At the time of the interview, Zeng had received only 5,000 yuan of the paltry 24,000 yuan eventually awarded by a court in 2006.

Equally shameful, but more tragic, was the case of Zhang Lihua, a construction worker who at age 54 was looking forward to well-deserved retirement when disaster struck. One day, as he had done every morning for the previous four years, he got onto an unlicensed agricultural vehicle to go to work. But the driver went too fast and lost control. Zhang and three others died instantly when the vehicle rolled over. His grieving children rushed back to their hometown the next day only to be cornered by members of a "special task force" set up by local officials overnight urging them to cremate the body immediately and sign a "humanitarian" settlement dictated by the authorities. This was in contravention of the Work-Related Injury Insurance Regulations, which stipulate that employees who die in traffic accidents on their way to or from work are entitled to work-related death compensation.

Zhang had been working for an independent contractor who had subcontracted a road construction project from Zhongxiang Municipal Road Engineering Co. Ltd. However, many local bureaucrats had shares and other interests in this company. They rallied round and attempted to prevent the family from taking legal action to get a better settlement. The family refused to be intimidated and sued anyway.

In the case of Chen Huai'en, another car accident victim, the obstacle to redress seems to have been the petty pride of town hall bureaucrats who had misinterpreted the law. In 2006, the 43-year-old driver for China National Postal and Telecommunications Appliances Corp.'s Harbin branch was badly injured when a car with fake registration plates reversed into him in a narrow alley. He suffered multiple fractures and severe

nerve damage. After two years of operations and legal action, he was awarded third-party compensation in a civil suit that covered his basic treatment costs. But he never received the state benefits he was entitled to, because a bureaucrat incorrectly invoked out-dated regional legislation to claim that these benefits were eliminated by the third-party compensation settlement.

Chen initially had to meet nearly all of his surgery treatment costs out of his own pocket, including insertion of a steel plate in his leg, though he was eventually reimbursed. He ended up with a minimum-wage level living allowance. But “when I compare my life now with what it was ... here and laid up at home, my daughter-in-law had to give up her job which took a long time to find and now I just sit around downstairs, I cannot even walk down the street without difficulty.”

Li Gang took over his father's job in the Shanghai Railway Bureau in 1986, working as a bricklayer at the Works Department of the Bengbu branch. One day in 2001, he said, “the bus I was riding on had an accident. Six of us were injured, and four were seriously hurt.” Li sustained a hand injury entailing permanent muscle damage. In this case, his employer did treat the accident, which happened on the way to work, as a work-related injury and created a file for him. But it balked at the scale of the compensation commitment and failed to officially report the six cases. The Works Department also asked the injured men to “make out IOUs” for treatment costs.

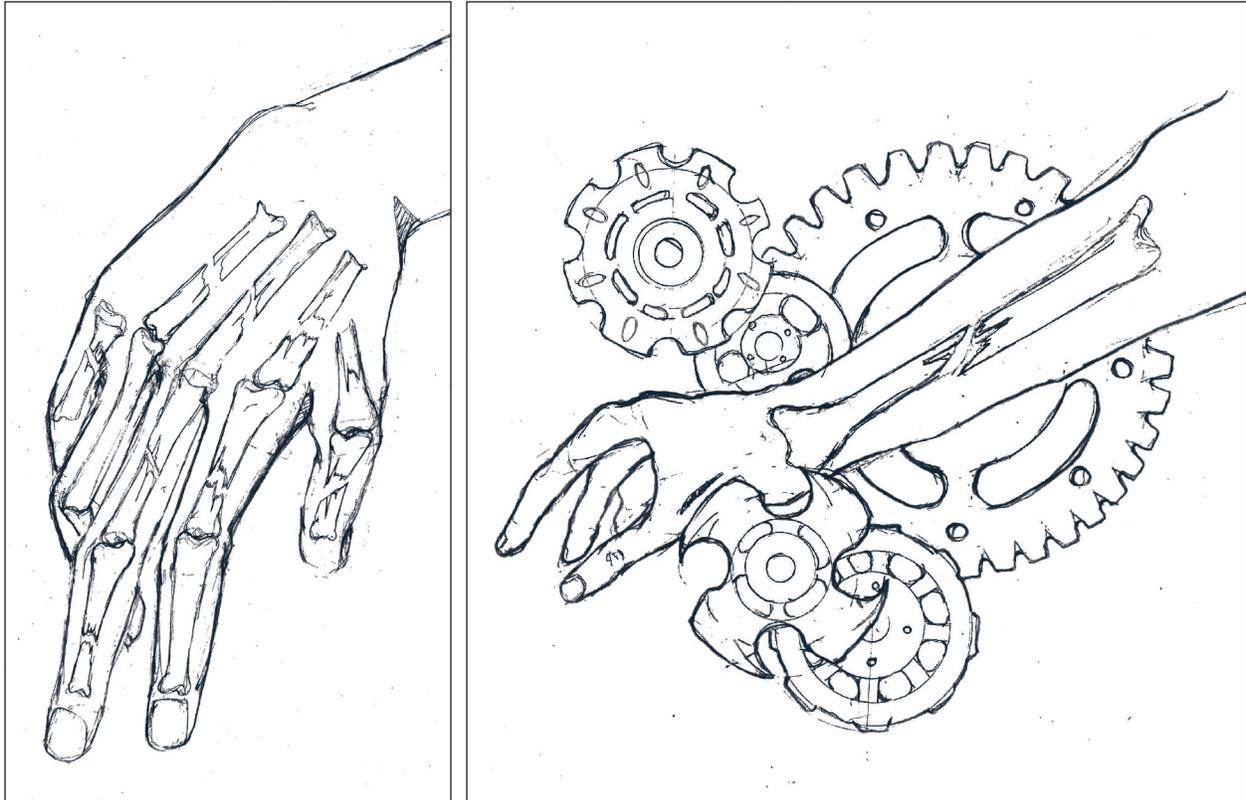
Li, who spoke to Han in 2012, was unable to resume bricklaying, so for two years he was allowed to work as a construction site supervisor on full pay of more than 1,800 yuan a month, including bonuses. Then, in 2003, management told Li to stay at home on just 650 yuan. “It wasn't an agreement to make me quit,” he said, “It was just an agreement that I do not come to work. They continued to regard me as a member of the unit.” And so he went on temporary leave lasting eight years on one-third of his regular salary and with no guarantee of getting a pension.

MECHANICAL FAILURE

Dangerous or faulty machinery is another high-risk factor for workers in China. Guangxi native Pang Shun sought his fortune in the factory towns of the Pearl River Delta, only to suffer multiple fractures and dislocations in his middle and index fingers when a gift-box pressing machine crushed his left hand six months after he started work in 2010. The factory in the industrial township of Chang'an, adjacent to Shenzhen, paid for surgery and post-operative treatment. But it refused to pay the compensation required by law for the Grade 10 injury that he sustained—usually about seven months' salary. It also insisted that he return to work before his month-long recuperation was complete, with rods still in his hands. Pang did not take this lying down, as will be seen later.

Pang was one of thousands of Pearl River Delta factory workers to sustain hand injuries during the boom era of economic reform, but as Zhou Xiuzhi reminded us when she talked to Han Dongfang in 2014, work injury compensation could be problematic even back in the allegedly egalitarian 1970s. On September 15, 1975, Zhou was working as a tractor driver at an agricultural machinery collective in Hubei's Zhongxiang county. Her task that day was consolidating the soil on an earth dam raised to guard against flooding from a nearby river. After a full day of work, she was asked by the management of the agricultural machinery station to operate a cotton gin, separating cotton fibre from the seed and other unwanted matter. As a tractor driver, she was on 10 yuan a month, but cotton-processing nights enabled you to earn extra income, she said. Despite being exhausted, she agreed to do it. It was already after 11:00 pm when she went in. But the cotton-stripping machine had broken down. “I put my hands into it to pull something out, and they were dragged into the machinery by the serrated teeth. When I screamed they shut it down, and I was sent to the hospital. Everybody was in shock. They gave me anaesthetic but I could see and hear everything. My left forearm was still intact but I had lost too much blood. I was bleeding all the way from the unit to the hospital. They telephoned the leadership of the commune and asked them, ‘Should we try to save her hands [thereby risking her life], or just save her life?’ The commune leadership replied, ‘Save her life.’ They amputated immediately.”

Initially, the unit rallied round her. “The unit helped me get back to work,” she said. “They paid me the same wage as the others and later found me a husband. The commune arranged for my husband to work at the unit’s agricultural machinery plant. He did odd jobs, and when I needed help he took time off to look after me. He was not that refined, being a villager, but he has a good heart.”



Illustrations by Vincent Meadows, Radio Free Asia

Life was very difficult, but somehow they made the marriage work, and in 1977 Zhou gave birth to the first of three sons. Ten years later, the machinery station was converted into a starch plant, which closed down in turn in 1992. With her occupational injuries, Zhou should have been provided for and compensated before the bankruptcy procedures could be completed, but local authorities claimed they had lost her personal file. She was left in the lurch, ending up with only 2,000 yuan in money donated from colleagues’ redundancy payments. However, her husband was allocated a small holding.

She had to rely on him for almost everything. She was able to wash and prepare simple food, but all they had to live on was what her husband made from their fields and a few tiny allowances. The saddest part of her story was not the physical maiming and material deprivation, but the impact on her family. Zhou had three sons—something most village women in China would rejoice at. But what she most needed was a daughter—literally, another pair of hands—to help her and look after her, for she had other health problems in addition to her disability. This burden fell instead on the three sons, and that meant, by Chinese tradition, on the daughters-in-law too. Two of the sons divorced their wives and turned against their mother. “They are all away from home,” she said, “and when I approached them for financial help, they were cold to me.” I have been to local government offices so many times my feet hurt, but nothing gets done.”

Only after her former school friend and others launched an online campaign did the local government arrange for a new “provisional” allowance of 232 yuan. This took until 2011 to sort out. According to Han, she should have been entitled to a disability subsidy equivalent to 90 percent of the local wage (the highest level), but the relevant legislation, dating from 1951, did not cover collectives like hers in 1975. And in all

these years, no formal compensation of any kind was paid to Zhou. Now she suffers from rheumatism and osteoneocrosis, and is bedridden. "I cannot go out at all, I cannot make a living, I do not even know what day it is."

CHAPTER TWO: CAN'T PAY, WON'T PAY

Perhaps one half of Han Dongfang's interviewees were victims of occupational injury or illness. The others were involved mainly in disputes over pay, unfair dismissal, or a lack of social security or compensation arrangements. These latter disputes are usually complicated and protracted, involving multiple parties, and settlements are usually partial at best.

CONSTRUCTION WORKERS' WAGE ARREARS

The most frequently encountered problem is wage arrears, especially in the construction industry, in which informal subcontracting arrangements are very common, and payment responsibilities and liabilities are correspondingly vague. The vast majority of construction workers in China do not get a monthly pay check, as stipulated by the Labour Law. By far the most common practice is for workers to be paid a portion of their salary for daily expenses and the remainder of the salary on completion of the project or prior to the Lunar New Year holiday, the most important holiday in the Chinese calendar when hundreds of millions of migrant workers return home to their families. In the run-up to the New Year, there is always a massive upsurge in mass protests across China as construction workers and others scramble to get paid the wages they are owed.

