

中国劳工通讯 China Labour Bulletin

Time to Pay the Bill

China's obligation to the victims of pneumoconiosis

28 April 2013

International Labour Organization World Day for Safety and Health at Work

ILO World Day for Safety and Health at Work

The ILO's World Day for Safety and Health at Work is designed to focus international attention on emerging trends in the field of occupational safety and health and on the magnitude of work-related injuries, diseases and fatalities worldwide.

The 28th of April is also the day on which the world's trade union movement holds its International Commemoration Day for Dead and Injured Workers to honour the memory of victims of occupational accidents and diseases and organize worldwide mobilizations and campaigns on this date.

The Theme for the World Day for Safety and Health at Work in 2013 is "**The Prevention of Occupational Diseases.**" The ILO estimates that out of 2.34 million occupational fatalities every year, 2.02 million deaths are caused by various types of work-related diseases, which correspond to a daily average of more than 5,500 deaths.

The inadequate prevention of occupational diseases has profound negative effects not only on workers and their families but also on society at large due to the tremendous costs that it generates; particularly, in terms of loss of productivity and burdening of social security systems. Prevention is more effective and less costly than treatment and rehabilitation. **All countries can take concrete steps now to improve their capacity for preventing occupational diseases.**

This report is dedicated to the memory of Chen Xiezhong and all the victims of pneumoconiosis in China who died fighting for their rights



If I can't see justice before I die, I hope my colleagues will keep pushing until we get compensation.

陈谢忠

1973-2012

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Introduction

For many years, pneumoconiosis was China's hidden epidemic. It was by far the most prevalent occupational disease in China, accounting for about 90 percent of all cases, but because it almost exclusively affected poor migrant workers from the countryside, the government could largely ignore it and the public remained unaware of the devastation it was causing in remote villages across the country.

It was only in the last few years that the public and the government started to take note as more and more workers with pneumoconiosis openly demanded redress. Large groups of workers travelled back to the cities, mines and factories where they had contracted the disease, in order to confront their former employer. Some workers took incredibly brave and sometimes desperate measures to highlight their fate, eliciting widespread public sympathy and support. Aided by the rapid spread of social media in China, workers and online activists soon created enough pressure to force a reaction from the government. Laws were revised to make it easier for workers with pneumoconiosis to seek relief and more local governments agreed to provide basic medical and welfare assistance. But the response of the government has thus far been piecemeal at best and barely begins to make up for the decades of neglect that created the crisis in the first place.

What is the scale of the epidemic?

No one knows exactly how many workers in China have contracted pneumoconiosis over the last few decades. The only certainty is that the official figures issued by China's Ministry of Health (MOH) represent the absolute minimum number of cases. The MOH recorded a total of 23,812 new pneumoconiosis cases in 2010.¹ This was the first time that the annual number of new cases had exceeded the 20,000 mark. It represented a 39 percent jump over the 14,495 cases reported in 2009. The cumulative total, since the MOH started keeping records of pneumoconiosis cases in China in the 1950s, reached 676,541, with 149,110 deaths and 527,431 people still suffering from the disease at the end of 2010.

Since the MOH figures are based on officially diagnosed and registered cases, most experts agree they represent only a "fraction" of the actual number.² Numerous studies by academics, civil society groups and media organizations over the last few years have suggested that the actual number of pneumoconiosis cases in China ranges from around one million to perhaps six million.³ These estimates are based on private conversations with government officials, medical studies which show that the prevalence rate of pneumoconiosis among high risk groups is several times higher than the official diagnosis rates, and extensive field work which has uncovered huge numbers of previously unreported cases. The upper estimate of six million victims comes from China's best known and most active pneumoconiosis charity, Love Save Pneumoconiosis (大爱清尘), whose volunteers have visited large numbers of remote and impoverished rural communities, villages, townships and even whole counties blighted by the disease.

What is the cost of the epidemic?

There is no cure for pneumoconiosis. The only medical treatments available are those that can slow down the development of the disease and help alleviate its symptoms. However, the most effective treatments are well beyond the reach of impoverished migrant workers. A lung lavage, for example, which can wash away some of the particulate matter lodged in a patient's lungs, costs in excess of 10,000 yuan each time. And drugs that have been proven to be effective in alleviating the symptoms

of pneumoconiosis can cost more than 1,000 yuan per month. Even the most basic treatments can amount to several thousand yuan each year, and once the disease progresses to its more severe stages, costs begin to escalate dramatically, with some patients having to pay out hundreds of thousands of yuan.⁴

Moreover, the vast majority of pneumoconiosis victims in China have been their family's sole breadwinner. Once the disease takes hold, victims can no longer work. They find it difficult to walk down the street let alone perform the hard physical labour they were used to. With no money coming in, their families fall deeper and deeper into debt. As investigative journalist, Huo Xingcai, told a conference on pneumoconiosis held at the University of Hong Kong on 29 August, 2011:

The disease sends families into extreme poverty; they accumulate debt and many victims receive no formal treatment whatsoever. Some die without ever knowing what disease they suffer from. Many others come to financial ruin after receiving treatment.

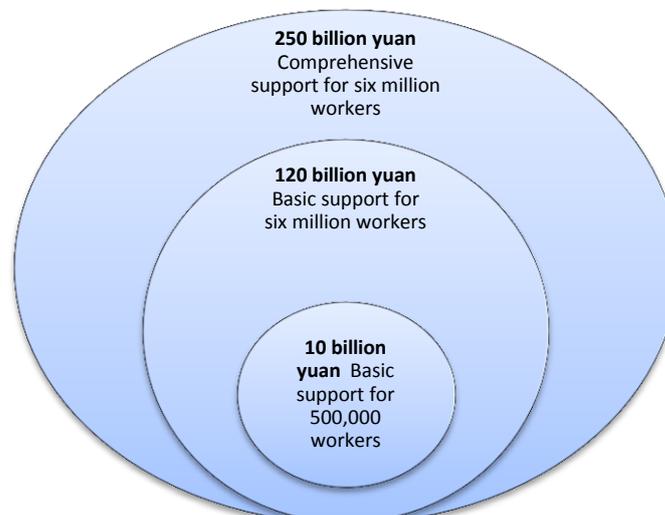
The high cost of treatment and the need to support their families drives some weakened and impoverished people back to work despite knowing that their physical labour and continued exposure to dust will only aggravate their condition and hasten their death.

Clearly, if the Chinese government covered the costs of medical treatment for the victims of pneumoconiosis, and provided them with an allowance to support their families, they would no longer have to risk their lives by going out to work again and could spend their last years with their loved ones, safe in the knowledge that they will be taken care of.

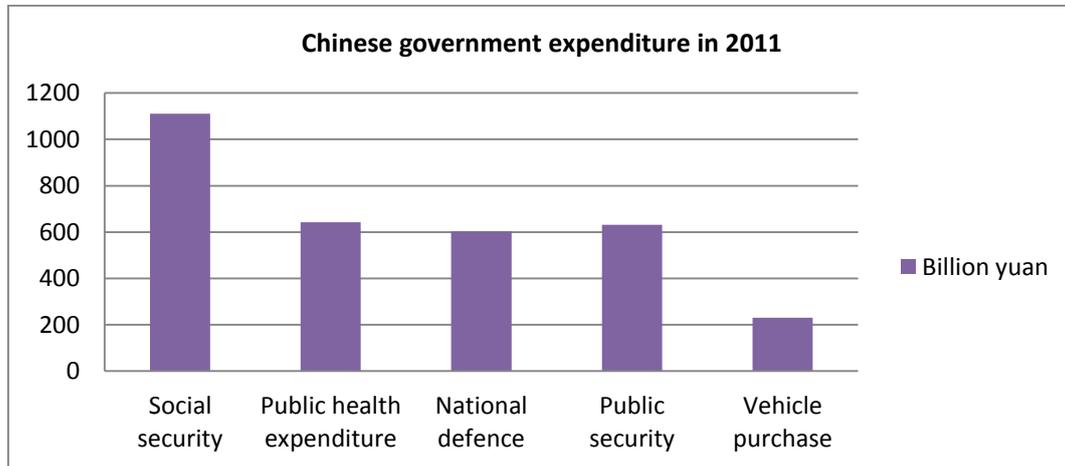
What would be the cost of government support?

