

CHEN GUANGCHENG AND WEN JIABAO: POWER VS. HUMAN RIGHTS

BY ZHANG YAOJIE

Chen Guangcheng, a blind self-taught lawyer in Shandong Province, was sentenced to four years and three months in prison on August 24, 2006, on charges of destruction of property and assembling a crowd to disrupt traffic. His lawyer, Xu Zhiyong, had been detained the evening before Chen's August 18 trial, and Chen was represented by court-appointed lawyers. The sentencing was the culmination of a drawn-out campaign of oppression against a man who had become a people's hero.

On May 2, 2006, Shanghai's *Oriental Morning Post* (Dongfang Zaobao) reported on a *Time* magazine issue devoted to 100 "People Who Shape Our World." The article noted, "Among them were Chinese Premier Wen Jiabao, Taiwanese movie director Li An, Chinese tycoon Huang Guangyu, reporter-turned-environmentalist Ma Jun and other Chinese."¹

This news reveals both the helplessness and the prudence of Chinese reporters. The person covered by the word "other" in this article is in fact Chen Guangcheng, a 35-year-old blind man in Shandong Province.²

The blind fifth child

I learned of Chen's inclusion in the *Time* list through a text message on my cell phone. At that time, I was in Lukou Village, Yaowan Town in Xinyi City, Jiangsu Province observing the work of rural development associations and the Poverty Alleviation Foundation. Among my companions was a female reporter who made me aware of Chen Guangcheng through her sensitive and skillful writing, as well as her verbal testimony.

In April 2005, the biweekly magazine *Law and Life* published a profile by that reporter entitled, "Chen Guangcheng: The Blind Man Who Took Law as a Career."³ It opened with this description:

If not for a fever when he was six months old and a failed operation when he was about 10, Chen Guangcheng would

have a pair of clear eyes like his mother, his wife and his infant son. If he had not learned something about law 10 years ago and followed the narrow path of justice, Chen Guangcheng would be doing much the same as many of his blind classmates, working as a massage therapist and living a life that might not be particularly prosperous, but is peaceful and free of trouble. But Chen Guangcheng refuses to deal with such hypothetical propositions. All he knows is that he is a blind man, an ordinary citizen of the PRC; he is impaired but healthy. He wants to regain his legal rights as a common citizen and to be able to help more citizens (disabled or otherwise) to defend the civil rights to which they are entitled by law.

This article portrays Chen Guangcheng as "a hero and an idol," which was the assignment given to the magazine's reporter. Under her pen, Chen Guangcheng possesses every virtue attributable to man but eyesight.

The reporter first met Chen Guangcheng on the afternoon of March 28, 2005, at the Mile 129 junction of the Beijing-Shanghai Highway, having previously only spoken to him on the telephone. While reporting in Linyi, she heard from local reporters that Chen Guangcheng was suing the police bureau of Qi'nan County for administrative inaction on "some trivial matter."

The issue in question was an open letter co-signed by more than 300 residents of Dongshigu Village in March 2004 requesting the village committee to open the village accounts, which hadn't been made public for more than 10 years, and to address allegations of unlawful land seizures. After the village committee failed to respond to the open letter for more than a month, the villagers elected six representatives to petition the government at the township, county and municipal levels, only to have officials kick their demands around like a football. Chen Guangcheng told the villagers that they could recall the village committee by means of the Villagers' Organization Law. Accordingly, the villagers' representatives posted a formal notice initiating the recall procedure.

The village committee's chairman and loan officer finally lost patience and sent people out to put up posters openly threatening the villagers. Chen Guangcheng reported the threats to local police, only to be told by the local police chief, "We're very busy and don't have time for these trivial matters." This further



Chen Guangcheng: the egg versus the stone. Photo: Associated Press

emboldened the village committee director in his abuses.

After seven months of ignored demands, in November 2004, Chen Guangcheng and other villagers sent a formal complaint to the Case Registration Office of the County Court of Qi'nán, suing the local Public Security Bureau for negligence. More than 10 days later, someone from the PSB came to Chen with the complaint in his hand and said, "Will you really go to court over such a trivial matter?" It was not until January 25, 2005 that the villagers were notified that their case had been accepted by the court. The first hearing took place on February 28 of that year.