When employers refuse to pay up, construction workers often go to the local government for help, but on many occasions the local government creates more problems than it solves. Tang Liyong, a construction worker from the northeastern city of Anshan, arranged for about 100 colleagues to work on a local retail and residential complex in 2006-07. More than a year after the project had been completed, Tang and his colleagues were owed more than 600,000 yuan in total by their employer, Sanye Southern, which refused to pay until the project developer and local government stumped up. The carpenters, plumbers, and others employed on the project had to return empty-handed to their home town in Jiangsu, more than 1,000 kilometres away, leaving Tang to try and recover the money on their behalf. Tang had a contract with Sanye, but the individual workers did not, and Tang was unable to prove their employment at arbitration. All he had was an IOU stamped with Sanye's official seal. Sanye meanwhile blamed the city government. The reason why the city did not pay up was not clear. Tang was unemployed at the time of the interview in 2009.

Many labour contractors have found themselves in a similar position, trapped between workers demanding payment and developers and local government officials who refuse to pay up. In April 2004, Peng Yingquan, a labour contractor from Yichang in Hubei Province, hired 160 workers to build a 30-kilometre section of road in Wufeng County. One year later, the work was completed, but less than 5 million yuan of 7 million yuan in project costs had been paid out. The Wufeng County road authorities refused to release the remaining 2 million yuan, which included 1.4 million yuan in wages, because the project had never been officially approved, and local government backers had been forced to divert money from other items in the county budget. Now, they had run out of siphoning options, leaving Peng unable to pay his men's wages. Taking several dozen workers with him, he began petitioning. This campaign ended in his imprisonment on trumped-up charges. Peng's case will be further discussed in a later section.

As Peng's story shows, it takes extraordinary personal qualities to cope with situations like this. In the following two case studies, the circumstances proved too much.

Yu Honghua had been hired as a labour contractor on a rural sewage pipe construction job in the Suzhou township of Jinting. He hired 60 labourers and began work in March 2013, completing the project 10

months later. But when he asked his immediate superior, a high-level subcontractor named Liu, to settle up, he was told that the agreed work-rate based on piping length had been halved because of alleged flaws in the construction work. Though the workers were evidently at fault, Yu did not try to duck out of his responsibilities. But he did not have the over 150,000 yuan he needed to pay them.

“People were coming to the door every day, so my husband had to call the police,” said his wife. “And the police said that they were not interested.” Nor was the Labour Bureau. Over half a year, Yu repeatedly approached local government, but could not surmount the main obstacle, the lack of a written contract between himself and Liu. The local Bureau of Justice sided with Liu, who was himself under another subcontractor.

Staring into a 150,000 yuan black hole, Yu went to the local Bureau of Justice, and, during a meeting there, drank a bottle of pesticide. It took 19 days for him to die, during which time his hospitalisation and haemodialysis costs were 10,000 yuan a day. His wife explained: “They said it was a suicide case ... My husband was just a countryman, he had never been to college and he did not realise that this kind of situation could arise. When Liu told my husband he had some work for him, my husband just consulted some people he knew and said then that he would do it for 28 yuan per metre. They just made a private deal ... My husband is a bit dumb; he is too trusting, too easily led.” Han Dongfang saw things differently, however, remarking that “maybe the others were too sharp, too crafty, too wily, and too unscrupulous? If your husband had not been a straight dealer who emphasised personal loyalty, he could have told these unpaid workers to get off his back and go after the local authorities. For reasons of personal integrity, he chose not to do this.”

Sadly, Yu's was not the only case of this type. In early 2014, Wang Jianhua, a local politician and former SOE sugar-plant manager with no relevant construction experience, took on a rural government project to develop an electricity grid in a mountain area in southern Sichuan. The work involved the installation of pylons and overhead lines in the isolated villages of Leibo county. The project was said to be worth 14 million yuan, but Wang agreed to subcontract it from Sichuan Electric Power Corp. for just 6.67 million yuan, a sum that was supposed to cover all equipment and materials as well as workers' wages. Wang hired villagers from his home area, recruited by his brother-in-law. By mid-December, the project was 80 percent finished, but Wang, who was being paid in instalments, was owed more than 2 million yuan. Where the missing money went was unclear; budget embezzlement was assumed. Either way, with the Chinese New Year fast approaching, he could not pay his workers. On 23 December, a colleague looking for Wang: “pushed open the door and found a pool of blood on the floor.” Of Wang there was no sign. The family posted a plea for help and villagers joined the search. The Public Security Bureau accused him of running away with money owed to the employees but failed to pursue the alleged fugitive. Instead, the family spent 300,000 yuan organising a search. After two weeks, his body was found in a river. It was assumed he had cut his wrists and drowned himself. He was just 43 years old.

The family was given a 400,000 yuan lump-sum payment to cover funeral costs, as well as benefits for Wang's dependents and ageing parents, though this sum barely met the cost of the search. Then the case was hushed up because it reflected very badly on local business and government. A power company had hired somebody totally unqualified for installation work as an “independent contractor” and then forced him to take on huge debts and pay his workers out of his own pocket. None of the hires had employment contracts or social insurance coverage. The cash was still missing. Knowing all this, local authorities had done nothing. To prevent a scandal, the family was forced to sign what was effectively a gagging order banning them from using social media or generating negative publicity.

NO SOCIAL SECURITY

Chinese workers are legally entitled to a wide range of benefits that, because of low basic wages, can form a substantial part of overall remuneration. These benefits regularly feature in disputes with employers.

Probably the most contentious issue is the nonpayment or embezzlement of pension contributions. China has a basic pension, (养老保险), managed by the state, with contributions from employer and worker. But payouts can be disrupted by bureaucratic foul-ups, due largely to the immaturity and inadequacy of China's social security systems, or by outright employer evasion and fraud. Pension funds in particular are a sore temptation to corrupt managers and officials with grandiose business schemes. For example, in 2006, the then-party boss of Shanghai, Chen Liangyu, and several associates were arrested in the misappropriation of 3 billion yuan from the city's social security and pension funds for speculative property and transportation projects. This scandal hit the headlines and resulted in an 18-year jail sentence for Chen. Its glare hid the fact that smaller-scale frauds and swindles were going on all over the country.

Take for example the case of Shaanxi Carbide Tool. At this ailing manufacturer of cutting tools and measuring instruments, pension contributions amounting to 80 million yuan deducted from workers' wages disappeared between 2003 and 2007 into a black hole. Yuan, an employee at the company for nearly 20 years, was one of those affected. He described in 2008 how the workers found out they were being cheated.

The contribution shortfall was spotted by local social security officials, who gave Yuan and other affected workers payment cards and told them to check the numbers carefully. "We did, and saw that, from 2003, there was nothing, just a blank"—even though pension deductions were made from their wages during this time. The hole in the records affected all the 2,000 to 3,000-strong workforce employed there at the time (as opposed those to on the payroll but past retirement age), Yuan said. The Social Security Bureau said the problem "is within the company" and wanted nothing to do with it.

Exactly what happened to the missing money remained unclear, but in 2007, after a new boss was appointed, it emerged that the former director was under investigation over a land requisition dispute in which people had been turned out of their homes. Some of the missing pension money was also apparently diverted into a development scheme.

Meanwhile, in northeastern China, Wang Andong lost three years' worth of medical, pension, and other benefits totalling over 14,000 yuan when his workplace, an agricultural machinery and repair shop on a state farm, declared bankruptcy in 1996. By the time he talked to Han in 2007, he had already spent 11 years trying to claw back the money, "being kicked around from office to office like a football."

His story went back a long way. Born in Heilongjiang Province in 1932, he spent his early years working as a shepherd, taking his flock to the grounds of a local brewery after losing his pastures in land reforms in 1945. From livestock farming, he progressed to tractor-driving on a state farm and taught himself to read and write. He then climbed up the hierarchy and became boss of an agricultural machinery workshop, and then a factory manager. At this point, Wang had the chance to take part in an almost unimaginable adventure: He was chosen for a stint in Africa, building the 1,800 km Tanzania-Zambia railway as part of Mao Zedong's attempt to spread Third-World solidarity.

Back in China, he worked until his retirement at the farm equipment repair shop, serving also as local party secretary. For his service to the Communist Party, he was made a provincial and national model worker. Wang blamed the local officials who bankrupted his repair shop for the mess: "'You're a hero,' they told me, and yet—good heavens—after more than a dozen years, they still have not given me the money that I am owed ... This year I am 76 years old, and I never expected such treatment after devoting my life to the revolution. I did really tough work without complaining, and in the end this Farm Equipment Bureau ... None of them are worthy to stand beside the herdsman I once was."

Another Communist Party member with cause to regret his allegiance was the tailor Dai Deshu. During the 1950s, tailors, carpenters, blacksmiths, and other artisans were organised into small-scale, workshop-like cooperatives and factories managed under what was known as the Second Light Industry system (二轻系统). There was no formal pension system at that time, and workers turned over a set portion of their wages to the county handicraft industry administration as their retirement contribution. However, in the 1980s, local governments began to forcibly break up these small cooperatives and factories, often leaving their members with no access to social security. Dai, from Chongqing, became a representative of thousands of workers discarded and seeking redress during these reforms.

In 2009, Dai described how the workers in his region petitioned for several years, eventually forcing the municipal government to revise its policy. In January 2006, the Chongqing municipal government reluctantly began paying the handicraft collective workers a small subsidy of 160 yuan per month, which was eventually raised to 230 yuan. The Chongqing government instigated a new scheme but there was a catch—a very expensive one. Retired workers would have to give the county government a lump sum of between 10,000-35,000 yuan to get a monthly subsidy of 450 yuan. Dai could only come up with 22,000 yuan. The appalling treatment Dai received when he continued this struggle, in defiance of local authorities, will be taken up in a later section.

THROWN ON THE SCRAP HEAP

The problems of forced status downgrade and unfair dismissal were rampant during the 1990s, when China's enormous state-owned sector embarked on a shakeout that left 30 million workers jobless. In many enterprises, it was a messy process involving collusion, fraud, the embezzlement of assets, and other abuses. To compound matters, on March 26, 2003, a Supreme People's Court Deputy Chief Justice explicitly stated that "no collective disputes at SOEs related to state industrial policy or corporate restructuring can be accepted [by the courts] for the present. Persuasion must be used, conflicts must be defused and settlement reached in coordination with branches of government concerned." In other words, workers could expect no help from the courts in addressing their grievances.

A very common ploy used to trim payroll was to reclassify full, formal employees as employees of an outside agency (派遣公司). This usually meant a sometimes severe wage cut, and a paring or complete abolition of the generous benefits SOE workers long enjoyed.

The case of Liu Xiangdong, first interviewed in 2008, was typical. Liu was an employee at the powerful Lingyuan Iron and Steel Group in Liaoning Province, which began laying off workers in 1998 as part of the SOE restructuring process. Its methods were at least imaginative. The first redundancies were undertaken under the slogan "To get laid off is glorious," a play on Deng's iconoclastic rallying cry, "To get rich is glorious." Workers were sent home with a promise of rehiring at a later date. Management likened the situation to a troubled "boat in the middle of a voyage. The boat can't carry all of these people, so you get off first and, after the boat is fixed up and running with the wind at its back, we'll pull you back aboard."

