



# China Trips Up Its Barefoot Lawyers

by Jerome Alan Cohen

**C**HINA'S MINISTER OF Public Security, Zhou Yongkang, is a very powerful man. Mr. Zhou, who has never studied

law, is the PRC's only law-related government official to take part in the Politburo of the Chinese Communist Party. At every level of the Chinese government, Mr. Zhou's MPS underlings, wearing their Party hats, dominate the Party political-legal committees that "coordinate" the work of the courts, the prosecutors, the police and the justice departments. Together with Luo Gan, a member of the Party's innermost sanctum—the nine-member Politburo Standing Committee—and the leader of the nationwide Party Political-Legal Committee, Mr. Zhou is responsible for law enforcement in China, an awesome and difficult burden.

During his almost three years in office, Mr. Zhou has made a number of encouraging speeches urging his colleagues in the

police to comply with the nation's gradually improving criminal-justice legislation. Less known is the fact that he has presided over a number of important internal reforms within the MPS.

These seek to make local public-security bureaus more obedient to national legislation and the MPS headquarters in Beijing rather than to the local Party and government powerholders who have tended to control them. Under Mr. Zhou, the MPS has also adopted many regulations that, at least in principle, reduce the likelihood that the police will continue to act arbitrarily.

Yet, as Justice Oliver Wendell Holmes Jr. warned Americans long ago, general principles do not decide concrete cases. Every day in China, thousands of outrageous actions by the police—including the secret police operating under the less-visible Min-

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Mr. Cohen is an NYU law professor specializing on China and adjunct senior fellow for Asia at the Council on Foreign Relations.

istry of State Security—challenge the Politburo to transform theory into practice and to address the nationwide multitude of injustices resulting from police misconduct.

Twenty years ago a Chinese friend summed up the situation by saying: “High officials speak beautiful words, but local officials do whatever they wish.” Have things begun to change?

Among the many cases that cry out for Mr. Zhou’s attention, none is more challenging than that of blind social activist Chen Guangcheng, a 34-year-old “barefoot lawyer” from dirt-poor Yanan County in Shandong Province. Mr. Chen first surfaced outside of China in 2002 when *Newsweek* featured him in an eight-page cover story on rural activists who are learning law on their own and using it to resist the illegal demands of local officials.

Mr. Chen, for example, had been taking county tax collectors to the county court because of their insistence that disabled people pay taxes from which national legislation exempted them. The following year the United States government invited Mr. Chen to America under its International Visitors Program for four weeks of meetings with legal-aid groups and other experts on access to justice.

Mr. Chen made a stunning impression. Young, handsome, earnest and articulate, from behind dark glasses that hid his blindness, he spoke of lawless conditions in the countryside with compelling clarity, confidence and courage. When he and his wife, who serves as his escort and reader, returned to China, we met again in Beijing in the hope of persuading professors, lawyers and law students to go down to the Shan-

dong countryside in order to train the hundreds of future barefoot lawyers Mr. Chen planned to recruit in his county alone.

Soon after, my wife and I spent a few days in his village of 480 people in order to get a better understanding of the varied legal needs of its disabled and of the reasons why local lawyers and even the local office of the disabled persons organization refused to take on cases that would put them in opposition to the local government on which they depended. There was evidently a demand for the services of barefoot lawyers like Mr. Chen.

Although his earliest lawsuits gave Mr. Chen some initial success, he found it increasingly difficult to obtain relief for his “clients”—a congeries of blind, lame or mentally handicapped people—from county judges who are appointed, paid and controlled by the very officials Mr. Chen was suing. Moreover, county and township officials were subjecting him to growing pressures to cease his activity.

They even tried to deprive him of the support of his fellow villagers, whose loyalty Mr. Chen had ensured by persuading a British charity to endow his village with an urgently-needed electronic well system. Yet, with the help of a few human-rights lawyers from Beijing, he continued to pursue his litigations against local officials.

The tipping point came this summer when Mr. Chen was overwhelmed and depressed by the demands of hundreds of people in his area who, since March of this year, had been suffering a broad range of official abuses inflicted in the name of birth control. Desperate to put an end to Linyi City’s brutal campaign of forced abortions

and sterilizations, and the massive illegal imprisonments and beatings that accompanied it, Mr. Chen helped many victims of the campaign to bring lawsuits against the offending officials in the county court.

In view of the unresponsiveness of the defendants, the slowness of court procedures and the dim prospects of victory, Mr. Chen also went to Beijing, as petitioners have done for centuries. There, unlike traditional petitioners, Mr. Chen made use of the media in two ways in an effort to bring the many violations of the nation's family planning and criminal laws to the attention of the central government.

