

Wrong side of the law

Jerome A. Cohen says growing internet protests about authorities' harsh treatment of the blind 'barefoot' lawyer Chen Guangcheng could be a sign of more general concern with the regime's own lawlessness

The Chinese government's current suppression of rising internet protests against its barbaric abuse of the blind "barefoot lawyer" Chen Guangcheng (陳光誠) raises fundamental questions about the impact of legal reforms on real life in China.

The Standing Committee of the National People's Congress is now reviewing tens of thousands of responses to its unprecedented recent request for public comments on comprehensive draft amendments to the Criminal Procedure Law. This revision is a complex, contentious process that, even in an authoritarian state, involves intense lobbying among law enforcement agencies, the judiciary, influential scholars and leading criminal defence lawyers.

Yet, what does improved legislation matter if the police, and the procurators who are legally required to supervise them and prosecute criminal law violations, regularly flout the law with impunity? What can be done when law enforcement officials and their hired thugs are themselves blatant and outrageous law-breakers? This is a familiar issue to Chinese law reformers and human rights advocates. Chen's case is an especially poignant illustration. It began in 2005, when authorities in Linyi (臨沂) city, Shandong (山東) province launched a well-financed campaign to silence him.

By then, Chen was already known abroad for his impressive efforts to use the legal system – as a self-taught layman – to resist the Yinan county government's discrimination against the disabled. This poor farmer's lawsuits and legal arguments increasingly offended local officials. When he used the internet and the foreign press to reveal the mass incarceration of the families of thousands of women hiding from forced abortions and sterilisations, as well as some of the women themselves, officials opened their attack. At first, police and their henchmen subjected Chen's entire household to severe, long-term house arrest, with the knowledge of China's leaders.

When Chen and his wife and collaborator, Yuan Weijing (袁偉靜), still tried to expose official misconduct, in 2006 this helpless blind man was convicted on trumped-up charges of "gathering people to obstruct traffic" and "damaging public property". He was sentenced to four years and three months in prison, harsh punishment for such minor offences. Since completion of his sentence on September 9 last year, police, with no legal authorisation, have again made his simple farmhouse a family prison, severing all outside communication, attacking him and violently turning away journalists, diplomats, lawyers and supporters who have attempted to enter his remote village.

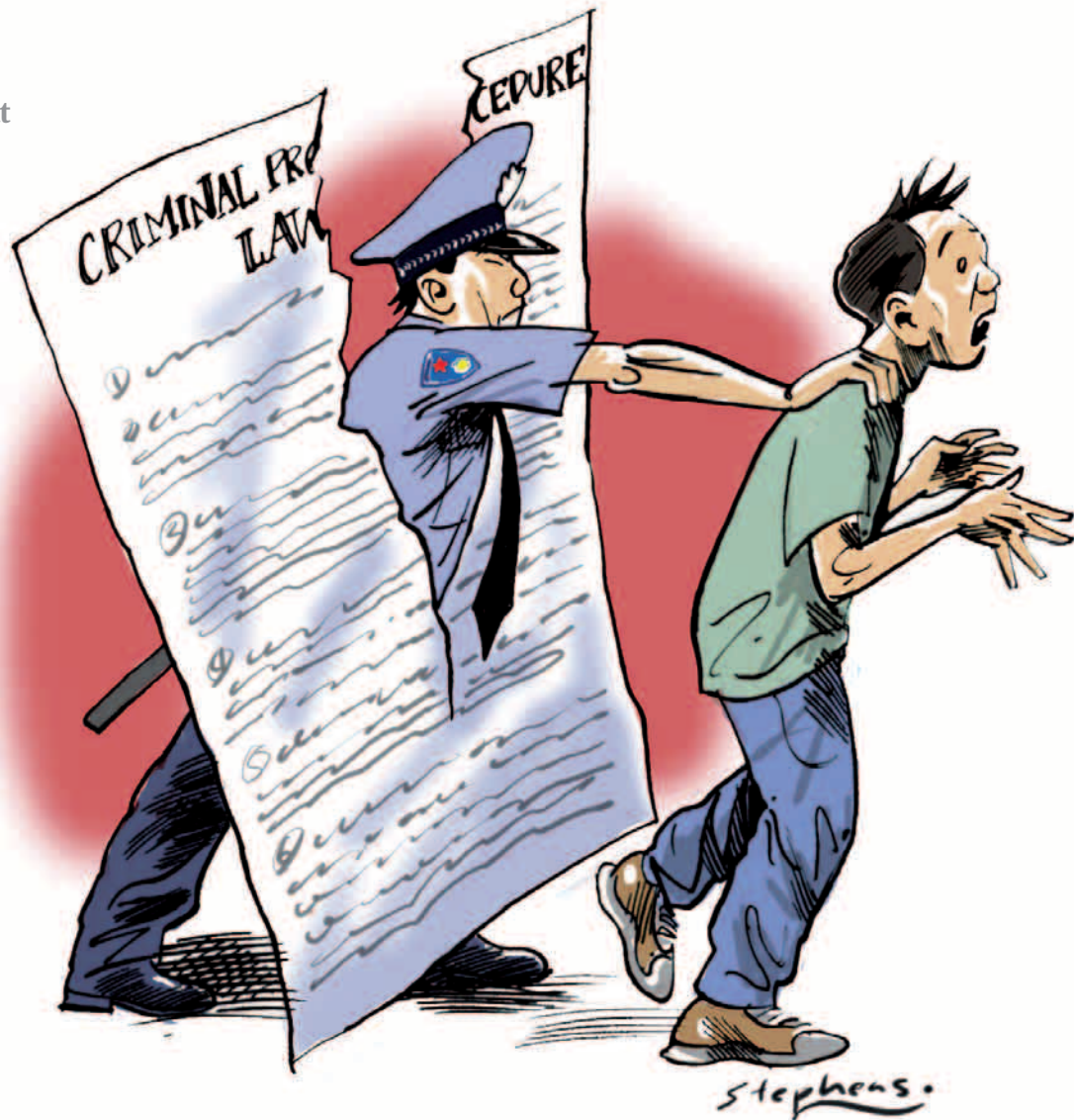
Is Chen destined to be illegally silenced for the rest of his life? He will soon turn 40 and has the iron will and charisma of a Gandhi. He is