Liu was one of those marooned in 1998. He wasn't pulled back. Successive waves of layoffs followed in 1999, 2000, and 2001. "Of course, it was not voluntary," Liu said. "There was no letter or agreement signed, it was just 'you will be laid off or else.'" What actually happened was that they got a token severance payment and were then farmed out to what became a company-controlled labour supply unit, Gangda Labour Services, for rehiring as temporary workers. After the downgrade, Liu and his co-workers were getting about 10,000 yuan a year less than they did as direct employees at Lingyuan, though they continued to receive social security and medical insurance benefits. Meanwhile, the bosses were making money from the profits of Gangda, which had taken over an estimated 2,000 Lingyuan former direct employees at the time of the interview.

In 2008, the new Labour Contract Law was introduced, including specific provisions designed to protect temporary workers from exactly this kind of treatment. Lingyuan was ready. It changed its workers' status again, this time from "temporary workers" to "private contractors," with no formal labour relationship of any kind with the company. In 2009, missing out on pay rises, Liu found himself 12,000 yuan a year worse off. With a group of colleagues, he embarked on a long and fruitless campaign of protest. "They tapped home phones and hacked into our personal computers," he said. "All I feel now is anger, and I just want to get back at them." Meanwhile the chief executive of Gangda was later awarded the National May Day Labour Medal, a prestigious award presented by the All-China Federation of Trade Unions.

Former SOEs pruning their workforces also made wide use of the severance package known in Chinese

as *maiduan gongling* (买断工龄) which is often translated into English as “seniority buyout,” but actually means a final, lump-sum, seniority-based severance package covering all outstanding wage and benefit payments and any other claims that the worker might have against the management. The literal translation of *maiduan*, implying management “buying” a total severance from employees, is closer to the spirit of it. The problem is that the payments are often far smaller than they ought to be.

In 1999, the state-run oil and gas monopoly China National Petroleum Corporation was restructured into a joint stock company. Over the following three years, a colossal 360,000 oil workers were laid off with *maiduan gongling* severance packages. But those in the remote and impoverished western region of Xinjiang got considerably less than their peers elsewhere. In 2001, nearly 6,000 former employees staged a protest at their refinery. According to former refinery worker Xiao Yishan, she and an estimated 20,000 others signed severance packages for 4,500 yuan per year of employment, only to find out later that workers at oilfields in other parts of China had received closer to 12,000 yuan. Xiao claimed that the majority of oil workers in Xinjiang who agreed to a seniority buyout were pressured into doing so. “A team leader would pull some workers over and tell them, ‘Here, sign this.’ If you didn’t sign, you’d be laid off anyway, and you wouldn’t get a cent. Even if you sued in court it would be useless.” Some workers were not aware of what they were signing and turned up for work the next day, assuming they were still employed. “Xinjiang people were really naïve,” she said.

The workers were mostly from the local Uyghur population, and as a result the lawyers and courts were reportedly reluctant to help, and the security forces were particularly heavy-handed with protestors. At the same time, the company was expanding and hiring new employees from other provinces, increasing staff from 60,000 to 80,000. Xiao’s only income at the time of her interview in 2008 was the 400 yuan a month minimum retirement benefit paid by the company.

In 1997, the state-owned Dazhou Automotive Transport Co. in Sichuan Province was restructured into a joint stock company. The workers here were not actually sacked, but employees who refused to buy at least 3,000 yuan of company stock were threatened with dismissal. Fearful of losing their jobs, about 90 percent of the 3,000 workers complied. But most did not get any shareholder certificate, rights, or dividends. The company never held a single shareholders’ meeting or elected a new board every three years, as required by China’s Company Law. Workers were urged to buy another 15,000 yuan worth of stock when the company was restructured again in 2004.

According to truck driver and worker representative Jia Lingen, who spoke to Han in 2008, the real purpose of this ploy was to enable senior managers to get their hands on the company’s assets. “When we saw the restructuring plan, we were furious. The chairman simply grabbed the majority share for himself without paying for it. He just wrote that he owned a majority share, and had raised the money to acquire the shares from minority shareholders.” The workers protested, blocking the government building entrance several times, and eventually forcing the company to publish its accounts. It then emerged that Dazhou had never once made contributions to the pensions of retired workers.

In 2006, the company underwent another round of restructuring and ceased even recognising the workers’ shares. Jia and several hundred of his colleagues tried to sue the management and chairman at the local intermediate court, but their lawsuit was rejected. The Sichuan Provincial High Court subsequently accepted the case, but then reversed itself, claiming it “had made a mistake.” No other court would take the case. Without a job, Jia was left living on a monthly pension of just 340 yuan, less than half the local minimum wage.

Few downgraded workers went to the lengths of Huang Qunyue, an electrical repair engineer on the grid in southern China, and three colleagues when they were stripped of regular SOE employee status by the county power bureau and transferred to a subsidiary handling temporary workers. The dispute was complicated, hinging on the common quandary of which of several agencies was actually their employer. What it boiled down to was yet another attempt by an employer to get around toughened employment

legislation. The downgrade—entailing loss of benefits and transfer to an agency—was done without their knowledge: “Our salary and social insurance accounts were apparently transferred on the same day behind our back.” These were 19 men whose work, doing emergency repairs in sometimes freezing winter weather, was vital to local communities. Yet after Huang and his colleagues protested, they were sacked for allegedly doing so on company time. Constantly frustrated by government officials, the four men took their complaint to Beijing. On August 1, 2010, they sat down by some iron railings near the entrance to Beijing’s prestigious Tsinghua University. Each of them took out a knife, and, as students and passers-by milled around, cut off the tip of his little finger. As we will see in Chapter Four, the dramatic protest only brought them more problems.

Even highly qualified professionals fell victim to the restructuring process. Dr. Chao was a lecturer at Shanghai Second Medical University and a practising dermatologist at the university-affiliated Xinhua Hospital. He lost both posts when Shanghai Second Medical University was merged with Shanghai’s prestigious Jiaotong University in 2005. “They used the merger as an excuse to get rid of me,” he said. “Everybody has their shortcomings and makes mistakes, but I was not so bad a doctor as to justify this. I was left without any salary or benefits. So of course, I made a fuss.”

In this, he proved indefatigable. For three years between 2005 and 2008, he tried to get his job back, negotiating with Jiaotong University and appealing to the Shanghai Municipal Bureau of Education, Municipal Education Commission, and other authorities. “I went to work, but they would not let me in. They sent a car to take me back,” he said. Eventually he sued the Shanghai Municipal Government and Municipal Bureau of Education “for not arranging work for me in accordance with their statutory responsibilities.” He also approached the Ministry of Education, Ministry of Human Resources and Social Security, and the official petitioning office, the State Bureau for Letters and Calls, in Beijing. He was detained for serial petitioning, and was protesting this detention when he spoke to Han in 2012.

While Dr. Chao is an individual case, there were tens of thousands of community teachers who were thrown on the scrap heap during the reform era. For many years community teachers were the backbone of the country’s rural education system. Most did not have formal qualifications and were recruited primarily to provide children in the countryside with a basic education. They were usually paid only one-third to one-sixth of a state school teacher’s salary. They had no job security and received no benefits.

In the 1990s, the central government moved to eliminate this huge pay gap, launching a policy under which community teachers were to be given state school status, salary, and benefits. The result was that many local governments, claiming that they could not afford the higher salaries, simply fired them by the hundred, with no compensation. Wang Feng’e and Yang Shuge, from Jianchang county in Liaoning Province, were two of the outcasts.

The Jiancheng county government introduced what it called the “622 policy,” under which two community teachers were retired and two dismissed for every six promoted to state school status. The selection was based on an annual examination. Over three years in the 2000s, the county authorities winnowed out nearly 700 community teachers, including Wang and Yang, using this formula.

Wang became a community teacher in 1974 during the dying days of the Cultural Revolution. “My monthly wage then was five yuan,” she said. “That’s what you got for five work points. Later, it rose to 30 yuan”. For three decades, she and Yang drummed the basics into the heads of Chinese villagers, but in 2007 Wang was still earning only 350 yuan a month, about one-fifth of a state school teacher’s pay and under half the typical minimum wage. In that year, she failed her screening examination. She was dismissed from her job and left without compensation, social security, or medical insurance. She was also bilked of her pension, being one year short of retirement, and was not allowed to inspect her own file. All she had to fall back on was a 130 yuan monthly stipend from the county government and “a bit of land for growing crops.”

She and Yang were two of 68 teachers who formed an informal lobbying group, arguing among other things that the “622 policy” was illegal. The only concession they won after years of lobbying was a promised rise

in the derisory monthly stipend to 230 yuan. Adding insult to injury, a provincial investigation found that dismissed and retired community teachers had been replaced with well-connected but unqualified casuals, known as “black community teachers,” including escort girls, laid-off factory workers, forestry personnel, armed police college graduates, and others. Such was the thanks Wang and Yang received for 30 years of service.

CHAPTER THREE: IN SEARCH OF AN “UPRIGHT OFFICIAL”

LABOUR LAW AND ITS CIRCUMVENTION

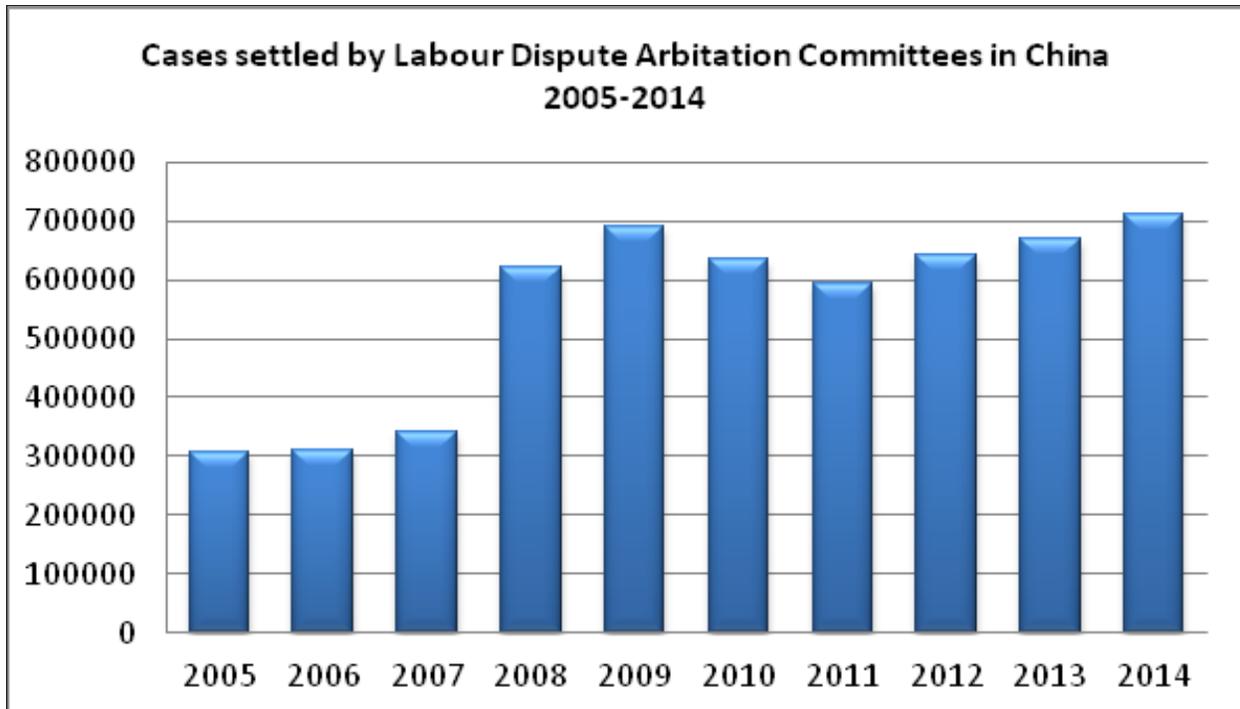
The Labour Contract Law went into effect on January 1, 2008. The law requires that all workers should have a written contract with their employer, detailing the terms and conditions of their employment. At the date of implementation of the Law, tens of millions Chinese workers had not signed such a contract. As the cases cited so far show all too clearly, the lack of full, formal hiring contract relationships has caused incalculable damage to the interests not only of the workers, but also of their employers—not to mention local authorities that have to clear up the mess when complex labour disputes break out.