In Chen Guangcheng's words, "My struggle is like the collision between an egg and a stone. But winning or losing isn't what matters—the most important thing is for ordinary people to know that they have the right to bring an administrative complaint against irresponsible or law-breaking government officials."

Chen Guangcheng's first step on the path of civil rights defense was for the sake of his own rights. Chen's father, an instructor at a Communist Party school, had instilled in him a sense of justice and an appreciation for the modern values of freedom, democracy and independence by reading great literary works aloud to the boy when there was no blind school for him to attend. It was only at the age of 19 that Chen Guangcheng was able to enter Grade One of Linyi's Elementary School for the Blind in 1989. In 1991, when he was in his

twenties, his father gave him a copy of "The Law Protecting the Disabled," which sets down that "the people's government at the county and township levels should, in accordance with actual circumstances, reduce voluntary labor, public service fees and other social burdens of the disabled in the countryside. In addition, the people's government at all levels should gradually increase other assistance and support to the disabled."

Chen hoped that his own taxes and fees would be exempted in order to relieve the burden of his parents, but as of 1996 the town government was still collecting 368 yuan in taxes and fees from him. As a result of Chen's appeals, starting in 1997 he was exempted from the Public Deposit Fee, the Public Service Fee, the Administration Fee, the Educational Additional Fee, the Birth Control Fee, the Militia Training Fee, the Civil Priority Care Fee and the Public Transportation Fee, as well as obtaining student aid of 200 yuan per year (which was cancelled after a year).

It was also in 1997 that the village began to implement a "two-field system," in which 40 percent of the land was allotted according to population and 60 percent was rented out by the village officials at a price of 240 yuan for every mu (about 700 square meters) of land. In 1998, while attending the Nanjing Chinese Medical School's Community College for the Blind, Chen read an article in the Party magazine *China Comment* (Banyue Tan) stating that "the two-field system" was a complete violation of the law. He went to Beijing that summer to petition the government over the issue, and in that way cut off a major source of enrichment for local officials.

"After my appeals, the township officials hated the sight of me," Chen recalled. "They didn't chase me up for the Agricultural Tax, but turned it into a loan. Since no one demanded that I repay the loan, the issue just dragged on."

It was his experience with the appeals that ignited Chen Guangcheng's faith in law. "I feel it's useless to resort to petitioning, which is no more effective than people crying before the approaching sedans of officials in ancient times," Chen said. "Defending our rights requires relying on the power of the law." In the ensuing months, with the support of his family and friends, Chen provided free legal aid for disabled friends and local peasants.

There was the case of an elderly blind couple in a nearby village whose son and daughter-in-law had two children stricken with infantile paralysis. This kind of penniless family should have received support from the government, but instead they had to pay all the usual taxes and fees. Chen Guangcheng took on the case, and when it was heard in court, blind people from surrounding districts and counties came to show their support. The case was successful, and the judgment was photocopied and circulated to other disabled people. Some blind people spread the news by word of mouth while working as fortune tellers in the streets, and Chen Guangcheng's reputation spread near and far.

According to information posted on the Internet, Chen Guangcheng expanded his rights defense efforts beyond Linyi to Beijing and other localities. One time he spent nearly 3,000 yuan to file a lawsuit against the Beijing Metro for charging handicapped individuals a 3 yuan fare. Ultimately, the lawsuit

resulted in termination of this unlawful fee and affirmed the right of disabled people to access public services free of charge.

From 2000 to 2001, he initiated and took responsibility for the subject of “Defending the Rights of the Disabled” in the China Law Society, with funding from a British foundation. In March 2002, a photo of him in sunglasses and holding a copy of “The Law Protecting the Disabled” appeared on the cover of *Newsweek* magazine.⁴ In July and August of 2003, Chen visited the United States with his wife Yuan Weijing for a month as part of the International Visiting Scholar Program. From January 2005, with support from within China and abroad, he established a rural law library at Dongshigu Village.