On the one hand, he arranged for a courageous group of young legal scholars from Beijing to visit Linyi to document the horrors taking place in order to reveal them on the Internet. On the other, he contacted foreign journalists in the hope that their dispatches would alert China's leaders, often badly informed by misleading reports from local subordinates, to the real situation.

Both of these efforts proved successful, too successful for Mr. Chen's well-being. The Internet report reached a large number of previously uninformed Chinese readers, many of whom were under the illusion that earlier rural birth-control abuses had ceased. The foreign media, led by a front-page exposé in the *Washington Post*, also took up the cause.

By then, Linyi officials had begun to strike back. On Aug. 11, without any legal authority, a mob that has ranged from 30 to 200 city, county and township officials and their henchmen surrounded Mr. Chen's impoverished farmhouse and has since confined him and his wife there

around the clock. Their family phone has been disconnected, their cellphones confiscated and Mr. Chen's IBM computer, specially adapted for use of the blind, was taken away for "temporary safekeeping." His small farmhouse was searched for eight hours. No detention or house-arrest warrant, no search warrant, no legal fig leaf has ever been given to the Chens.

Nor is anyone allowed to visit—no journalist, no lawyer, no friend. Villagers who voiced support for the Chens or tried to see them have been detained by the police. Other would-be visitors have been beaten by the police-organized mob, as have the Chens when they try to meet guests.

On one recent occasion, when Mr. Chen was beaten so badly that blood gushed from his temple, no doctor was permitted to come to his home, nor was Mr. Chen allowed to seek medical treatment. Every vehicle driver in the area has been warned not to offer transportation to the Chens.

A "friend" of the family, himself a sometime member of the surrounding mob, told Mr. Chen's widowed mother that he might be killed if he continued his activities, and the Linyi police informed him that they were investigating whether to charge him with revealing "intelligence" to foreigners, a crime that often carries a 10-year sentence. Mr. Chen expects to be prosecuted after U.S. President George W. Bush ends his forthcoming visit to China.

One moonless night at the end of August, Mr. Chen and his wife, together with a nephew, tried to elude their captors. After a cornfield chase worthy of a Hollywood thriller, the two men managed to escape, but Mrs. Chen was caught and forced to re-

turn home. Travelling on his own, Mr. Chen eventually got to Beijing, where he again contacted journalists and lawyers.

But on Sept. 6, over his loud protests and resistance, six men who offered no explanation waylaid him outside his residence and forced him into an unmarked car. Convinced that they were witnessing a kidnapping, bystanders prevented the car from leaving and called Beijing police, who appeared within minutes. At that point some of the "kidnappers" identified themselves as officers of the Shandong Province Police Department and the car was permitted to leave, despite their failure to produce a warrant for Mr. Chen's detention, as required by law.

After the 12-hour drive back to Yinan County, Mr. Chen was detained for over a day and unsuccessfully pressured by the police, who mobilized not only his father-in-law and one of his older brothers to "reason" with him, but also the deputy mayor of Linyi City in charge of public security. Mr. Chen was then returned to enforced isolation at home, presumably to await the outcome of the alleged police investigation or the unlikely event of his repentance.

All efforts to break this curious stalemate have failed. Journalists and lawyers who have recently attempted to see Mr. Chen have been stymied either in Beijing or Linyi. For example, one recent morning, young lawyer Jiang Tianyong bought a ticket for the night train to Linyi. But he received an afternoon phone call from the Beijing Judicial Bureau, which regulates lawyers, berating him for not reporting his plan and telling him, with no apparent authority, not to make the trip.

Shortly after, Mr. Jiang and others enlisted the more senior and charismatic lawyer Gao Zhisheng to make the trip. But before he could go, Mr. Gao, who has challenged other illegal government actions, had his lawyer's license suspended for one year by the Beijing Judicial Bureau. And at least one of the scholarly authors of the August Internet report on the Linyi scandal has twice been warned that he will lose his teaching post if he pursues the case. In the meantime, according to the Taipei Times, local authorities, through detention, threats and bribery, have been forcing villagers to withdraw their lawsuits against abusive birth-control officials and police.

Hopes to free Mr. Chen were aroused when the central government's Population and Family Planning Agency, after belatedly conducting its own investigation, confirmed that abuses had been committed in the Linyi birth-control campaign and announced that some officials had been removed and that there might be prosecution of some offenders. But nothing was said about Mr. Chen.

Why doesn't Minister of Public Security Zhou Yongkang put an end to this fiasco, which has done so much to damage China's reputation? Is it because the central authorities do not want to encourage further resistance to overzealous birth-control campaigns? Is it because even China's feared MPS has limits in dealing with its local subordinates, at least in cases that do not involve espionage, democratic groups, the Falun Gong or other high priority areas? Is it because of a desire to crush those who reveal unattractive truths to the Internet and foreign media? ■