Despite the obvious need for such legislation, the terms of the Law and concomitant obligations were felt by many Chinese entrepreneurs to be unacceptably onerous, and its implementation was widely resisted. As already described, the initial reaction of many bosses was to develop evasive strategies, such as laying off workers and then rehiring them as “temporary employees” of a specially created arm’s-length subsidiary or an outside agency, with fewer benefits and less job security. The agency employees were often effectively full-time, despite the Law’s requirement that such hires should be “temporary, auxiliary or substitutional” in nature. Temporary is defined as up to six months in the Law.

The agency issue was typified by the case of Huang Canhui, a sales rep at JDB, the Guangdong manufacturer of Wang Laoji herbal tea, one of China’s most popular health drinks. Industrial technology graduate Huang joined the JDB sales team in 2009, soon after the company’s well-publicised 100 million yuan disaster relief donation following the Sichuan earthquake of 2008. “I realised it was a pretty prestigious outfit; there was something of a cult about it,” Huang said. “Many of us came in a spirit of reverence and worked with passion ... for the common good. In fact, on the job, you just got abused.”

More than 5,000 workers at JDB, almost the entire sales force, were agency employees. Their basic salary of 1,000 yuan per month was at least 50 percent lower than regular employees. Huang was likewise cut out of the company’s housing fund and short-changed on social security and other benefits, which were set at the rates of the poorer inland province of Jiangxi where the agency was headquartered. He did at least have a contract, but it was taken away from him as soon as his signature was on the paper, before he could read it too closely. Huang did not even know who was paying his wages.

Huang quit JDB after one year in January 2010. He then launched an online campaign to expose the exploitation of temporary agency workers throughout China. He soon ran into problems. “After a week, everything was removed from the Baidu Tieba forum, and my user name was also deleted. At the end of March, the blog on Sina was blocked; they said that there was no such registered subscriber. As for the stuff on Tianya, the posts I had left there, I was the only one who could read them.” It turned out that PR companies had been hired by JDB to put pressure on forum administrators to remove negative comment. Huang then discovered there was a similar agency problem with production line workers at Coca-Cola plants in Guangdong. He drew inspiration from their campaign and set up his own microblog entitled “Wang



Laoji JDB Rights Activist” to promote his cause.

Even government institutions use the agency ploy. In the spring of 2013, a local government department in Xinjiang asked its drivers to sign contracts with an employment agency without any change to their conditions of employment. Of 129 drivers, only one already had a written contract. The drivers refused, demanding instead that they should be given contracts signed by their direct employer, the local government. They worked for the local government, drove government cars, and argued they should be entitled to the same salary and benefits as civil servants of the equivalent rank. The agency proposal was made after drivers demanded a commensurate pay increase in 2012. “We asked the senior workers why everyone just made an oral agreement instead of putting all the contractual terms on paper. They just said that such a practice was the norm,” one of the drivers’ representatives said.

That year, 2013, the Labour Contract Law was revised to clamp down on this kind of tactic. New legislation now limits the proportion of agency workers in the overall workforce to 10 percent. But employers are still failing to comply.

On the morning of May 12, 2014, around 500 workers at the Dynacast automotive components factory in Shanghai’s Songjiang district downed tools and gathered at the factory entrance to demonstrate against management’s arbitrary decision to toughen up the monthly bonus policy for full attendance. But this unruly, large-scale protest had much deeper roots, mostly arising from low pay and poor conditions. One of the underlying issues was the company’s failure to implement the new 10 percent rule. “Almost 95 percent of the workers were agency employees ... including some in management,” said Dynacast worker Lu Haihua. “Even our supervisor used to be an agency worker.” Lu himself worked for eight years at Dynacast Shanghai but was never directly employed by the company. Instead he was technically employed by two different employment agencies. Yet his job as a shift leader was a permanent position. Like many other workers, he became aware of the illegality of this arrangement only during the strike.

The Labour Contract Law was one of a raft of measures introduced during the 2000s, including the Law on Prevention and Treatment of Occupational Diseases, the Employment Promotion Law, the Law on Labour Dispute Mediation and Arbitration, the Social Insurance Law, and the Work-Related Injury Insurance Regulations. These built on existing legislation such as the 1992 Trade Union Law, the 1995 Labour Law

and the Trial Procedures for Industrial Injury Insurance for Enterprise Employees, promulgated August 12, 1996. Significant provisions include: enabling payments to be made from the state's Work Injury Insurance Fund when a company cannot or refuses to meet its financial obligations for treatment of occupational illness (Social Insurance Law); compulsory occupational injury insurance contributions by the employer (Work-Related Injury Insurance Regulations); in the case of a fatal accident, benefits package including mandatory lump-sum compensation payment equivalent to between 48 and 60 months' average salary in the region (Work-Related Injury Insurance Regulations); and mandatory tests for workers in high-dust environments and health-checks arranged and paid for by the employer when at-risk workers leave (Law on Prevention and Control of Occupational Diseases).

As this book amply illustrates, violations of these safeguards are legion. Regulations on health and safety in particular are routinely ignored by employers and local government officials alike. The only real advantage for workers is that the new legislation gave them something to fight for, and galvanised vast numbers of hitherto apathetic and powerless workers into taking legal action. The implementation of the Labour Contract Law and Law on Labour Dispute Mediation and Arbitration in 2008, in particular, led to a huge increase in the number of disputes going to arbitration. The number of cases handled by labour dispute arbitration committees basically doubled in 2008 and has remained at a consistently high level ever since. See chart below.

ARBITRATION

For many workers, arbitration is the first port of call when they have an intractable dispute with their employer over occupational injury or illness, or a pay or status-related grievance. Thanks to the Law on Labour Dispute Mediation and Arbitration, procedures are relatively inexpensive and straightforward, in relatively clear-cut cases at least, but such has been the demand for arbitration that the local labour dispute arbitration committees are often over-stretched and sometimes seek to dispose of cases as quickly as possible, usually to the detriment of the employee.

The workers Han talked to who went through the arbitration process had mixed experiences. There were certainly some substantial pay-outs, by Chinese standards. Young steelworker Yu Jianhong, who suffered serious burns, was awarded 880,000 yuan although he had to wait four years for it. When the miner Ma Jixing was diagnosed in 2006 with pneumoconiosis, an arbitration panel awarded him 91,000 yuan plus a monthly allowance of 1,178 yuan after his former employer refused to pay compensation. On a smaller scale, office clerk Lu Juan got an arbitration ruling against former employer Guang'an Polytechnic Vocational and Technical College in Sichuan Province to pay back some of an estimated 10,000 yuan in wage arrears and missing social security contributions. But, in illustration of the limits of arbitration, the college simply refused to pay up and had to be arm-twisted into partial compliance by the local Party Committee after Lu publicized the case online.

Others have had less success. When Liu Xiangdong, the 20-year veteran of the Lingyuan Iron and Steel Group in Liaoning Province, tried to sue his company for wrongful dismissal and win back wage and social security arrears, the arbitration panel dragged its feet for several months, and in the end issued a notice saying that it would not handle the case. Following his arbitration application, he received repeated home visits from local officials and police trying to persuade him to back down. "The government will go to any lengths to protect the company's interests," he remarked.

In the case of Lucky Jewellery, "the arbitration people were in league with the factory," silicosis-stricken worker Chen Shisheng said, after the panel ruled against him. In their compensation campaign, Chen and his wife (also sickened) ran up huge legal bills, forcing them to borrow over 20,000 yuan. Another frequently cited problem with arbitration is the application time limit. When Guangdong gemstone worker Tang Feng filed an arbitration case to challenge Haoxin Hardware Jewellery's laying off of workers showing incipient symptoms of silicosis, he was turned down because the workers had missed the 60-day filing deadline. For

such reasons, many workers have little faith in the arbitration process.

Even when the outcome is positive, the arbitration experience can be extremely tedious and burdensome.” Former tea salesman Huang Canhui remarked: “Without help from public interest lawyers and groups, I could not have been so persistent. Taking legal action in this country really is very difficult ... At any time, they could demand additional documents, you have to get countersignatures, and the burden of proof is always on you ... You are tormented by it all, until you just do not want to go to court ... I get a heavy heart sometimes ... Procedures were not handled well in the beginning, and when you go to labour arbitration, they do not exactly put on a welcoming face.”

LITIGATION

If an arbitration committee rules against a worker plaintiff, they can take their case to the civil courts. However, as Huang Canhui noted, litigation is a much more complicated, time-consuming and expensive process, and employers can drag proceedings out for years by continually appealing rulings or by simply refusing to abide by court rulings. Moreover, it is important to note that the courts and judiciary in China are not independent entities, the judiciary is subordinate to the Communist Party and the local government that pays the wages of judges and court officials. In practice, courts accept the “unified leadership of the Party” through the latter’s powerful system of “politics and law committees”—political bodies whose function is to supervise and direct the work of the police, procuratorate, and courts at all levels. Moreover, the politics and law committees are usually chaired by the local police chief, vividly illustrating the subservient position of the prosecution and judicial authorities within the legal system as a whole. These committees can interfere at will, including by ordering the courts to deal with cases more harshly and rapidly, especially during periodic “crackdown on crime” campaigns.

In most of the cases reviewed here, litigation was at best partially successful and often completely useless. It fails for similar reasons that arbitration fails: the complexity of the procedures, and the difficulty of verifying employment relationships, of confirming and evaluating occupational injuries and illness, and of getting paperwork and signatures from hostile counterparties. Underlying these issues is the overall lack of experience of rural migrant workers in dealing with courts and an almost universal reluctance to get involved in the legal process. As if this was not enough, there are also systemic problems of collusion and other corruption and abuse that plague litigation, which will be examined in closer detail in the following chapter.