badly debilitated, however, after being denied adequate medical attention for six years for increasingly serious gastroenteritis. His death in prison would plainly embarrass his captors, but dying "at home" might appear less sinister.

Neither current criminal legislation nor proposed revisions offer hope of a legal remedy. In practice the procuracy, the supposed "watchdog of legality" imported from the Soviet Union, is politically powerless to fulfil its legal obligations to hold the police to legal standards. Condemnations by United Nations experts and foreign governments, media, rights organisations and scholars have failed to move Zhou Yongkang (周永康), who was minister of public security when Chen was first detained and now heads the central Communist Party Political-Legal Committee that controls all Chinese legal institutions. Popular protests against shameless injustice seem to offer Chen's only chance.



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Although domestic media are usually forbidden to mention Chen, two mainland newspapers recently made brief references to his plight. The internet is a more likely prospect for invoking the party's highly touted but normally restricted "supervision by public opinion". The weeks since the first anniversary of his release from prison have witnessed a surge in microblog protests against Chen's suffering. Some were inspired by the failed attempts of disabled activists to mark International White Cane Safety Day by visiting Chen.

But many broader protests reflect widespread, perhaps growing, concern over the regime's lawlessness. Activists undoubtedly remember how, in 2003, the internet fuelled powerful national outrage at the death of university graduate Sun Zhigang (孫志剛) in police custody, causing the State Council to annul the notorious "custody and repatriation" regulation that had authorised his detention.

Of course, the party's propaganda department has an equally long memory and is trying to wipe out all internet mention of Chen. This is a great challenge to the ingenuity and energy of his blogging sympathisers. Yet other possibilities also exist. Huge, peaceful pro-environment "strolls" in Xiamen (廈門), Shanghai and Dalian (大連) led to the cancellation of harmful development projects.

At great political risk, some 370 Shanghai residents just signed a petition supporting Chen. One can imagine the boost that might come from China's large disabled population, if awakened. Chen once estimated that almost 10 per cent of Linyi city's residents were disabled. Foreign protest movements on Chen's behalf also seem to be an attempt to emulate their recent success in helping to free famous artist Ai Weiwei (艾未未) from his illegal detention.

Zhou Yongkang and his comrades are undoubtedly determined to hang tough. Yet reports that Chen's six-year-old daughter has finally been permitted to attend school – under a stigmatising police escort – suggest a sop to public opinion. Unfortunately, a similar gesture towards the daughter of the long-"disappeared" human rights lawyer Gao Zhisheng (高智晟) only added to the pressures that battered her and did not presage release for her courageous father. Without stronger public demands for holding the Chinese government to account for dishonouring its own legislation, Chen is unlikely to fare better.

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