The reporter who profiled Chen went on to describe with great animation how Chen became a paragon in the Linyi area and the pride of his community. “On the bus to Qi’nan, when the bus driver learned that I was getting off at Mile 129 on the Beijing-Shanghai Highway, he immediately asked, ‘Are you going to visit Chen Guangcheng? He’s more powerful than us sighted people!’ Another man on the bus who worked at a veterinary hospital in Shuanghou Town had a host of facts about Chen at his fingertips. Almost all of the passengers had heard of Chen, and they were unanimous in their praise of his good works. During the two days and one night I stayed at Dongshigu Village, when I was walking along the Meng River one night with Chen Guangcheng and his wife, Yuan Weijing, Yuan said to me, ‘Before I met Chen Guangcheng, I had never thought of spending my life with a blind man, but after I saw him, I felt he was more positive and more healthy than anyone else I knew.’”

Yuan Weijing graduated from the Shandong Chemistry Institute’s Foreign Language Department. In the spring of 2001, she called in to a radio program and recounted her distress at failing to find a job. Chen Guangcheng was listening to the program, and afterward he called Yuan. Yuan said, “He told me that he was a blind man, and that when he was going to college in Nanjing, he only received 400 yuan a year from his parents and often went hungry. This was the first time I knew of someone who had suffered such hardship.”

In the summer of 2001, Yuan traveled the 60 miles from Linmu County to Dongshigu Village, and she and Chen embarked on their future together. In 2003, Yuan, who by then was teaching English, eloped with Chen against her parents’ wishes. The wedding was reported as big news by the local television station. After seeing the program, Yuan’s mother expressed regret: “If I had known she was so determined, I would have given my consent.”

After her marriage, Yuan resigned from teaching and joined Chen in defending the rights of the disabled. “Something Guangcheng said moved me deeply. When I complained to him that the hardship of China’s many disabled people was a social problem that was beyond the two of us to change, he said, ‘Many, many people have thought this way and said the same words, always talking about how bad society is, how dark it is. But have you ever thought of what you have done for society? If each person spoke up just a little or made some effort for justice, or contributed even a little to improving social ills, our society would surely change.’”

Soon after the Law and Life interview, this determined cou-

ple bravely exposed the violent birth control policies in Linyi, for which they have since paid the price of their own freedom.

An overview of the Linyi birth control controversy

Below are the incidents and events that led up to Chen Guangcheng’s detention and trial:

July 9, 2004—the Communist Party Committee of Linyi City and the People’s Government of Linyi City issued its “Decision Regarding Strengthening Population Control Efforts in the New Era,” which provided policy support for the violent implementation of population control.

February 14, 2005—the government of Linyi City reissued the official document on the premise that ordinary people were incapable of following the family planning laws, and that stronger and more traditional measures were required.

March 2005—the three districts and the nine counties falling under the administration of Linyi City began carrying out large-scale implementation of coercive population control.

Mid-April 2005—Chen Guangcheng and Yuan Weijing began to investigate the matter and began requesting that rights defenders such as Li Jian, Jiang Tianyong, Li Heping, Teng Biao, Guo Yushan and Tu Bisheng go to various districts to look into the situation and provide legal aid.

August 25, 2005—Chen Guangcheng, by then under residential surveillance, fled to Shanghai, then to Nanjing, and finally arrived in Beijing.

Early September 2005—An official from the State Family Planning Commission joined with family planning officials at the county, city and provincial levels to investigate the situation in Linyi.

September 6, 2005—While Chen Guangcheng was at the Beijing home of legal activist Tu Bisheng, he was abducted by a group of people including the mayor of Shuanghou Town, Zhu Hongguo, and forced to return to Qi’nan. *The Washington Post*, *Voice of America*, *Radio Free Asia*, *BBC*, *South China Morning Post* and many other international media reported on the incident.

September 7, 2005—Following his return home, Chen Guangcheng met with Liu Jie, Linyi City’s deputy mayor and public security bureau head, after which his freedom was further restricted. In an emotional open letter issued in November, Chen recounted his meeting with Liu.⁵ (See text box.)