For many litigants, the lasting memory of court action is massive personal debt. When Wang Huiping went to court seeking compensation for the work-related death of her coalminer brother, she incurred “over 10,000 yuan in lawyers’ fees, 7,000 yuan the first time, and 3,800 yuan the second time. I also paid court costs, 3,800 the first time, and 3,700 the second time.” On top of this came travel expenses. These burdens are borne by all litigants regardless of outcome. In pursuit of 180,000 yuan in collective wage arrears, Zeng Biping, a technician at a small energy-saving equipment factory in Dongguan, found the legal process so financially draining that his group gave up on the courts. “We felt that if we had to spend our own money on a lawyer, we would have cleaned ourselves out.” They had used a free legal aid lawyer in a first trial, but found his advice inadequate. This was a complicated case in which the energy equipment company had rejected an arbitration ruling in Zeng’s favour and countersued, claiming that Zeng had a poor attendance record and had ignored instructions. Then it had staged a disappearing act, was tracked down by the police, and finally offered to pay back only a fraction of the money owed. Looking back, Zeng said, the main problem was that initially he and his colleagues had not understood how the arbitration and legal process worked. Asked by Han in 2013 what they would have done differently, Zeng said, “We would still have gone through arbitration, but it would have also been worth kicking up a fuss with the local government. Because if you don’t, nobody cares.”

The case of Xia Shihua highlighted the procedural obstacles faced by poorly educated migrants. After

sustaining a foot injury in a coal mine and failing to get compensation, Xia embarked on lengthy litigation. But he was stymied by the fact that the mine's business license had been revoked two months before he launched his first lawsuit, although it had still been valid when he sustained his injury. There was also a discrepancy between the company name on the mining certificate and on the business registration record. Because of these irregularities, the court refused to accept the case. Xia, however, was not easily deterred. Helped by the district legal aid centre, he sued both named organisations "so that nobody could say that I had got the wrong guys now." But in writing down the name of the coal mine, Lizhai, he abbreviated the accompanying address. The judge again rejected the case, this time on the grounds that the defendant was incorrectly identified. Xia tried a third time, suing the settlement committee of the coal mine and taking care to ensure that all details were correct. The court finally accepted the case, but the judge again refused to hear it because the defendant had refused to provide a signature.

Xia's experiences left him thoroughly disenchanted with the Chinese legal system. "If you go to court it is a very long process," he said. "The judge can delay proceedings for months. If the worker is from outside the area, he is helpless. Without money, you cannot even start. Even if you do initiate legal action, many migrant workers just do not understand the procedures. They make your head spin. If the tiniest detail is wrong, your case will be dismissed. This happens a lot. I just wrote a few words down incorrectly, and the judge threw it out. And once the case is dismissed, a case that means so much to you, you have to start all over again. The judges waste a lot of your time. You get mentally exhausted from being treated like this. In the end, most wronged coalminers do not go to court. They will reach a private agreement. They are not used to the idea of taking legal action, and they cannot afford the costs."

PETITIONING

When arbitration and litigation fail, very often the only recourse left is petitioning, an ancient and peculiarly Chinese institution continued by the Communist Party. Aggrieved parties send letters to or visit the petitioning office at a given level of the bureaucracy in order to seek compensation, an apology, or correction of mistakes made by a lower level official or organization. Petitioning steadily increased in the 1990s, reaching record levels in the early 2000s. The system is now widely regarded as overburdened, unresponsive, and ineffective. Although many millions of ordinary citizens still seek redress through the petitioning system each year, only a handful reach a satisfactory conclusion.

The petitioning system does not really exist to deal with grievances, but rather simply to relay them. In fact, it serves primarily as a protective buffer for government officials, absorbing the impact of petitioners' anger and keeping officials informed of popular grievances. A major weakness is the institutional process of referrals, which generally leads to petitions ending up in the hands of the same organisations and officials as are named in the complaint in the first place. It is a measure of the abysmal state of judicial redress in China that so many people (nearly a third of the interviewees cited here) resort to petitioning, despite its hopelessness.

While petitioning did not resolve any of the 88 disputes reviewed here, there were a few helpful interventions. In 2009, Army veteran Li Shikuan suffered carbon monoxide poisoning while working on a construction project managed by the Yuechi Electric Power Construction Corporation. Although it was difficult for his daughter Li Jinchun to prove conclusively that the debilitating cerebral dysfunction that resulted was work-related, she said a petitioning office had secured payment of 70,000 yuan to cover her father's medical expenses. It was in fact passing on an informal payment from the power company, which wanted to avoid long-term compensation. It is worth noting that the base of the power company, Guang'an in Sichuan, was also the hometown of another Chinese army veteran, Deng Xiaoping. Possibly it was felt that it might not have looked good for such a shrine to leave a fellow old soldier in the lurch.

Meanwhile, in Hubei, in an extraordinarily convoluted saga which began as a pension arrears dispute with a local public health bureau, Yang Chunguang obtained a little more than half of the 70,000 yuan he believed his family was owed after nine years of exhaustive lobbying and petitioning, though it came with

a proviso—he had to desist from further petitioning. In another success of sorts, in the 80 million yuan suspected pension embezzlement case at Shaanxi Carbide Tool, petitioning led to the arrest of the corrupt head of the local Land Bureau. And in October 2012, Sichuan metal miner Liu Guangqian told Han that he and several dozen pneumoconiosis-stricken colleagues were granted a 300-yuan monthly allowance and reimbursement of some medical costs after petitioning the provincial government. They had been left high and dry, without recognition of occupational injury or disease or basic social security, when the mines they had worked at, in Ganluo county, were closed down for safety reasons. The payments fell far short of what they sought, and they probably would not have got even this pittance had the case not been covered by the relatively liberal Hong Kong news channel Phoenix Television (which is widely subscribed to in China). As it was, the petitioners regarded the settlement as little more than a charitable handout, with strings attached—they had to stop petitioning and “making trouble.”

Usually, though, petitioners achieve nothing at all, no matter how much time, effort, and money they sink into the quest for an “upright official.” In 2006, Lu Fengxiang, an employee at a local government broadcasting station in Jianping county, Liaoning, was suddenly downgraded, with his employment farmed out from the county personnel bureau to an agency of the broadcaster. The stated reasons were at least brutally honest: firstly, he had a “rural background,” and secondly, he was over 45 years old at the time. For these sins, he suffered a severe cut in salary (over 75 percent) and lost his pension, medical, and housing benefits. When judicial process proved fruitless, he and similarly treated colleagues began petitioning in Beijing. He detailed his experience: “The provincial office wrote out a request slip for me, which I took to the county petition bureau. The county petition bureau forwarded the slip to the county personnel bureau, which told me, ‘You can talk till you’re blue in the face. We shelve piles of cases like yours here. Your complaints, including the letters, have all landed here. What this means is that you ought to take it easy.’”

In their desperation, many injured, sickened, and cheated workers resort to serial petitioning. They start at local level petitioning offices, and then work their way up the ladder until finally they reach the national institutions in Beijing. And then they sometimes start again. Huang Qunyue, the unfairly dismissed electric power worker from Hunan Province, was a case in point: “We went to the city level, were referred to the county level, then back to the city level, and the provincial level, and then we were referred to an office in Beijing. In Beijing, the message we got was try again at the local level. And so we did.” Their petitioning tour took in Yongzhou in Ningyuan County, the provincial High Court and People’s Congress, the petitioning offices of the Supreme Court, and the National People’s Congress in Beijing. They were always rebuffed. Detention and other interception measures are the very frequent outcomes of persistent petitioning. When Wang Yanwu, a representative of community teachers, travelled all the way from Mianyang in Sichuan Province to Beijing to petition the authorities, the group was forcibly sent back home by “petitioner retrievers.” Wang described the process. Wang and ten colleagues arrived in Beijing on July 6, 2010. But on July 8, a little over a day after they checked into a hostel in Beijing’s Fengtai district, a dozen men with Beijing accents burst into their room at 2 a.m., carted them into a minibus and drove them back to Mianyang against their will. They would not let them get off the van to go to the toilet, and gave each of them only one packet of instant noodles to eat during the whole trip, which took a full day and a night. After arriving in Mianyang, the teachers were handed over to officials from the county education bureau, who took them back to their hometowns and villages. Although petitioning is a right in China, they were accused of having acted illegally. They tried two more times that year and were again intercepted.

Choosing a sensitive time such as a Party congress for a protest is a sure-fire way of seriously upsetting the authorities in China, but many petitioners do just that for the publicity effect. Tiananmen Square is especially risky. The son of pneumoconiosis-stricken Sichuan miner Xiao Huazhong attempted to petition the authorities during the 17th Party Congress. Said a source involved in the matter: “They arrived on October 14, the day before the Congress began. Because it was a Sunday and it was the first time they had been to Beijing, they thought they’d do some sightseeing. But in Tiananmen Square they were stopped by police—not Beijing police, but Sichuan police. The province had sent plainclothes officers up to the capital to stop Sichuan people from making petitions during the Congress.” Asked how the police knew that Xiao’s son and his companion were from Sichuan, the source replied, “They could tell from their accent. Near Tiananmen Square, if you are carrying a bag, the police will ask to look inside. In that way, they can see

whether you have petitioning documents, and hear how you speak.” They were taken back to Sichuan by the county police.

Han Dongfang, in an interview with metal miner and pneumoconiosis victim Wang Mingjun, summed up the futility of petitioning thus: “Writing to the government is like not reporting a theft but rather going to look for the thief and trying to persuade him to return your possessions. How can that work?” Many petitioners are in fact aware of the futility of what they are doing. Said another serial petitioner, the electrical power worker Huang Qunyue: “I realise now it is pointless. If you take this route you get pressured by the government. When we had just started, an official at the county level petitioning office warned us, ‘if you go petitioning, empty your wallet, disperse your family, and brace yourself for the unexpected.’”

CHAPTER FOUR: “I AM THE LAW”—WORKERS CHEATED, BEATEN, AND JAILED

COLLUSION

In practice, relatively few wronged workers stay the course or obtain a satisfactory outcome when they try official avenues of redress. Many do not even begin arbitration or litigation. It isn’t just that prospects are so limited even when they clearly have right on their side. They are daunted by the procedural complexity and the general disregard for due process in China, where rule of law is loosely rooted. When the four power workers from Hunan staged their dramatic protest in Beijing, they were told by one of the police officials who forcibly returned them to their homes, “I am the law.” These four words still pretty much sum up justice at the local level. Complainants face collusion and other corruption, intimidation, and outright violence, occasionally of the most savage kind.

Collusion between Party officials and business owners is endemic in China. At the local level, the interests of the Party, government, and business are often so intertwined as to be indistinguishable. When steelworker Yu Jianhong was denied compensation to cover long-term care for his burns, it turned out that the owner of the enterprise was a relative of a government official, who provided protection. This link had also enabled the boss to tap cheap loans to keep what was a loss-making enterprise afloat, Yu said. The steel mill was never fined for its violations, and few people were willing to help Yu because of these political links. For similar reasons, “the court would not allow us to file the case.”

Collusion infested the mining industry in its heyday. When Xia Shihua went in search of compensation for his foot injury, he found that local officials had been bought off by the mine owner and did not enforce rules or conduct health-checks or safety training. “If you get hurt, you make a phone call, and you tell the safety inspection people there was some kind of accident,” he said. “And very quickly, the mine owner will get wind of this, and because the safety inspection people are all in his pocket, he does not care what you tell them. At Lizhai, the mine administration and the work safety bureau were in the same office building, and if you wanted to go upstairs to the work safety office, the security people would stop you.”