Estimating the annual medical costs for pneumoconiosis patients in poor rural communities to be 10,000 yuan on average, and adding another 10,000 yuan per year for basic living expenses for their families, we can begin to assess the overall cost. Based on MOH figures for the absolute minimum number of people living with pneumoconiosis in China, the annual bill for providing them all with basic medical care and welfare support would be just over ten billion yuan. However, if we use the highest current estimate of the number of people with pneumoconiosis in China of around six million, the annual bill would increase dramatically to 120 billion yuan. And if more beneficial medical treatments, such as lung lavages, were included in the package, costs for the government could double again to around 250 billion yuan a year. *See graphic below.*

Possible Chinese government spending on the health and welfare of workers with pneumoconiosis



To put these figures in context; overall government spending on medical and health care in 2011 was 642.9 billion yuan, while expenditure on social security and employment reached 1,110.9 billion yuan. *See chart below.* Crucially, local governments accounted for 98.99 percent of overall healthcare spending and 95.5 percent of the government spending on social security and employment. Meanwhile, central and local governments spent a combined total of 231.4 billion yuan on purchasing vehicles in 2011, close to the upper estimate for covering the costs of all the people currently living with pneumoconiosis in China.⁵



The Chinese government may argue that it is the employers who should pay the bill. China Labour Bulletin completely agrees: Employers should always be held accountable for endangering the health of workers and violating their labour rights. However, pneumoconiosis has now reached epidemic proportions in China precisely because the government has singularly failed to hold employers to account for these violations. For more than two decades, the government has failed to stop employers poisoning their workers with lethal mineral dust, and failed to ensure that workers are properly compensated when they get sick. Indeed, the government has actively enabled employers to put profits above safety and has prevented workers from seeking redress for injury and illness.

In this new report,⁶ China Labour Bulletin examines the government policies of the last two decades that gave rise to China's pneumoconiosis epidemic and argues that Beijing can no longer evade its responsibility to provide the medical care and welfare benefits the victims of pneumoconiosis need and are legally entitled to. It examines in detail the worker activism that has inspired change, the support from civil society and the media, and the reactions thus far of the central and local governments.

A crisis 20 years in the making

Unchecked economic growth. Throughout the 1990s and early 2000s, the central government actively encouraged double-digit growth. Even after Beijing started to emphasize more sustainable development and environmental protection at the end of the decade, most regional and local governments still focused on headlong pursuit of economic growth.

Fuelling this growth to a very large extent were high-dust industries such as energy, mineral extraction and processing, and construction. Energy production in China tripled in these two decades, increasing from 1.04 billion tons standard coal equivalent in 1990 to 2.97 billion tons in 2010, while the number of workers employed in construction quadrupled from 10.1 million in 1990 to 41.6 million in 2010.⁷ Workers in these industries had little or no protection from the deadly dust they were inhaling every day. Employers often regarded health and safety measures to be an impediment to profit and local governments encouraged such reckless endangerment because it increased their tax revenues and bolstered their key economic performance data. Even after legislation was introduced to protect the health of workers, these provisions were routinely ignored by the local authorities who were supposed to enforce them.



The lead and zinc mines of Ganluo in Sichuan employed around 30,000 migrant workers in the 1990s. Thousands contracted pneumoconiosis and many dozens have already died. Photograph by CLB.

Rural poverty and economic migration. The majority of workers employed in these hazardous industries were poorly-educated labourers from impoverished rural communities in the Chinese hinterland. The insatiable demand for labour in high dust industries meant that young rural labourers could usually earn enough to provide their families back home with a living, even if that meant travelling vast distances and working excessively long hours in dangerous conditions. Many travelled more than one thousand kilometres in search of employment; others found work in a neighbouring county. But regardless of the distance travelled, China's household registration system meant they were essentially second-class citizens in the jurisdiction they were employed in. They had no automatic right to social welfare or medical benefits. If they were injured or fell ill at work, they were

essentially at the mercy of the employer. For many victims of pneumoconiosis, who only realised the severity of their illness long after leaving their place of work, it meant travelling back to search for the employer who could often deny that the workers had been employed because they were never given an employment contract. Many other employers had long since gone out of business or moved elsewhere. Even if the employer was accountable, any legal proceedings would be on the employer's home turf, placing the already impoverished litigant at an even greater disadvantage.

Lack of effective health and safety regulations. Throughout the 1990s, the period during which the majority of today's victims of pneumoconiosis first contracted the disease, there was no effective health and safety legislation to protect workers in the private sector. The labour insurance system in place at the time only covered public sector and state-owned enterprise employees, and it was not until the early 2000s that a comprehensive legal system was put in place so that private sector workers could seek redress for injury or occupational disease. The cornerstone of the new system was the employment contract signed by workers and employers. But given that most employers did not give migrant workers a formal employment contract and local governments failed to ensure that employers provide their employees with social and medical insurance, proving an employment relationship was next to impossible for many migrant workers. Even if some records of employment, such as time cards, had been issued at the time of employment, they were often discarded or mislaid after the worker had left.

Moreover, additional restrictions and strict requirements imposed by the legislation meant that workers seeking compensation for pneumoconiosis had numerous obstacles to overcome during the litigation process. Cases could drag on for years because the system made it possible for the employer to continually delay proceedings, while the already ill litigant had to spend even more money on medical and legal fees. *See next chapter for more details.*

Privatization and commercialization of health services. In 2011, the Chinese government's expenditure on healthcare was 642.9 billion yuan, just 5.9 percent of overall government expenditure and the equivalent of 477 yuan per person per year. This actually represented an improvement compared to most of the 1990s and 2000s when the government actively disinvested in public healthcare, made hospitals almost entirely responsible for their own financing, and decimated the state-owned enterprises that had shouldered much of the healthcare burden for urban residents. The result of these reforms was that medical bills skyrocketed, and many patients were denied treatment because they could not pay up front. Even after the introduction of new government and private insurance schemes in the 2000s, patients still ended up covering most of their costs because the insurance schemes did not cover the specific drugs and treatments they needed. Moreover, as hospitals (which are the primary care provider in China) make most of their money through sales of medicine, diagnostic tests and treatments,⁸ patients often pay for drugs and tests they do not need.

For many migrant workers, the cost of seeing a doctor can be prohibitively expensive. Their rural communities have only basic medical facilities at best and the nearest specialist hospital could be a day's travel away. In addition to medical treatment, they would also have to pay for travel, accommodation and food during their hospital stay. As a result, they tend to avoid going to hospital until it is absolutely necessary, by which time it is usually too late.

Lack of public education and health awareness. The vast majority of workers who contract pneumoconiosis have been unaware of the disease and the heartbreak it could cause during the time they were employed. Many workers have described working in "thick clouds of dust" but were not overly concerned because they thought it was simply a temporary discomfort or irritant. Xu Zhihui, a former construction worker from the central province of Hunan, told CLB Director Han Dongfang in a 2009 interview: "We were young and strong and didn't mind the dust. It was like this:

if you nit-picked about this and that, the boss would fire you straight away.” Employers and local government officials made no attempt to make employees aware of the dangers.