September 19, 2005—Yu Xuejun, the spokesman for the State Family Planning Commission and the director of the Politics and Law Department, revealed the results of the initial investigation into the family planning policies in Linyi. He acknowledged that certain officials in some counties and townships in Linyi had implemented population control through means that violated administrative law and infringed on people’s lawful rights. He said that the responsible individuals had been dismissed, detained or placed under investigation, and that the barbarous enforcement of family planning policies in Linyi had ceased.

November 4, 2005—the reporter who had profiled Chen Guangcheng spent an entire day carrying out telephone interviews with villagers and officials of the family planning bureaus, politics and law committees and propaganda offices of various counties and townships in Linyi. The record of her interviews, published in the issue of *Law and Life* that came out

Excerpts from Chen's account of the meeting with Linyi's deputy mayor:

Liu Jie said, “I wish to make three points to you. First, regarding birth control, why could you not address the matter through the normal official channels instead of talking to hostile forces in overseas countries such as the United States?”

“Second, we cannot say the socialist or communist system is no good just because there are occasional problems; nor can we say our Party is no good just because it contains a few corrupt elements. The Communist Party has raised you, providing you with your education from primary school through college, and you repay it by biting the hand that feeds you. Things cannot continue this way.

“Third, this time we brought you back home without imposing any further enforcement measures on you. The government wants to give you a break; we know you're young and can easily make mistakes and there's no point in coming down too hard on you as long as you recognized the error of your ways.

“As it is, you're already alleged to have violated Article 111 of the Criminal Law by illegally providing intelligence to overseas entities. Your interview with *The Washington Post* could land you a five-year prison sentence. One more like that and you're looking at 10 years. The more interviews

you give, the heavier the sentence you face. We brought you home to save you.”

Chen Guangcheng's retort: “I was not the only one who accepted an interview from *The Washington Post*—officials from the State Family Planning Commission did, too. I don't know if they should be sentenced to five or 10 years in prison, but Liu Jie had a lot of nerve claiming we were talking on an equal footing after he used gangster tactics to abduct me and force me to leave Beijing. From his point of view, Linyi's municipal government is the chief arbiter for all matters in Linyi, and all issues have to be resolved through that channel. In my view, the most important thing is the truth. In the three districts and nine counties of Linyi City, more than 100,000 people have been forcibly sterilized . . . not to mention family members who are kidnapped and held hostage and beaten by thugs while the police do nothing. When people try to file a lawsuit, the court officials harass them or refuse to register the complaint, and the procuratorate refuses to take action without instructions from above. Liu Jie makes no mention of these facts. Aren't these channels the officially correct channels? By whom are these channels blocked? I think it goes without saying. . . .

in the second half of November 2005, was the only article among the domestic media that impartially reported on Linyi's population control controversy.⁶

November 18, 2005—on the anniversary of the death of Chen Guangcheng's father, Chen and his wife, who had just delivered a baby, insisted on going to the cemetery for memorial observances. The authorities allowed them to go, but dispatched more than 300 minders to monitor their every move. Later that day, Chen issued his open letter recounting his dealings with local officials.

Chen Guangfu on Chen Guangcheng

The matter did not end there. On March 11, 2006, Chen Guangcheng was taken from his home and has not been allowed to return since. At the end of April, *Time* magazine named him one of the world's most influential people.

Early on the morning of May 4, 2006, the reporter and I set off before dawn to meet Chen Guangcheng's elder brother, Chen Guangfu, at the Linyi train station. Chen Guangfu, a casual laborer, had returned home to visit his aged mother and had learned some of the more recent developments in Dongshigu Village.

Chen Guangfu told us that the village was under constant surveillance to prevent visits from lawyers and journalists from Beijing. He had heard nothing of his brother's whereabouts since Chen Guangcheng was detained on the morning of March 11. Chen Guangfu himself had been threatened. “They told me, ‘If Chen Guangcheng continues this way, the first to die will be him and his family, and then it will be you and your

family.’ They also went to see my elder daughter at her high school and said to her, ‘Your uncle's activities are endangering state security. No matter how well you study, no university will accept you.’ They also detained one of my other brothers for 37 days, as well as repeatedly detaining several other villagers who support Chen Guangcheng.”