A different kind of collusion seems to have occurred in the case of Chen Huofa, cousin and colleague of a young migrant worker who contracted lead poisoning while working with storage batteries. He claimed that the local Disease Prevention and Control Centre had routinely falsified the results of blood tests at his cousin’s company, Dahua, because the company was a big player locally and the clinic had to protect it. The clinic had the Dahua “contract” for employee health checks and could not afford to upset the company. “If we go to the centre for a blood test and, say the result is 100µg/dL, it may only be 80 when they announce it,” he said.

Something similar seems to have happened to Liu Yugui, a young pipeline worker at a petro-chemical plant in the northeastern province of Jilin. His job cleaning ethylene reaction vessels exposed him to the toxic catalyst arsenic. Unable to prove that the heart disease that nearly killed him was occupational, he began

petitioning at the local, regional, and national levels, but to no avail. “We tried to obtain my medical history from the occupational disease prevention clinic,” he said, “but we discovered that it had been forged.” In fact, he was accused of faking his condition.

Steelworker Jiao Jianlong had a slightly different problem trying to get his pneumoconiosis officially diagnosed. Many medical institutions had confirmed the disease but none of them were authorized to make an official diagnosis, while the institutions that were authorized refused to confirm the diagnosis. Pan Fenggang, a laid-off construction worker protesting unfair dismissal without compensation found that collusion between his former employer and local officials had repeatedly stymied his attempts at litigation. “Before I even approached the authorities to lodge a complaint,” he said, “the company had already got to them.”

When Zhang Lihua was killed in a traffic accident while working for a company called Zhongxiang Municipal Road Engineering, the family initially sought compensation but eventually gave up after it transpired that the local traffic bureau and four other departments had shares in the company, and that the cousin of the company boss was reportedly the mayor’s secretary. The company boss was also said to be on very good terms with local officials and judges.

INTIMIDATION

Zhang Liucheng was a tobacco worker at a state-owned enterprise in Henan Province, one of 86 workers who had their wages slashed and employment contracts farmed out to an outside agency as part of restructuring begun in 2009. During complicated arbitration proceedings, “most workers were being pressured by the company and did not dare to speak out.” Zhang said, adding that he too had been threatened. Eventually, over half the protesters gave up. Meanwhile in Bengbu, the railway bricklayer Li Gang was put on temporary leave that lasted eight years, on one-third of his regular salary, after an accident on his way to work. When he threatened to take his employer to arbitration to get proper compensation, he was warned, “Every year the Shanghai Railway Bureau has a performance-based shakeout of personnel. You think hard about what might happen if you go to the arbitration people.”

The mining industry in China has a particularly awful record when it comes to intimidating workers or anyone who gets in the way of profit making. When Zhao Wenhai and his colleagues, who developed pneumoconiosis in the gold mines of Gansu, hired a lawyer who specialised in work-related injury claims, they were forced to drop a lawsuit after being threatened by the local authorities. After Li Jianguo was disabled in a colliery cage accident in 2008, his employer tried to browbeat the family into signing an agreement that would absolve the mine of all long-term financial obligations and threatened to have Li beaten up if he carried on pushing the issue. Villagers of Heba, a remote village in Yunnan Province affected by landslide risk and explosions from the nearby Tongchanghe coal mine, were told to give up their land for 25,000 yuan per mu for officially approved mining expansion, on pain of being arrested and thrown into jail if they refused.

Characteristic of the sheer nastiness of industrial relations generally in many Chinese enterprises was the experience of Li Wenyi, a migrant labourer from Henan Province who travelled 700 km to Rongcheng on the Shandong peninsula to harvest kelp in 2008. Li and his group worked up to 15-hour days in the processing plant. Conditions were awful, and workers, on day rates, were cheated repeatedly. Li described the circumstances of the final payday on the first two days of July. The dormitories were locked up, he said, so the workers were left waiting in the rain as the wage calculations continued through the night. “We all huddled together at the entrance to the plant,” Li said, “and no one got a wink of sleep.” To intimidate the workers further, Li said, the plant management arranged for the pay to be distributed by carloads of local gangsters. Workers had to get into their vehicles to get their money. If they did not, they were left empty-handed. Meanwhile, the workers estimated they were underpaid by a total of 230,000 yuan. In this ugly atmosphere, clashes broke out with the factory security guards. “They began hitting Liu Eryang, a 16-year old boy. When this happened, our people all got up, but I told them not to retaliate because one of the

security people, a guy called Song, produced a knife. Then one of us, a 22-year-old female worker, Wang Ruihong, got down on her knees to pacify him. But he did not lower the weapon.” At one point, the boss yelled out, while brandishing a protective amulet: “Kill him! Kill him! Kill him and bury him here! Make sure that not one of them gets out of here, forget about their wages. Don’t be afraid they’ll go to court! Just let them go to court. Don’t worry about the Labour Bureau, they are all my friends, and failing that we have the provincial governor on our side.”

Nevertheless, there are signs that such behaviour is less effective nowadays, as awareness of worker rights deepens among workers. The downgraded tobacco worker Zhang did not bow to threats, saying, “I never changed my stance. I do not fear the management. If they fire me, I will just go. I’m not afraid.” When a packaging machine crushed four of Pang Shun’s fingers in his left hand in 2011, the factory that employed him refused to pay the legally due compensation required by law for his grade 10 injury (7 months’ salary), and cut his basic wage and various allowances to cover the cost of his absences. Refusing to be cowed, Pang pressed management to provide the stamp and paperwork that he needed to apply for certification of a work-related injury. Knowing he had had legal advice, they complied.

Commented Pang: “Everybody said, ‘if you actually dare to go to court over this, if you try to sue them, it will take a long time, and if you do sue them, you will get fired.’ Many people said they could not afford to do something like that. But it is not really about the few thousand yuan. It is that we have no redress. We were rural migrants; we have to put up with all of this cheating, bullying, and being ridden roughshod over. They threatened me several times. They said if you want to make trouble, go ahead, if you want to go to court, we have money and time. You are just migrants from far away.” Pang filed for labour arbitration on August 4, 2011, and quit the next day.

VIOLENCE

In May 2014, around 500 workers at the Dynacast automotive components factory in Shanghai downed tools and mounted a protest over the company’s bonus policy. Even an issue as minor as this can descend easily into chaos and violence, and this is indeed what happened, with police officers photographed beating and arresting workers. One worker wrote on his micro-blog: “The management called in 200 police officers; more than 100 of these are just security guards in police uniforms. They arrested and beat up everyone they saw, even after some women workers told them that they were pregnant!”

Following the restructuring of the state oil and natural gas monopoly China National Petroleum Corporation starting in 1999, which entailed more than 360,000 layoffs, protest ringleaders were arrested and some of them were beaten when they went to Beijing to meet head office executives. Such attacks are so common they are almost mundane. A search on the words “beat,” “beaten,” and “beating” in the 88 interviews surveyed here yielded 50 instances (including repetitions).

When intimidation has failed, violence is the natural next step for many Chinese bosses and local officials. It is the smaller disputes that feature the most wanton brutality. Li Min was a laid-off boiler operator at the largest jail, Hulan, in Heilongjiang Province. In June 2008, he and ten female laid-off workers went to the provincial Reform Bureau to protest their dismissal and loss of benefits. A dispute erupted between the women and the gate-guards, who kicked over their food containers. A taxi then arrived and four men got out, who proceeded to beat Li, the only male in the group. “They hit me four or five times on the head and then ran off.” The beating was severe enough for Li to momentarily lose consciousness. Police officers standing nearby not only didn’t intervene, they simply stood by laughing, he told Han.

Some cases of brutality almost defy belief. Wang Chao, a construction worker representative, had his arm chopped off by hired thugs in January 2008 when seeking wage arrears for colleagues. This incident made the national press, but Han’s interviews include several cases that were just as bad. After villagers



Illustrations by Vincent Meadows, Radio Free Asia

in Heba stood up to the mining company, things turned nasty. “On the day they were preparing to carry out the land expropriation, this guy Liu Guowei was cut up with knives,” Villager Liu Guokui told Han. “He was almost killed; it was really bad, they were very bloodthirsty. After he had recovered from his injuries, the coal mine paid him 120,000 yuan in compensation, but then another bunch of thugs was sent in by the coal mine boss, and this time his 17-year-old son was attacked, again with knives, and again with several dozen blows. It was a kind of revenge attack. Nobody did anything about it.” At another site that the mine was developing, Liu said, management responded to local villagers’ attempts to keep them off their land by “flinging explosives and detonators into a group of them and killing two of them with an excavator shovel.” Few interviewees were treated as badly as Dai Deshu, an elderly tailor who had worked in a small cooperative set up in the 1950s. Because there was no formal pension provision at this time, he had had to work on until 1995, when the cooperative was decommissioned.

Most of its assets had already been appropriated. Dai was left with almost nothing at retirement, despite having paid into an informal system. He took his complaint from office to office, even petitioning at the Martyrs’ Mausoleum. “I’ve been taken away by the Public Security Bureau many times,” he said. “The most serious was on December 10, [2008], when I returned to Yongchuan [from protesting in Chongqing].” Released by Yongchuan Public Security Bureau, he said, “I had just come out the main gate when there was a car, and a person came to meet me, saying, Mr. Dai, I’ll take you back home! I said, I don’t know you and I’m not getting in your car, I’ll take the bus. But I was pulled into the car, and I yelled as loud as I could ... before we had gone 200 meters, they blindfolded me.” They took him to a farm in the mountains two hours away, “They put me in a dark room,” said Dai, “they used an electric cattle prod until I fainted; they used a low voltage, not a high voltage, hitting me many times, and I fainted many times. Finally, when they saw I wasn’t eating, they injected me with glucose and took 60 yuan in cash that I was carrying as a deposit for the glucose injection. They were so cruel to me ... I have high blood pressure and am diabetic, but they still didn’t spare me!” Dai never found out for sure who the people who detained and tortured him were, but he was confident they were sent by the Chongqing authorities. “I’m very careful now,” Dai continued. “I usually don’t go out anywhere alone, I go with several people.”