Xu (*left*) explained that when he first worked as a driller on Shenzhen’s construction projects in the early 1990s, he did not even wear a mask. And even after masks were introduced in 1995; “in order to save money, the boss and labour contractor on one site only gave you a new mask when the old one rotted,” he said.⁹

At no point during the last two decades did the central government introduce any measures to raise awareness of the disease among workers at risk or ensure that workers were properly protected.

This lack of understanding and awareness of the disease meant that workers often mistook the early signs of pneumoconiosis for a heavy cold or cough and did not associate those symptoms with having worked in a high dust environment. They treated their ailments with basic medicines and traditional remedies, which failed to deal with the disease and sometimes aggravated it.

All too often, workers only realised the severity of their illness when their co-workers started to waste away and die.

Workers' action

The legal and regulatory obstacles faced by workers

In China Labour Bulletin's second research report on China's pneumoconiosis epidemic, *The Hard Road*,¹⁰ we outlined the legal and regulatory obstacles faced by workers seeking compensation for occupational disease, and the obstacles created by employers and intransigent government officials. In reality, most of the problems faced by workers stem from the legal and regulatory framework established by the government because it hands nearly all the power in labour disputes to the employer and allows government officials to refuse or block workers' applications for compensation if specific conditions are not met.

The current system can be traced back to the 1950s and 60s when the Chinese government issued regulations that provided state-owned enterprise employees with insurance for work-related injury and occupational disease. At the end of the 1980s, the regulations were amended to allow workers to claim benefits from their employer even if the disease was discovered after the termination of their employment. The new regulations stated that if the enterprise no longer existed, the government authority supervising it should pick up the bill.¹¹

However, the system still excluded the tens of millions of workers employed in the rapidly expanding private sector. Indeed, it was not until 1996, when Ministry of Labour issued the *Regulations on Work-Related Injury Insurance for Enterprise Workers (Trial Implementation)* that a more inclusive system was established. And it was not until the early 2000s that the regulatory framework that operates today was formally established with the passage of the *Law on Prevention and Control of Occupational Diseases* in 2001, the *Management Regulations for Diagnosis and Assessment of Occupational Diseases* in 2002, and the *Work-Related Injury Insurance Regulations* in 2003. By this time, of course, the private economy had been in place in China for two decades. For hundreds of thousands of workers in high dust industries, the damage had already been done.

The new system was designed with the stated aim of protecting the health of workers and ensuring that they would be adequately compensated if they were injured or fell ill at work. However, the cornerstone of the system was an idealised requirement, harking back to the days of state-owned enterprises, that in order to qualify for occupational disease benefits, workers needed to prove a formal employment relationship with their employer. This effectively put redress out of reach for tens of millions of migrants who never signed a contract with their employer. Moreover, some of the stipulations in the legislation put compensation even further out of reach by requiring that workers provide as evidence; a work history and past medical history, a copy of their occupational health care file, and their occupational health exam results. All of these documents were invariably in the hands of the employer who was highly unlikely to risk incriminating himself by handing them over to an employee demanding compensation.

This situation did improve slightly in December 2011 when, under pressure from workers, civil society and the media, the government revised the *Law on Prevention and Control of Occupational Diseases*. The amended law loosened some of the more stringent and unreasonable requirements that had hitherto hindered the application process. But the fundamental requirement of proving an employment relationship remained intact:

- Article 49 provides that if an employer refuses to provide the necessary documentation on employee health and workplace hazards, the authorities can make an assessment of the claim based on information provided by the employee, and that if a worker objects to the health and safety information provided by the employer, or that information does not exist

due to dissolution or bankruptcy of the employer, the authorities should conduct their own investigation into the case.

- Article 32 states that if an employer ceases to exist or if an employment relationship cannot be proven, people with occupational diseases can apply to the local government for help with medical and living expenses. But this does not necessarily mean workers will get the same benefits as those covered by the work-related injury insurance scheme. Indeed, the revised law specifically states that local government assistance should be based on local conditions. In other words, local governments in poor regions are under no real obligation to provide workers with pneumoconiosis the assistance they actually need.
- Article 60 of the law states that employers who have not purchased work-related injury insurance are responsible for the health care and social welfare benefits of their workers with occupational diseases. But many employers simply refuse to pay, and enforcing a judgement can be immensely time-consuming.

Taking legal action

Although workers with pneumoconiosis can and often do take their bosses to court, proceedings are often lengthy and there is no guarantee of a positive result. Worker litigants are immediately disadvantaged by the cost of hiring a lawyer, which can run into tens of thousands of yuan in lengthy cases.¹² Workers usually have no income and need to borrow money to pay their legal as well as medical bills. The rules of evidence and the requirement for detailed documentation mean that some cases never even make it to court, while those cases that do get accepted can drag on for years because of endless appeals filed by the employer.

Former jewellery worker **Xiong Gaolin**, for example, has spent more than four years in court and, although he has been largely successful, several legal issues remain unresolved. Xiong was diagnosed with Stage I+ Silicosis (a common form of pneumoconiosis) in January 2009 whilst still employed in a notoriously dusty jewellery factory in southern Guangdong. He was therefore able to get his condition classified as an occupational disease relatively easily. Xiong refused the company's original compensation offer of 100,000 yuan and sued his employer in the civil courts. He received not only the 100,000 yuan in work-related injury compensation, but an additional 200,000 yuan in civil compensation, including damages for mental anguish and the cost of future medical treatment. Yet, the whole legal process, including arbitration and two civil trials, up to that point took him 45 months, and the company still refused to pay the interest on the sums that had accumulated over the course of the trial.

For the vast majority of workers with pneumoconiosis, however, such a marathon struggle is simply not feasible. Indeed many of Xiong's co-workers accepted the company's original offer of about 100,000 yuan because they urgently needed the money for treatment and did not want to get involved in a lengthy legal battle. Other workers did initiate legal proceedings only to accept a compromise agreement after being worn down by the employer and the courts. Former coal miner, **Zhong Guangwei**, for example, sued his employer in Datong, Shanxi, after he was diagnosed with Stage II Pneumoconiosis in late 2008. In January 2010, the court of first instance ordered the coal mine to pay him 490,000 yuan in compensation. The mine owner refused to pay and when Zhong applied to the court to have the judgement enforced, the court reported that the mine had been shut down and the owner had given the mining equipment to others as collateral and thus could not pay the stipulated compensation. Eventually, Zhong had no choice but to accept a court mediated offer of 270,000 yuan, about half the original judgement amount. Zhong angrily told the court at the time: "Every cent deducted [from this judgement] shortens my life."¹³

Several pneumoconiosis lawsuits that had dragged on for many years were only finally resolved after the intervention of an influential third party, suggesting that the judicial process, in and of itself, was

incapable of ensuring that workers with pneumoconiosis could get justice. One of the best known interventions occurred in 2005 in the case of jewellery worker **Deng Wenping**. A migrant worker from Sichuan with Stage III Silicosis, Deng had spent three years from 2002 to 2005 trying to sue his employer, Perfect Gem and Pearl in the coastal city of Huizhou, but to no avail. It was only when a senior Guangdong provincial government official visited the court in Huizhou and ordered it to expedite Deng's case as a matter of urgency that any action was taken. On 13 July 2005, the Huizhou Municipal Intermediate Court issued a civil mediation letter awarding Deng a one-off compensation payment of 230,000 yuan. Deng died at his home in Sichuan six months later.¹⁴

Government officials are not the only ones to who have made successful interventions. Trade union officials and even labour activists have brought pressure to bear on the courts and forced a settlement. **Wang Shishu**, a coal miner from Sichuan, filed a lawsuit against his employer after a 2008 medical examination revealed "lung abnormalities." The court of first instance ruled that Wang did not have a labour relationship with the coal mine but this was overturned by the appeal court, which ordered the mine to arrange an official occupational disease diagnosis. Wang was diagnosed with Stage II Pneumoconiosis but still no compensation was forthcoming. Eventually, the local trade union and judicial bureau intervened on Wang's behalf and the coal mine made a one-time compensation payment of 227,000 yuan that included a disability benefit, treatment benefit, living expenses and previous medical expenses.¹⁵

Another Sichuan miner, **Xiao Huazhong**, waged a three-year legal battle for compensation with his former boss, a powerful local business leader who had allies in the county government. The local courts had sided with the mine owner throughout the legal proceedings until Xiao was visited in hospital by pneumoconiosis rights activist Zhang Haichao (*more below*) who promised: "Don't worry Uncle Xiao. Without doubt, we will help you get justice." The case was then picked up by the national media and given prominent coverage. China Central Television news highlighted the problems faced by migrant workers who had no formal employment contracts in obtaining compensation for work-related injury and occupational illness. A few days later, the mine owner agreed to a one-off compensation payment of 136,000 yuan.¹⁶

Taking collective action

When individual litigants get help – as we have seen above – their chances of success can increase significantly. Likewise, when workers act together, they certainly have a greater chance of getting their voices heard. Collective action can produce positive results at the time but it can also sometimes be seen by local governments as a threat to social stability.

Perhaps the best known case of collective activism occurred in the summer of 2009 when a group of around 180 migrant workers from **Leiyang** in the central province of Hunan travelled back to Shenzhen to demand compensation for the pneumoconiosis they had contracted whilst working on the city's construction sites in the 1990s. After staging protests and threatening to sue the Shenzhen government, they were awarded various amounts as compensation, ranging from 70,000 yuan to 130,000 yuan depending on the severity of their illness.¹⁷

In total, the Shenzhen government paid out about 14 million yuan to the workers. At the time, this was hailed as a notable breakthrough, but when China Central Television's *News 1+1* visited the workers in their hometown three years later in January 2013, a very different picture emerged.¹⁸ Nearly all of the Leiyang workers had been their family's sole breadwinners. After contracting pneumoconiosis, most could no longer work and so the entire family had to depend on the one-off compensation award to get by. After paying off debts and dealing with ongoing medical expenses, the compensation quickly disappeared. One of the workers interviewed by *News 1+1*, Xu Zuoqing,

was completely incapacitated and relied on an oxygen tank to breathe. His wife was also sick and could not find a job while his children were too young to work. He told *News 1+1*:

I have spent almost all of the compensation and now I don't know what to do. I have no real aspirations anymore. We just live from day to day.

In another collective case, more than 60 workers with pneumoconiosis from Sichuan have been trying for nearly ten years to get compensation from both the local government in their home county of **Muchuan** and Ganluo county, where they had been employed for many years as lead and zinc miners. There were an estimated 30,000 workers employed in the Ganluo mines in the early 1990s. By the early 2000s, hundreds were exhibiting signs of pneumoconiosis and by 2011, nearly one hundred had already died.¹⁹ The group of miners from Muchuan first sought redress back in 2004 but immediately faced an almost insurmountable problem because a year earlier in 2003, the Ganluo government had taken over the mines and resold the business to private bidders at auction, effectively absolving the original employers of any liability. The Ganluo government claimed moreover that it did not have the money to pay for the miners' medical expenses and treatment.

He Bing, one of the Muchuan workers' representatives, described to CLB how constant obfuscation and delaying tactics from government officials in Ganluo meant that it took six years for them just to get an official diagnosis of occupational disease. In fact the government only budged after the workers staged a protest right in front of the county government building:

We went back to Ganluo to see the county head, but after a month of no shows we got a bit impulsive, and several dozen of us sat down at the front gate of the county government. In the late afternoon, the county head met us, and issued certificates. But the certificates were useless because the hospital would not give us exams. Later, we wrote to the Ministry of Health, which sent our letter on to the provincial Health Department, which issued a document allowing us to get exams, and then we finally got the occupational disease diagnosis certificates.

Rather than help the workers, the local government spent vast amounts of time and money on surveillance, trying to ensure they did nothing to disrupt "social stability." He Bing explained:

At first, we did not believe that the local government would treat us that way, placing us all under surveillance. I heard about similar things before, but we thought our government would not do things that way. But many things happened that proved otherwise. For example, if we say something in a phone conversation in the morning, by the afternoon someone will call us to "have a chat." They will repeat what we talked about in the morning phone call, and make us feel as though there are always several pairs of eyes staring and ears listening behind our backs.

Yesterday a person from the government reminded me, you know that the government is monitoring you, so you need to consider that when you go out, be careful wherever you go because the government may arrest you on the grounds of "inciting public disorder".

One of the main organizers of the Muchuan workers, Chen Xiezhong, was regularly tailed by up to six security officers despite being seriously ill with pneumoconiosis and often confined to a hospital bed. Even in the last days of his life in October 2012, Chen was being watched by the government.

In some cases, local governments do more than just monitor workers engaged in collective action. The authorities do occasionally send in police to break up demonstrations and protests by workers with pneumoconiosis and detain them without trial for short periods of time. On 28 December 2010, for example, more than 100 workers from **Haixin Jewellery** in Foshan, Guangdong, marched to the city government after the company refused to discuss compensation measures. The company had

initially promised to take care of their treatment costs after the workers developed “small shadows” on their lungs, one of the early signs of pneumoconiosis. During the march, the workers were intercepted by the police, and were handcuffed and forced to the ground (*see photos below*). Afterwards, 18 people were held in administrative detention for between five and ten days.



Police in Foshan detain protesting workers with pneumoconiosis. Photographs courtesy of Guo Jijiang.

Desperate measures – the case of Zhang Haichao

It is not surprising, given the obstacles and pressures created by the local authorities, that workers with pneumoconiosis sometimes resort to extreme measures in their attempts to obtain redress. Such action can ultimately prove counter-productive but occasionally a single act can spark the imagination and generate enough public sympathy and support to force the government to act.

Zhang Haichao was a rural migrant worker employed at Zhendong Abrasion-proof Material Co in Zhengzhou, capital of Henan province. After prolonged exposure to dust at the factory, he contracted pneumoconiosis in August 2007. Several doctors at major hospitals in Henan and Beijing told Zhang he had pneumoconiosis and recommended that he go to an occupational disease hospital for an official diagnosis and further treatment. But when he went to the Zhengzhou Occupational Disease Prevention and Treatment Centre, it incorrectly diagnosed him with tuberculosis. Stunned by this absurd diagnosis, Zhang resolved to prove beyond any doubt whatsoever that he did indeed have pneumoconiosis and was entitled to occupational disease benefits. In June 2009, Zhang went to the Zhengzhou University Hospital and, at his own expense, underwent a thoracotomy, or “open-chest surgery,” which clearly showed pneumoconiosis.²⁰ This remarkable act quickly gained the attention of the national media and for a brief while Zhang became the most famous migrant worker in China. The widespread media attention forced the government to act. The provincial Party secretary reportedly ordered the Zhengzhou Occupational Disease Prevention and Treatment Centre to retest Zhang. On 26 July 2009, Zhang was officially diagnosed with Stage III Pneumoconiosis. Soon afterwards, the authorities brokered a compensation deal in which his former employer agreed to pay 615,000 yuan, including medical expenses, nursing care costs, a subsidy for in-hospital meals, wages for paid leave, a one-time disability benefit allowance, and work-related injury insurance benefits.