Liao Meizhi’s ordeal began with a humdrum but protracted pension payment dispute with the Public Health

Bureau in Qianjiang, Hubei Province. For eight years, between 2001 and 2009, Liao's family were bounced between petitioning offices as they tried to prove that 70,000 yuan of her father-in-law's pension had been embezzled. In 2008, just before the Olympics, things really turned nasty for them. Impatient with official foot-dragging and obstructionism, they took their petition to Beijing. They chose the politically sensitive period of the Olympics to attract media attention and pressure the authorities. This tactic backfired spectacularly. Liao's husband Yang Chunguang takes up the story: "My wife and I are both over 60. We always took care to petition in an orderly way. We queued up like everybody else. We did not create any trouble." But soon after their arrival in the capital, officials from the Qianjiang Public Health Bureau appeared and persuaded them to go back. Then Liao, who was a workers' representative, was seized and locked up for 46 days in a "black" jail near a riverside pumping station outside the city. She was kept under guard in a small room and not allowed to leave:

"She was repeatedly beaten ... They grabbed her hair and hit her on the head. After the beatings, she was forced to write that nobody had attacked her, on pain of a further beating. They did not even let in fresh air for one hour, and her injuries were festering all over her body. Then I got a phone call from the director of the Public Health Bureau, Zhu Fangping, calling me to his office to talk things over. He told me that my wife was mentally ill. I denied it. He said she had a psychiatric condition, so he wanted to move her out of detention. But she had no history of mental illness." Regardless, Zhu drafted a statement that she was "mentally ill" and told Yang to make a copy and sign it. In return, Zhu promised to help resolve the family's pension and reemployment issues. "I did not reproduce his exact wording, but I signed. It was done under duress. If I had not signed, they would not have released her. I believe she could have died in that detention centre." Liao was released the day Yang gave his signature, and was immediately sent to a psychiatric hospital. "On the third day, after we petitioned, she was released and moved to the Qianjiang People's Hospital to receive treatment for the injuries she had sustained while locked up—she had some kind of blockage in her head and some her hair had been pulled out at the root. Her psychological condition was also bad." She remained in hospital for around ten days, Yang said. The Public Health Bureau initially promised to meet the hospital bills, but did not. It was Yang who paid.

After getting out of hospital, Liao continued her petitioning. When the family returned to Beijing in April 2009, they were intercepted by five health officials, taken away, and dumped at a prison farm in the middle of nowhere. A few days later, Yang's pharmacy was trashed by vandals. "Just past five o'clock, they arrived, armed with poles, and smashed my glass counter display and my television. They did not say a word, just smashed things and ran away." The final act came in February 2010. Liao was outside the Qianjiang government building when a dozen men came out, including the secretary of the Public Health Bureau Disciplinary Inspection Committee, and took her away. The pretext for this abduction was Liao's "failure to abide by persuasive tactics and desist from petitioning." They resisted, "but we could not stop them. There were two of them for every one of us. They dragged my wife into a vehicle."

And that, as of 2010, was the last that Yang saw of Liao. He was refused permission to visit her in detention six times.

DETENTION

Article 37 of the Constitution of the People's Republic of China states that: "The personal liberty of citizens of the PRC is inviolable. No citizen may be arrested except with the approval or by decision of a people's procuratorate or by decision of a people's court, and arrests must be carried out by the public security organs. **Unlawful deprivation or restriction of citizens' personal liberty by detention or other means is prohibited;** as is the unlawful search of the citizen's person."

As Liao Meizhi's case vividly shows, however, illegal detention is the ultimate sanction used to silence protesters. The Chinese authorities have a battery of extrajudicial detention options that run counter to the constitution, United Nations recommendations, and indeed basic standards of decency expected of states that call themselves civilised. They include "black jails" run by the Public Security Bureau and until recently

re-education through labour (RTL) camps, collectively known as “administrative punishments.” They are used to sideline and silence persistent protesters, in particular petitioners. Thankfully, in many cases, such detentions are relatively brief.

Mr. Zhang and Mr. Pan, laid-off cotton workers at a restructured SOE, were denied the training and job offers they had been promised prior to dismissal. Fobbed off with a pittance of 235 yuan a month, the laid-off workers repeatedly petitioned municipal and provincial governments and filed lawsuits. Some of the workers’ leaders were sentenced to 15 days of administrative detention, but were released after just one day when the workers protested. “We wouldn’t take it lying down. We sought out the government. Two hundred of us rose up and appealed. Then they released our representatives.”

When Liaoning community teachers Wang Feng’e and Yang Shuge took part in a mass petition outside the provincial government in Shenyang in 2007, Yang and two colleagues were detained. Having spent all day waiting for the provincial Party secretary to show up, they were met by riot police. Said Yang: “At four minutes past midnight, we were forcibly taken back home. Halfway back to Jianchang, the Public Security people stopped the vehicle, and called out some names. These people were sent to a detention centre, one of us for five days and two for two weeks. The pretext for the detention was that we had been ‘disrupting the normal conduct of business’ at the provincial government building entrance. This is normally what happens when you mount a petition—you get detained.”

In 2011, Shanghai dermatologist Dr. Chao, along with dozens of other petitioners, gathered in Tiananmen Square. Dr. Chao was there to protest his detention a month earlier while seeking redress for unfair dismissal. The police responded by detaining 36 petitioners, including Dr. Chao, and sending them all back to Shanghai. “They took us to the police station, and then they sent us to the so-called Beijing Assistance Centre and got somebody from the Shanghai government representative office to reclaim us. They said that we had been disturbing the peace. But we were not. I did not have a single piece of petitioning documentation. I challenged them to prove that I was petitioning.” Dr. Chao was detained for 15 days.

Few workers have had more experience with China’s formal and informal detention system than the courageous and persistent labour contractor Peng Yingquan. Unlike most victims of incarceration, Peng was formally tried and jailed, on a trumped-up charge of theft. In April 2004, Peng hired 160 workers to build a section of road in Wufeng county in Hubei. But because the project had never been officially approved, funding dried up and Peng was left unable to pay his workforce. In early 2007, after a letter campaign and other protests, he was warned by the head of the Wufeng County Public Security Bureau that “You are not allowed to take migrant workers to go and demand payment from the government. If you do it, we will lock you up.” Peng was further told “not to seek any payment at all,” and was threatened with being “put in a detention centre over the Chinese New Year.” Later that year, Peng was actually detained informally for three days, locked up in a police station with no access to a telephone.

On October 6, 2007, Peng was detained again, this time by the Wufeng Public Security Bureau’s Economic Crime Investigation Brigade, who accused him of “appropriating a company Jeep” from a company of which Peng was himself the sole owner. Peng was detained for 20 days at several hotels within the Wufeng county limits before being formally arrested on the charge of appropriating the Jeep—in other words, robbing himself. “They told me that if I did not cooperate, I would be like a sheep on the chopping block. If they wanted to cut off my feet, they would do it; if they wanted cut off my hands, they would do it ... they also said that the Public Security Bureau specialised in assassinating people.”

After Peng was arrested, the judge of the Yichang Intermediate People’s Court came to the Wufeng detention centre to “force me to negotiate.” The Road Department would pay about 200,000 yuan of the money owed (about a tenth), if Peng abandoned his claim for the rest, “and then they would release me,” Otherwise, Peng was told, he would be sent to prison. Peng refused to comply. Before he was sentenced, the authorities tried to negotiate with him again, telling him that “after I got out, the matter would be closed, and they would give me a light sentence.”

“I said to them at the time, if I have broken the law, then you sentence me according to the rules. I don’t

need you to lighten my sentence. If I have committed a crime, then you go ahead and carry out the correct punishment and give me three, five, eight, or ten years, just sentence me according to the rules.”

Two hearings were held at the Wufeng detention centre; “they didn’t dare to have the hearings at the courthouse,” said Peng. His family was not allowed to attend. Peng was sentenced to two years’ imprisonment for “embezzlement.” Released in October 2009, he resumed petitioning to get the money owed him and the workers. “I thought I wanted to kill them all when I got out. I thought about all those workers who had laboured with me all those years, working until their hands were blistered and bleeding ... they finished the project with me, and I thought, I’ve let these workers down, over one hundred of them.”

In 2013, the Chinese government formally announced the end of the decades-old system of re-education through labour (RTL). Sadly, this came too late for several of the workers interviewed by Han Dongfang. The system was first developed by the Communist Party in the 1950s to deal with “counterrevolutionary and other undesirable elements.” Later, it was officially described as an extrajudicial measure aimed at punishing citizens deemed to have committed “minor offences not meriting criminal sanction.” But the maximum RTL penalty of three years, expandable to four, was much harsher than several minor sanctions available to judges under the criminal law. Those sentenced to RTL were held in conditions no less arduous than those of a prison, and often in remote, inhospitable locations. In practice, RTL was frequently used in cases where the police have insufficient evidence to justify arrest, or where criminal prosecutions could not be brought. The only recourse for anybody seeking to challenge an RTL sentence was to bring an administrative lawsuit against the local police chief.

In 2008, an employee of the Industrial and Commercial Bank of China (ICBC) branch in the Guangxi Zhuang Autonomous Region was reportedly sentenced to one year’s RTL after protesting a forced redundancy settlement. ICBC is a household name and one of China’s Big Four banks. During restructuring which began in 2005, ICBC had pressured employees to quit “voluntarily” in return for a severance payment of 2,000 yuan for each year of service, half the sector norm. The detained employee was a petition leader, and her arrest was instigated by her own ICBC branch. As is typical in RTL cases, the sentence had little to do with the protest per se. The affected employee’s real sin was to have taken petitioning a step too far, triggering accusations of disrupting “social stability.”

One of the most appalling, and yet also inspiring, cases involving RTL concerned a group of herdsmen at the Sha Wozi Ranch in Inner Mongolia. This was originally a horse-breeding facility set up by the military in the early 1970s and was administered by an army unit in Beijing. It later became a state farm with thousands of employees, each of whom was allocated a small holding in arable and grazing units. However, during the 2000’s, hundreds of those agricultural workers lost their landholdings as profit-hungry managers sold off pasture to other farmers and investors, leading to serious overgrazing and desertification. The workers petitioned the government, but were persecuted and harassed by local officials. One representative was detained for several months and had to flee to a secret location in Beijing. From there, she spoke anonymously to Han in 2010.

Back in 2007, she had been accused by the police of “forging signatures for petitioning purposes” and of acting as a petitioners’ ringleader. In fact, she had only helped mostly illiterate retired soldiers write up and read through the petitioning materials. Over 150 of her group stepped forward to deny that forgery had occurred. Although no law had been broken, she was sentenced to seven months of RTL. However, she was not sent to a regular RTL camp but to a Xilinhot city detention centre, a facility for criminal suspects. She became seriously ill in detention and was released after three months when the Public Security Bureau chief feared she might die. But in the lead-up to the 2008 Beijing Olympics, the authorities detained her for another four months for fear she might stage a public protest. “Those four months were even worse,” she says. “I was not allowed to see anybody. I just sat there with the guards at the detention centre, and even when I was sick, they would not let anybody come and see me.” When she protested later to the procuratorate, one of the prosecutors jokingly said: “We cannot cause trouble for the government. If I make a protest on your behalf today, tomorrow I will find that my budget has vanished.”

After her release, she went into hiding and continued her campaign online. Although she was still subject to harassment and threats from local security officials, she said she carried on because she still had the support of the workers:

“You know, an old boy came to see me when I was in that detention centre. He had spent nearly one month’s wages, 500 yuan, to bribe a policeman, and at midnight he came to see me. He said that he and 40 or so other retirees could go to the provincial government and hold a sit-in so that they would let me go. They said they would starve themselves to death; more than 40 of them. They were willing to put their personal safety at risk for me. Can you imagine that?”