The ripple effects of Zhang’s action were perhaps even more remarkable. Just a few months later, the mere threat of another open-chest surgery was enough to send the Sichuan authorities scurrying into action. When former coal miner Wang Chengzhang was diagnosed with Stage I Pneumoconiosis in October 2009 he went to his old coal mine in Neijiang to ask for compensation but the mine had changed ownership and the new boss refused to pay. Then on 10 November, Wang stood at the entrance to the coal mine and stated that he planned to undergo “open-chest surgery.” The *West China City Daily* reported the incident on 16 November and three days later, Sichuan provincial

governor Jiang Jufeng issued a written order requiring that “the matter be taken seriously.” The case was immediately placed on the “high priority” list by the municipal and county governments and their respective trade union federations. On 23 November, Wang was officially designated as having a Grade Six Disability. Three days later he was awarded 166,417 yuan in compensation. It took only 11 days from the time the case appeared in the media to the receipt of compensation from Wang’s employer.²¹



Zhang Haichao on a visit to Hong Kong in November 2012. Photograph by CLB

Once he had recovered from his operation, Zhang Haichao decided to use his celebrity status to increase pneumoconiosis awareness in China and help other workers who had been denied compensation. As noted above, his mere presence could for a while at least galvanize local governments into action but eventually as media attention faded, local officials who had been embarrassed into action sought revenge. In late 2012, government officials in Zhang’s home town announced that he would no longer be eligible to the minimum subsistence allowance, thereby also terminating his medical insurance just at the time when his condition worsened, forcing him to return to hospital for treatment.

Despite this setback, Zhang Haichao remains an active campaigner and has more than 23,000 followers on his microblog, which is dedicated to highlighting the continuing struggle for justice of workers with pneumoconiosis.

Public and media support

In December 2010, a microblogger named Beijing Chef (北京厨子) launched a campaign dubbed “Rescue Gulang” to help several hundred workers with pneumoconiosis in a desperately poor county in the north-western province of Gansu. The majority of Gulang workers had contracted the disease while working in the gold mines of Jiuquan, more than 800 kilometres further to the west, during the 1990s. Their plight had been brought to public attention some 11 months earlier when investigative journalist Huo Xingcai published an article in the *China Economic Times* on the close to one hundred victims in just one Gulang township.²² Soon afterwards, many other Chinese newspapers, including the *China Daily*,²³ sent reporters to Gulang to cover the story. Many private citizens also visited Gulang and posted stories and photographs on their microblogs so that by the December of that year, the situation was already widely known.

On 24 December, Beijing Chef along with five students from Lanzhou University travelled to Gulang. Others soon followed, including Huo Xingcai and a crew from China Central Television. On New Year’s Day 2011, the volunteers organized a banquet for more than 300 workers and their families in a local primary school. The publicity and sympathy generated by this event ensured that within a month, enough money had been raised to send 16 of the workers for treatment at the specialist pneumoconiosis rehabilitation centre in the coastal resort of Beidaihe.

Efforts to help the victims of pneumoconiosis in China gathered further momentum six months later in June 2011 when China’s best-known investigative journalist, Wang Keqin, helped set up an organization called Love Save Pneumoconiosis (大爱清尘). In a blog post, Wang had noted that the pneumoconiosis epidemic in China was too widespread to be effectively tackled by individual fundraising campaigns like Rescue Gulang. Moreover, he pointed out, the government had not yet taken the matter seriously enough, and as such there was an urgent need to mobilise social forces on a larger scale, creating systematic and organised relief efforts to save as many lives as possible.²⁴

In an “Appeal Letter,” issued in June 2011, Love Save Pneumoconiosis stated that it would initially “select one region as a project area, mobilise social forces and raise funds and then coordinate with specialist hospitals in the region, depositing funds into the hospital’s account, and arranging for workers to be admitted for treatment.”²⁵ Later on, the organization further defined who should be eligible for treatment as well as the treatment standards and procedures to be followed.²⁶

Love Save Pneumoconiosis received widespread support from corporate funders as well as the Ministry of Civil Affairs, which approved 1.5 million yuan in funding. By its first anniversary, on 29 June 2012 it had raised about 4.5 million yuan, established six projects in Guangdong, Hunan, Sichuan, Gansu, Shaanxi and Anhui, and recruited 921 volunteers. A total of 267 patients had been treated, 258 by the project, and nine by direct donations from individual citizens. Each project area scheduled regular volunteer activities such as home visits, providing oxygen tanks and free medical exams and assisting workers in getting admitted to hospital. Love Save Pneumoconiosis encouraged high school students to make school visits and establish relationships with the children of pneumoconiosis victims. It also earmarked a total of 35,000 yuan for 12 children to help with their school fees and other education expenses.²⁷

The media and the Internet played a crucial role in the success of both Rescue Gulang and Love Save Pneumoconiosis. Social media and microblogs in particular allowed activists reach millions of ordinary citizens and inspire many of them to take action, either by making a small financial donation or by volunteering in the relief effort. Love Save Pneumoconiosis received a huge boost late in the evening of 28 June 2011 when the movie star Yao Chen, who is probably the most influential

celebrity in the world with over 40 million followers on *Sina Weibo*, retweeted a link to the organization's video calling for action. Within two weeks, donations had increased 80-times from just 2,500 yuan to 200,000 yuan.²⁸

In addition, the publicity and public support generated by the campaigns of Love Save Pneumoconiosis and others had the effect of emboldening workers with pneumoconiosis to carry on and indeed broaden their fight for justice. As pneumoconiosis activist He Bing told CLB:

Every time we saw the selfless dedication of the volunteers, climbing up and down the mountains, we felt that there really were a lot of people helping us. But I also realised there were many people in other parts of the country that needed our help. The dozens of us in Muchuan were not the only ones with pneumoconiosis. If you looked all over the country, there may be more people who need to be saved, to have their rights protected, and their voices heard... We are people who have received help, but when we received that help from others, we also developed a sense of obligation to make a contribution to others.

For Wang Keqin, however, simply providing charity and generating public support was not enough:

Our first objective is to join forces to provide relief and treatment. But then we need to urge local governments to provide that relief and treatment. Why do we take this approach? It is because in China the government has the most absolute control over resources. The donations that we rely on from citizens over the Internet are a drop in the bucket. For us to save people is not the ultimate goal. It is rather to create the pressure of public opinion, and in the end force the government to fulfil its responsibilities.²⁹

Microblogger Beijing Chef took a similar approach, saying that his hope in organizing relief operations for workers with pneumoconiosis in Gulang was "that my arrival would attract the media's attention. Once it is reported by the media, the local government will get nervous, and the matter will be resolved."³⁰

Across China, more and more local governments have now responded to citizen initiatives and media coverage with practical measures such as arranging for medical exams and assessing the medical condition of victims within their jurisdiction. They have in some cases provided funds for the medical expenses and welfare benefits of workers with pneumoconiosis.

Zhou Xiaoxiang, a volunteer with Love Save Pneumoconiosis, said:

In the beginning, one county government with a lot of pneumoconiosis victims was rather against our relief work, feeling that we were exposing the government's shortcomings. But later on, when we set up a children's education fund for families with pneumoconiosis, the local government began to feel that we were really there to provide help, with no other motive. They started cooperating with us, squarely facing up to the pneumoconiosis situation.³¹

However, despite some encouraging signs, local governments and the central government still have a long way to go in really facing up to their responsibilities.

Local government reaction

When workers' actions, media exposes and public campaigns force local governments into action, the victims of pneumoconiosis usually do receive a measure of relief. However, all too often, local governments have been stymied in their attempts to get proper compensation from employers and the corresponding government where those employers were located.



A house in one of the Muchuan villages devastated by pneumoconiosis. Photograph by CLB.

Muchuan. It took years of lobbying by the workers with pneumoconiosis in Muchuan, Sichuan, before the county government finally established a coordination group and delegated the county-level trade union to do relief work. The workers were deemed eligible for distressed worker assistance. The Muchuan civil administration bureau also raised funds to provide workers and their families with basic welfare. However, the authorities claimed their hands were tied because:

This problem crosses city and county lines; it not only involves Muchuan but other areas. In addition, the workers' literacy level is low and they lack the necessary awareness of their rights, so they did not sign labour contracts and have no proof of their labour relationship with the original companies. The companies were private enterprises and have all closed down. It was hard to obtain evidence and to coordinate.³²

Gulang. Following the initial expose of Gulang's pneumoconiosis epidemic in the *China Economic Times* in January 2010, the county government created a "pneumoconiosis coordination leadership group" to tackle the problem. In November, the provincial government held a coordination meeting to look into sources of funding for the treatment and the living costs of affected workers. However it was not until the public campaign organized by Beijing Chef at the end of the year that the local government set aside one million yuan to establish a special pneumoconiosis medical assistance fund. From 1 January 2011, all of the expenses incurred by pneumoconiosis patients at designated medical institutions were reimbursed in accordance with the county government's "2011 New Rural Cooperative Medical Care Implementation Plan". Local officials said in addition that they planned to

find the mine owners and ask them for compensation but they admitted that simply locating the mine owners nearly one thousand kilometres away in Jinquan was difficult. Forcing them to pay up was almost impossible, they said.³³

Shuifu. The government of Shuifu county in Yunnan responded quite positively to the plight of 68 migrant workers who had contracted pneumoconiosis whilst working at quartz sand factories in Fengyang, Anhui. The workers had been unable to locate their former employers, the majority of which were unlicensed factories and family workshops, so Shuifu officials travelled to Fengyang and put pressure on their opposite numbers to pay up. Eventually, the Fengyang government agreed to pay 4.5 million yuan in compensation.³⁴ This lump sum was then used by the Shuifu government to set up a system in which workers with pneumoconiosis got 95 percent of their costs reimbursed at township hospitals; 80 percent at a county hospital; 60 percent at a city hospital; and 55 percent at a provincial hospital.³⁵

Yanjin. In September 2009, migrant workers from Yanjin county, Yunnan, who had contracted silicosis working in the gold mines of Shahe in Shanxi, petitioned their county government for assistance. The Yanjin government set up a “rights protection work group” and the local health bureau arranged for the 24 workers to have their condition assessed at the Yunnan Disease Control and Prevention Centre.³⁶ However, the Yanjin officials failed to get any money out of either the employers or the local government in Shanxi because the workers lacked documentary evidence of a labour relationship.³⁷

Chaoyang. In 2011, the county government of Chaoyang in the north-eastern province of Liaoning promised to provide assistance to more than 700 workers who had contracted pneumoconiosis at the nearby Gangtun Molybdenum Mine. Once the county government had assessed the workers’ conditions, it sought to provide them with basic welfare benefits and include the necessary drugs within the rural medical insurance plan.³⁸ However, the government in the worst-affected township of Wangyingzi had limited funds and could only provide the minimal level of assistance to the 500 pneumoconiosis families there.³⁹

Xiushui. When the media reported that more than 500 workers had pneumoconiosis in Xiushui county, Jiangxi, the provincial Party Secretary reportedly led a delegation to Xiushui to assess the situation. Later, the provincial health department conducted medical examinations and developed a treatment program for each patient. In addition, the county government gave each household a fixed chronic-illness-allowance and committed to provide subsidies for their children’s high school and university education. Despite this relative generosity however, many families still said they could not pay off debts already incurred for medical treatment.⁴⁰

Many local governments are clearly well-intentioned but the primary concern for many others is simply to “maintain stability” within their own jurisdiction. For example, when more than 20 workers with pneumoconiosis petitioned the **Junzhao** township government in Henan, the workers were given one-off compensation payments of between 40,000 and 50,000 yuan. In order to qualify for payment however, the workers had to sign an agreement stating that they “voluntarily waived their right to arbitration or lawsuits regarding pneumoconiosis,” and “guaranteed that they would no longer make any claim for compensation to any government authority or company for any reason or in any manner regarding the same incident.”⁴¹

But even in the best cases such as Shuifu and Xiushui, where local governments made genuine efforts to help, their response was still purely reactive. Indeed, despite the fact that pneumoconiosis has been the most prominent occupational disease in China for many years, no local government that we know of has proactively taken steps to assess and assist the workers with pneumoconiosis in their own jurisdiction. As we have seen, it is only after the workers themselves protested or the

media reported on their plight that the local government took any action. In many ways, the response of local authorities to the existence of pneumoconiosis villages and townships in their backyard has been analogous to earthquake or other disaster relief. Their priority has by and large been to provide “charitable” assistance to the needy and make a big show of their concern for the victims. This has meant that the workers are essentially dependant on the local authorities for help. And the authorities can then use that dependant relationship to put pressure on the workers to be grateful for assistance being offered and agree to no longer create a fuss.

For workers with pneumoconiosis, this is not an acceptable outcome. They know what they should be legally entitled to and are determined to realise that entitlement. They do not want hand-outs, but simply what they are owed; enough money for a decent life and to make sure their families are taken care of after they have passed on. As pneumoconiosis activist He Bing pointed out, government relief is:

Just a way for the government to take pity on us. Honestly, we do not want the government to give us 2,000 yuan or whatever. What we really need is for them to protect the rights of people with pneumoconiosis, allow them to have their occupational illness recognised and get compensation. This is our goal. It does not mean you, the government, give me 70 yuan each month, and I will be satisfied. Once a disease like pneumoconiosis takes hold that is like trying to put out an inferno with a cup of water.

The ultimate objective now is for all pneumoconiosis victims around the country to obtain their work-related injury benefits. We also want to raise the awareness of workers in high-dust industries so that they can leave these hazardous environments. The most important goal is to rid our country of occupational diseases.



Pneumoconiosis rights activists He Bing in Sichuan, 2012. Photograph by CLB.

Workplace safety

Across China, local authorities have singularly failed to ensure that workers with pneumoconiosis are properly compensated. But perhaps an even greater failing has been their inability to guarantee a safe working environment that can prevent workers from contracting the disease in the first place. Throughout the 1990s, employers were essentially given free rein to disregard the health and safety of their employees in the headlong pursuit of profit. And even after new legislation was introduced in the 2000s, it was poorly enforced and employers could all too often ignore the provisions entirely.

In many local government jurisdictions today there is still little or no pressure on employers to comply with legislation designed to protect the health and safety of employees. Many workplaces are still clogged with dust and are poorly ventilated. Workers have insufficient protective clothing and equipment and lack proper training as well as awareness of the dangers of long-term dust inhalation. The harsh reality is that many local governments in under-developed regions of China depend on high dust industries such as mining for both tax revenue and employment generation and as such simply do not have the ability or the inclination to ensure that all the central government's health and safety laws and regulations are adhered to and properly enforced in the workplace.

Provincial, municipal and county governments often pay lip-service to central directives on workplace safety or decide to selectively implement policies. Many local authorities reportedly do not force employers to provide workers with work-related injury insurance because they are concerned that a high incidence of injuries and occupational disease could lead to the depletion of their work-related injury insurance fund.⁴² And when the new *Social Security Law* was implemented in 2011, the vast majority of local governments simply ignored or actively opposed a provision stating that uninsured workers whose employer refuses to pay compensation for work-related injury could apply to the local government's work-related injury fund for an advance payment. Of the 287 cities surveyed by the Beijing Yilian Legal Aid and Research Centre a year after the law's implementation, 190 (about 77 percent) said they would not accept applications for advance payment and about 13 percent said they were unclear about the provisions. Only 28 cities (10 percent) said they would definitely accept applications. Of these, only nine had already issued detailed implementing regulations.⁴³

Local governments, by and large, act to improve the lives of ordinary people only when pressured by social movements from below rather than by central government officials above. It was the actions of workers, supported by activists, the media and ordinary members of the public that pressured local governments into aiding workers with pneumoconiosis. It will require similar pressure from workers, the trade union and civil society to force meaningful change in the workplace and secure a safe working environment for everyone.