CHAPTER FIVE: THE NEED FOR SOLIDARITY

INDIVIDUAL HEROES

By far the most effective acts of worker resistance during China’s economic reform era have been collective in nature. Workers increasingly understand that unity is strength and that solidarity can bring about victory. However, there have been a few examples of individual worker heroes who have taken on the system by themselves and won. Perhaps the most celebrated case in recent years was that of Zhang Haichao, who contracted pneumoconiosis while working at an abrasive materials manufacturer in Henan. When his local Centre for Disease Control and Prevention insisted that he had tuberculosis—a frequent “mistake” when doctors are keen to avoid diagnosing pneumoconiosis—Zhang resorted to the potentially fatal tactic of voluntarily having a surgeon open up his chest to visually establish his condition. It was pneumoconiosis, and Zhang was national news. In 2009, he was finally awarded 615,000 yuan in damages. Since then, Zhang has been working as a full-time activist helping other workers with pneumoconiosis and raising awareness of occupational health and safety. He had a double lung transplant in 2013, which hopefully will extend his life considerably.

A number of Han’s interviewees likewise showed exceptional courage in their conduct and pursuit of justice. One spring day in 2011, Pei Yonghong, a former soldier, got a phone call from the Xiangtan Power Plant in the southern province of Hunan. They were short of staff and wanted him to come back to the job at the railway marshalling yard he had recently quit. The work was dangerous and the pay poor, but he felt duty-bound to answer the call. On March 10, he turned up at the marshalling yard and began one more stint as a shunting-coupler. But just as he was beginning to move an oil transport train, his walkie-talkie link to the driver failed. In order to stop the moving train from crashing into an oil depot where some 15 tank wagons were being unloaded, all he could do was jump off his tank wagon and run to the signal house to get the spare walkie-talkie. In the rush, he lost his footing and fell under the wheels, severely injuring his right arm and back. Despite the shock and pain, he got up and frantically ran on more than 100 metres, reached the signal house, found a spare walkie-talkie, and got the driver to stop the oil train in time. But Pei’s right arm had to be amputated at the shoulder.

For his quick thinking, courage, and self-sacrifice, Pei was awarded the Hunan Youth Day prize, the title of Outstanding Young Migrant Worker, and a provincial government order of merit. He was feted by the media, and even got his own entry in China’s Wikipedia-style website Baidu Baike (百度百科). The provincial Communist Youth League said they would earmark up to 250,000 yuan to get a prosthetic replacement for his arm. However, the money never arrived because no one was willing to assume responsibility. Having recently quit, Pei did not have a formal employment relationship with the marshalling yard at the time of the accident. And besides, there were actually three candidates for employer liability—Datang Power Company, its rail-freight subsidiary Feihong, and an employment agency working for Datang Power. All three parties denied liability and sought to pass the burden of compensation onto the local government’s work-related injury insurance bureau. Pei was left to rely on an 850 yuan monthly allowance, and the donor sought anonymity because disclosure would be tantamount to admission of liability. Lawyers were unwilling to get involved. “I feel very angry about this,” Pei said. “I saved people’s lives and I’m just told to go and get

help from the state insurance fund. I think that is a pretty dismal state for a society to be in.”

Eventually, with the help of a pro bono lawyer, a private agreement was reached in the spring of 2012. Pei received a lump sum payment from the Work Injury Insurance Fund for a Grade 4 disability. Datang Power paid an additional 200,000 yuan in compensation via its employment agency. However, the latter deducted 100,000 yuan for the cost of Pei’s new prosthetic arm, which it had already paid for. In the end, Pei received only an additional 100,000 yuan in compensation.

Other workers followed in the footsteps of Zhang Haichao by becoming activists themselves after suffering misfortune. Former Wang Laoji herbal tea salesman Huang Canhui launched a campaign to expose the exploitation of temporary agency workers throughout China. He even got interest from national media like Workers’ Daily (工人日报) and the Beijing Morning Post (北京晨报), which reported that his ex-employer had wrung nearly 100 million yuan out of its staff by crimping overtime—the same sum as its famous earthquake donation.

After a misdiagnosed hand injury and then an unfair demotion, Xu Ziqi, an ex-SOE manager in Lanzhou, dedicated more than a decade to labour activism at her enterprise. She campaigned against alleged fund misappropriation and illegal sanctions against workers, amongst other issues: “single-handedly doing the job of the trade union in monitoring her employer’s legal compliance and safeguarding employee rights and interests,” as Han Dongfang noted.

THE ROLE OF THE TRADE UNION

It is of course ridiculous that individual workers like Xu should have to single-handedly do the job of the trade union. The reason she was forced into that role is quite simple; the official trade union does not stand up for or support its members. China’s sole legally-mandated trade union, the All-China Federation of Trade Unions (ACFTU), claims to have nearly 300 million members, yet for the vast majority of workers it might as well not exist. Despite, the tremendous hardships suffered by the workers Han talked to, hardly any of them thought about going to the union for help.

The ACFTU is first and foremost an agent of the Chinese Communist Party tasked with implementing Party policy on labour relations; it is not an organization that can represent workers. At the grassroots level, where enterprise trade unions have been established, they are nearly always under the control of management and hardly ever side with the workers. For example, when tobacco worker Zhang Liucheng protested company restructuring plans, he was mystified to find his trade union vice-chairman sitting alongside and representing management in the arbitration sessions. It was a similar story at the Honda transmission plant strike in 2010 in Foshan. In this dispute over long hours and low pay, the local township union federation gathered a mob of union officials to force strikers back to work, an ill-advised move which helped trigger a wave of copycat strikes across the whole sector.

In May 2007, Han Dongfang talked to both workers and union representatives at the Yueyang Steelworks in Shaanxi about the privatisation dispute that in the previous month had escalated into a major strike with up to 3,000 workers blocking an interprovince highway for four days. Both the workers and the county-level union overseeing the plant agreed that the enterprise union had been utterly ineffectual and would never dare stand up to management. Indeed, when the workers went out on strike they used their own representatives in negotiations with management, bypassing the union altogether. One employee, who had been working at the plant for 21 years, said the enterprise union officials had been elected by the workers and were aware of their grievances, but “They can’t do anything. At the moment, our company union is led by company people. The boss will say, ‘I am paying your wages, so allow me to manage you.’ The union is not independent.”

One of the interviewees Han spoke to was himself a union official, Mr. Deng. Deng stressed that the union would never seek a confrontation with management: "What is wanted now is not a firmer stance from the union, what is needed is a cooperative approach, to create a win-win situation, right? You cannot act in conflict with the bosses. This is not allowed. In the local context, the economy must develop and the company has its corporate interests, right? Workers have their interests. These different interests have grown apart, but must be reunited! ... The important thing is the quality of the company boss. How does he regard the role of the union? Some of them are helpful, recognise the importance of the union, and support it in its work. But some enterprises try to sideline the union."

Deng pointed out that many enterprise unions had limited funding. Although enterprises are legally bound to provide the union with funds equivalent to 2 percent of payroll, he said, not all companies paid up. He also admitted that the union had been unable to address workers' concerns that during the company's restructuring, assets had been undervalued and that large quantities of steel materials, inventory, and fixed assets had been sold off on the quiet. "There is still some distance to cover before we achieve legal compliance. Yes, there are problems," he said.

When drivers demanding higher pay at the Wenjiang Guanghua Bus Company in Chengdu went out on strike on November 1, 2008, the enterprise trade union chairwoman, Ms. Wen, criticized the strike action, calling it "unreasonable." She claimed the strike was initiated because "another company started giving commissions for exceeding production targets. After they started getting that money, it gave our drivers this idea ... So then the employees engaged in this sudden, irrational action." Ms. Wen also said it was not the job of the union to just support the workers: "The enterprise union is not an independent body," she said. "The union should support the company's production and operations, working to increase its own income and at the same time increase workers' income, concerning itself with both of these things. It is not an independent entity."

In all of the 88 interviews covered in this book, there is just one example of a trade union chairman supporting the workers in a dispute against management. When retail giant Walmart sought to close its supermarket in the central city of Changde in March 2014, it did not take into account the determination or tenacity of the store's union chairman Huang Xingguo. Walmart assumed that the both the staff and the union would accept its standard severance pay offer, but as Huang pointed out, the company had not followed legal procedure during the closure and as such the employees were entitled to double the standard rate. "There are very clear provisions in our employment contract, echoing provisions in the Labour Law, regarding termination of contract ... For such layoffs, a meeting of employees has to be convened 30 days in advance, directly or through the union, and the corporate layoff proposal must be studied and reported to the labour authorities. There is a legal process to observe," he said.

There followed a long standoff, with Huang and the workers manning a picket line outside the store in order to prevent the company from removing the merchandise still inside. "There have already been clashes ... We have been trying to prevent them from clearing out the products, but they are removing them covertly. The local police and our employees were involved in physical clashes, and two of us went to hospital. The enterprise management agreed to pay the medical costs," Huang told Han.

Eventually, pressure from local government officials to accept Walmart's original offer began to pay off, but a few workers including Huang held out until June when the local labour dispute arbitration committee ruled in favour of Walmart.

POSTSCRIPT

Although Huang Xingguo's campaign was ultimately unsuccessful, the actions of Changde workers helped galvanise workers in other Walmart stores, particularly those in the southern city of Shenzhen, to push for better pay and conditions as well as more effective trade union representation. And there are signs that the official trade union is starting to take note. In May 2016, the vice-chair of the Shenzhen Federation of Trade Unions, Wang Tongxin, was reported to have admonished union representatives in the city's Walmart stores to listen to their members. "What are trade unions for? We should listen to the workers' demands and bring those demands to the higher-level unions," Wang said. "You are heading in the wrong direction!"

The campaign, led by dismissed Walmart worker activists Zhang Liya, Wang Shishu, and Yu Zhiming, focused on the American retail giant's plans to introduce a "comprehensive working hours system" (综合工时制) into its stores in China, a move that would reduce the overtime pay for thousands of employees. Under this system, employers can demand that employees work longer hours during peak periods (and not at all during other periods) without paying overtime. Similar systems have been introduced in many retail chains around the world, but China's Walmart workers are determined not to let it happen in their stores. Some 10,000 Walmart workers across China are reported to have reportedly joined online messaging groups dedicated to opposing the new system.

The same month, a small group of workers at a Taiwanese-owned moulding factory in Shenzhen sat down with their employer and negotiated a collective bargaining agreement that guaranteed the factory's 100 or so employees long-service compensation in the event of a change of ownership, the payment of social insurance and housing fund contributions in arrears, as well as high-temperature subsidies.

It was a fairly minor event, unremarkable except for how it contrasts with the stories contained in this book. In this case, the management was initially reluctant to talk, and the workers staged a ten-day strike before the boss agreed to negotiate. But as soon as management showed good faith, the workers called off the strike and a compromise agreement was reached. As Zhang Zhiru, the head of the Spring Wind Labour Dispute Service Centre, who advised the workers, said: "The case showed why labour disputes should be solved through collective bargaining. Solidarity and the spirit of compromise of the workers, the willingness to talk and sincerity of the management, and the active but neutral involvement of the local government, all of these factors contributed to this tripartite success."

The issues in this dispute were admittedly not particularly egregious, but then many of the cases discussed in this book started off as routine, even banal, disputes before descending into conflict because of management's refusal to negotiate in good faith. The encouraging signs for the future of labour relations in China are that not only are workers better organized but that management, in some enterprises at least, are recognizing that fact and are now willing to sit down with representatives of labour and negotiate with them as equals.