As CLB's extensive coverage of the workers' movement over the last decade has shown, China's workers, particularly the younger generation, have the means and the ability to organize and collectively push for better wages, benefits and working conditions. Although pay demands still dominate most worker protests, employees are increasingly pushing for a safer and healthier working environment as well. Factory workers have on many occasions raised concerns and staged protests over high temperatures, dangerous machinery, poor ventilation and toxic fumes etc. In January 2010, for example, around 2,000 workers at an electronic gadgets manufacturer in Suzhou took part in a full-scale riot, ostensibly triggered by a dispute over bonuses but which was basically related to the poisoning of at least 47 workers. The workers had been told to use the toxic chemical hexane to clean mobile phone screens during the production process. Exposure to the chemical led to severe headaches, muscle cramps and nerve damage, and dozens of employees had to be hospitalized for several weeks.⁴⁴

What is lacking at present is an effective workers' organization inside the workplace that can monitor health and safety standards and ensure that workers' interests are protected at all times. Enterprise trade unions have generally been unwilling or unable to stand up for the rights and interests of their members. However, there are signs now that some workers are beginning to demand that their union does a better job in this regard. At the end of February 2013, more than 100 workers at the Japanese-owned Ohms Electronics factory in Shenzhen demanded the ouster of the trade union chairman they had democratically elected just nine months earlier because he had failed to adequately protect workers in a contract dispute with management.⁴⁵ If enterprise level trade unions can take their cue from the Ohms factory and become more resolute in supporting their members, there is a much better chance that workers can eliminate workplace hazards and effectively curtail the threat of pneumoconiosis.

There is clearly a need and an opportunity for China's sole legally mandated union, the All-China Federation of Trade Unions (ACFTU), to actively organize unions in mines, quarries, factories, construction sites and other high-dust industries. The union should assist workers in establishing health and safety monitoring committees, holding regular meetings with management to discuss workplace safety and potential hazards, and developing remedies to those hazards. These committees should be empowered to halt production when an acute danger is detected, resuming work only when the hazard has been averted. In addition, regional trade unions should encourage and guide enterprise unions in collective bargaining with the aim of establishing a specific collective agreement on occupational health and safety to ensure all workers are properly protected and have work-related injury insurance.

Moreover, civil society groups and the media have to monitor workplace health and safety conditions just as they have exposed and come to the aid of workers who have already contracted pneumoconiosis. Journalists, internet activists and non-governmental organisations should visit mines, construction sites, quarries and high-dust factories, report on problems and put pressure on the employer and the local authorities to rectify them. By exposing health hazards in the workplace, social activists and the media can help increase public awareness of the importance of occupational health and safety and once again foster a culture of work safety in China.

Prior to China's headlong and reckless drive for economic development in the 1900s, the predominant ethos in China's coal mining industry was that "everyone is responsible for work safety" (安全生产，人人有责). Workers in high-risk industries such as mining and construction were relatively well-paid and held influential positions in the trade union. Their work was valued and respected and as such they valued their own health and safety as well as that of their co-workers more intensely.

Today, it can often seem that no one is responsible for safety in the workplace. There is a clear and pressing need to recreate a workplace culture in which everyone, the workers, management, the trade union, civil society and the government is responsible for work safety.

Conclusion and recommendations

I told my co-workers that our human rights were being threatened. We should stand up for our rights. They agreed with me... They saw hope and all of them joined me... I was the one who started everything, and I want to see it through to the end. But if I can't see justice before I die, I hope my colleagues will keep pushing until we get compensation.

Pneumoconiosis activist Chen Xiezhong

When Chen Xiezhong died in October 2012 at the age of just 39, his fervent wish was for his colleagues in Muchuan county and friends across China to continue their fight for justice. They had already achieved notable victories in getting public attention and support for their cause and in forcing the local government to respond. But so much more needed to be done and Chen's friends and colleagues were determined to honour his memory and push for a China where not only were all victims of pneumoconiosis properly compensated for their sacrifice, but where all workers were adequately protected from occupational disease.

China's workers have created the momentum for change. They have been well-supported in their struggle by the media and civil society organizations such as Love Save Pneumoconiosis. But as Wang Keqin, the founder of Love Save Pneumoconiosis has noted, support from society and the media can only achieve so much. There comes a point when the central government, with all its power and resources, has to accept its responsibilities and try to set things right. That time is now, **China Labour Bulletin** argues.

The Chinese government's culpability in the pneumoconiosis epidemic is already extremely clear:

The government prioritized economic development above all else. The rapid development of the economy was driven to a large extent by the labour of young migrant workers from the countryside working in dust-filled mines, quarries, factories and construction sites across China. They worked long hours for low pay in appalling conditions and if they complained, they were fired.

It failed to adequately protect workers from pneumoconiosis. During the early stages of the private market economy in the 1990s, workers had virtually no legal protection from occupational disease. Even after legal protections were introduced, local governments failed to ensure that employers complied with health and safety regulations or provide employees with the work-related injury and health insurance they were legally entitled to.

The government failed to provide decent healthcare or educate workers about the dangers of pneumoconiosis. Decent healthcare in China is expensive and largely out of reach of the vast majority of migrant workers. Moreover, because of an almost complete lack of information about the disease, most workers were unaware of its dangers whilst employed and only realized the severity of the problem when it was too late and their friends and colleagues started dying.

Officials regularly refuse to recognise that workers with pneumoconiosis have an occupational disease because they cannot prove an employment relationship with a specific employer. However, pneumoconiosis can only be caused by a prolonged exposure to large volumes of mineral dust whilst working in mineral processing industries such as mining, quarrying, construction and jewellery

manufacture etc. There is a clear relationship between the cause of the disease and the nature of the work. As such there can be no doubt that pneumoconiosis is an occupational disease.

The central government has largely ignored the pneumoconiosis epidemic. It has been almost entirely left to local governments to respond to a public health crisis created by Beijing's neglect. In nearly all cases, the local governments forced to deal with the problem are precisely the ones least-equipped to cope. They are located in under-developed regions and have limited financial resources. In addition, because of pressure from their superiors, local authorities are often more concerned with maintaining social stability than offering genuine help. They deploy vast numbers of security personnel to monitor workers and activists in an attempt to ensure they stay hidden from public view and create no trouble.

Thus far, local authorities have failed utterly to get to the root of the problem. They have not taken proactive steps nor introduced meaningful measures to address the pneumoconiosis epidemic in China. Even the best intentioned local government officials have done little more than rearrange the deckchairs on the Titanic. In this regard, **China Labour Bulletin recommends that the Chinese government take the following steps:**

- **Conduct a national pneumoconiosis survey.** As mentioned in the introduction to this report, there is no definitive or reliable data on the number of workers with pneumoconiosis in China. It is imperative that the central government conduct a national survey to determine the scale and the nature of the epidemic across China, and assess the needs of those affected by it. Once the survey is completed it will be possible to more accurately estimate the cost of providing adequate healthcare, financial aid and social support for workers with pneumoconiosis and their families.
- **Remove all legal impediments for workers with pneumoconiosis.** A new law should be drafted which clearly stipulates that all victims of pneumoconiosis have an occupational disease, regardless of whether or not they can prove an employment relationship. It should stipulate that once workers are diagnosed with pneumoconiosis, their cases should be fast-tracked to determine the occupational disease benefits they are entitled to and the responsibility for paying those benefits. Tough punitive measures, including custodial sentences, should be included to penalize employers who persistently fail to provide their employees with work-related injury insurance. The measures should be strictly enforced. The authorities should be empowered to seize the assets of employers who refuse to pay up. In addition, deadbeat employers should be publicly named and shamed. They should be prevented from operating a business in the future.
- **Establish a special pneumoconiosis compensation fund.** In case the employer cannot be located or cannot meet legal obligations to employees, the central government will have to step in and provide workers with the compensation they are legally entitled to. The government should establish a centrally managed fund to cover all necessary medical expenses and basic living expenses for workers with pneumoconiosis and their families. The fund would be financed partially out of a central treasury allocation and partly from a tax on high-dust industries. Enterprises with higher dust levels, and a higher number of workers exposed to dust, would pay higher taxes. Such a differentiated system would be more equitable and, crucially, encourage enterprises to reduce the risk of dust inhalation by employees.
- **Ensure that the pneumoconiosis epidemic is eradicated at source.** In addition to taxing high dust industries, the central government should introduce a raft of measures to prevent workers from contracting pneumoconiosis in the first place. Regular inspections of high dust

industries should be carried out, with remedial measures implemented immediately after problems are detected. The trade union should be encouraged to get involved, helping workers set up health and safety committees and engaging in collective bargaining with management to establish specific collective agreements on workplace safety. Civil society and the media should play a prominent role in monitoring conditions in high dust industries and in raising public awareness of the importance of pneumoconiosis prevention.

Once all these measures are effectively implemented, China's pneumoconiosis epidemic should be under control within five to ten years. China's workplaces will then become safe for its workers and employers will be forced to provide workers with adequate insurance. The annual burden on the central government's pneumoconiosis compensation fund will thus gradually decrease. But crucially, all the workers who sacrifice their health and their life for their country's economic development will be properly compensated, receiving the medical care they need, safe in the knowledge that their families will be supported after they have gone.

Time to Pay the Bill

Endnotes

- ¹ “卫生部通报 2010 年职业病防治工作情况和 2011 年重点工作” (*Ministry of Health Report on the Prevention and Treatment of Occupational Diseases in 2010 and the Focus of Work in 2011*).
- ² See: Peking University professor Lu Huilin quoted in 新闻 1+1 (*CCTV News 1+1*) “[尘肺病，救助后的困境](#)” (The Post-Relief Dilemma of Pneumoconiosis) 18 January 2013.
- ³ See: “[劳动法专家：防治职业病要特别强调政府责任](#)” (Labour law expert: Government responsibility needs to be stressed in the prevention of occupational diseases) 法制日报 (*Legal Daily*) 3 March 2010, which estimated that there were at least one million occupational disease victims in China.
Zhou Renjie (周人杰), “[全国估计 100 多万矿工患尘肺病，死亡数是矿难 3 倍](#)” (Over One Million Coal Miners Estimated to Suffer from Pneumoconiosis; Death Rate Three Times Higher than Coal Mine Accidents), taken from 中国网 (*China.com.cn*).
Wu Xixiang (吴希祥), Sun Zhijie (孙志杰) and Wang Ji (王姬) (2005) “[国有煤矿农民工尘肺发病状况调查](#)” (A survey on pneumoconiosis among rural migrant workers in state-owned coal mines) 职业与健康 (Occupation and Health) Vol. 21 No. 1, which found that five percent of miners employed for six years had pneumoconiosis but that figure increased to 23 percent for miners employed 18 years or longer.
Li Jiasong (李家松) (2008). “[贵州省 1218 名接尘农民工患尘肺病调查](#)” (A survey in Guizhou of 1,218 rural migrant workers exposed to dust and suffering from pneumoconiosis), 工业卫生与职业病 (Work, health and Occupational disease) Vol 34 No.6 pp. 356-358 and Tian Jiao (田娇) and Li Baolin (李宝林) 2005 “[煤矿工人 377 例离岗前尘肺和肺功能检查结果分析](#)” (Analysis of findings of an investigation into pneumoconiosis and pulmonary strength of 377 coal miners before termination of employment), 职业与健康 (Occupation and Health) Vol.21 No.2, pp.210-211, which showed that around ten percent of the high-dust-industry workers examined suffered from pneumoconiosis, five times higher than the official prevalence rate at the time.
Yan Kun (闫琨), “[湖南尘肺病人数约 60 万 已经救助 80 多名](#)” (About 600,000 Pneumoconiosis Cases in Hunan, 80 Assisted), 三湘都市报 (*Sanxiang City Express*) taken from 腾讯网 (QQ.com), which estimated the overall diagnosis rate for victims of pneumoconiosis in the central province of Hunan was just ten percent of the actual total.
Wang Kala (王卡拉), “[我国有 600 多万尘肺农民 大爱清尘 1 年救助 267 人](#)” (Over Six Million Migrant Workers in China Have Pneumoconiosis; Love Save Pneumoconiosis Aided 267 in One Year), 新京报 (*Beijing News*), taken from 腾讯网 (QQ.com).
“[我国尘肺病农民工超 600 万 无劳动合同致维权难](#)” (More than six million migrant workers with pneumoconiosis in China No labour contract, no justice) 法治周末 (*Legal Weekly*) 6 February 2013.
- ⁴ The Guangdong Hospital for Occupational Disease Control estimated in 2011 that the annual basic medical costs for jewellery worker, Xiong Gaolin, who was diagnosed with moderately severe Stage I+ Pneumoconiosis, would be 8,277 yuan
Guo Hailiang, a rural labourer Hebei had Stage III Pneumoconiosis and was unable to stand or even breathe without assistance. By March 2011, he had spent 270,000 yuan on medical expenses, 100,000 yuan of which was borrowed. See Mao Yuance (毛远策), “[尘肺病患者的羸弱心声](#)” (The Weak Voice of a Pneumoconiosis Victim), 中国社会保障 (*China Social Security*), 2011 No. 5.
Jiwa Shigu, from the remote Liangshan region of Sichuan, spent a total of 120,000 yuan on medical treatment, 60,000 yuan of that in July 2010 alone, when he was hospitalised for 27 days. He had to sell four head of cattle, two horses, 24 sheep, four pigs, all of his cultivated land, plus the 38,000-yuan dowry his daughter had received from her husband’s family. See Huo Xingcai (火兴才), “[四川凉山彝人尘肺病调查](#)” (Investigation of a Yi Pneumoconiosis Patient in Liangshan, Sichuan) 中国经济时报 (*China Economic Times*),
- ⁵ National Bureau of Statistics, *China Statistical Yearbook 2012*.
- ⁶ This is China Labour Bulletin’s third research on the pneumoconiosis epidemic in China. The first report, [Deadly Dust](#), was published in late 2005 and focused on the jewellery industry in Guangdong. This was followed in 2010 by [The Hard Road](#), which examined the obstacles faced by workers seeking compensation for pneumoconiosis. This new report is an updated summary based on a longer Chinese language report [谁之责？— 对中国尘肺病群体的救助与赔偿研究](#), published in November 2012.
- ⁷ National Bureau of Statistics, *China Statistical Yearbook 2012*
- ⁸ “[Heroes dare to cross](#)” *The Economist* 21 July 2012, quotes Gordon Liu of Peking University as saying “About 40 percent of hospital revenues typically come from such sales, with another 40-50 percent from services such as diagnostic tests and treatments. Less than 10 percent comes directly from the government.”
- ⁹ “[Migrant workers with pneumoconiosis return to Shenzhen in search of justice](#),” *China Labour Bulletin* 13 May 2010.
- ¹⁰ “[The Hard Road: Seeking justice for the victims of pneumoconiosis in China](#)” *China Labour Bulletin*, April 2010.

- 11 *Regulations on the range of Occupational Disease and the Method of Dealing with Occupational Disease Victims* issued by the Ministries of Health, Labour and Finance and the All-China Federation of Trade Unions in November 1989.
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