Chen Guangfu related the specific incident leading to Chen Guangcheng's most recent detention. He said that public security police monitoring Chen Guangcheng at home had set up a guard post outside the home of Chen Hua, who lived next door. As the Lunar New Year approached, Chen Hua objected that the police presence was spoiling the holiday atmosphere, and in the course of his protests he was taken away.

Chen Hua's grandmother, distressed by his detention, fainted while protesting to the police. Villagers accompanying her demanded that the police officers use their vehicle to drive the old woman to the hospital, and when the police refused, a melee ensued. Riot police were called in, and the windows of some police vehicles were broken. The police claimed 160,000 yuan in damages, and charged a number of villagers with damaging public property. They later charged Chen Guangcheng with directing the crowd's activities.⁷

During our conversation, I made a point of observing, “Some articles say that Chen Guangcheng and his wife have not taken jobs assigned by the government and don't engage in other types of labor such as farming, but they still seem to live very well. Why is this? Can you explain it?”

Chen Guangfu answered, “In fact, Chen Guangcheng has no income. Because he's the youngest and his eyes are no

good, I and his other brothers have always contributed to his upkeep. Before 2005, he lived off our father's pension of 800-odd yuan. My father was an able man, and when he passed away at the age of 71, he left his family a lot of grain and foodstuffs. Chen Guangcheng has always involved himself in other people's matters, and his wife is the same, and this is how they've turned out. Yesterday after I returned home, Weijing told me that *Time* magazine had named Chen Guangcheng one of the world's 100 most influential people. At first our news reports mentioned him second after Premier Wen Jiabao, but later the reports dropped his name completely."

The reporter and I had each donated 500 yuan to the Poverty Alleviation Foundation, so we didn't have much cash at hand. But she gave Chen Guangfu 200 yuan and I gave him 100 yuan, and we asked him to pass it to Yuan Weijing, who is still nursing her baby. We also asked him to pass on our best wishes, for what they were worth.

The reporter and I then returned to the Beijing-Shanghai Highway, and as we passed the exit for Menglianggu at Mile 129, we strained for a look at the place where Chen Guangcheng had grown up, and where Yuan Weijing remained under house arrest. But we restrained our impulse to disembark, lest we cause unnecessary trouble. Like Chen Guangcheng, we are not heretics out to oppose the government, but upright people who only wish to be good citizens.

As Chen Guangcheng wrote in his open letter, "This is not a struggle between Chen Guangcheng and Linyi, but an open contest of power versus law, and of rule of man versus rule of law. It is also a contest of righteousness versus evil, and humanity versus brutality. Can we overlook actions that openly trample on international law and defy our own laws and Constitution? Is the protection of human rights guaranteed in China's Constitution nothing more than waste paper? Has Linyi declared independence from the People's Republic of China?"

On May 4, 2006, while we were with Chen Guangfu, Premier Wen Jiabao, whom *Time* magazine had honored for his efforts to enhance social equity while promoting China's economic reform and development, gave a speech for "May 4th Youth Day" at Beijing Normal University.

Addressing the assembled faculty and students, Wen said, "Today when we talk of democracy, what we mean is for the people to be the rulers of their country, and for the rights of democratic election, democratic decision making, democratic administration and democratic supervision to be protected. It means creating an environment in which the people criticize and monitor the government; in which every individual is able to develop fully in an environment of equality, justice and freedom; in which development of democracy and improvement of the legal system combine to create rule by law and build a socialist legal system. Today when we talk about science, we refer to the respect for knowledge, the respect for science, the respect for talent, and the adherence to the laws of economics, science and social development; we refer to the encouragement of creativity and the building of a country that creates itself anew."⁸

In a blog article entitled "Who Will Respond to the Premier's May 4th Speech?" published on the next day,⁹ my colleague Wu Zuolia wrote, "The premier has expressed the

essence of democracy and science that was shouted out by the May 4th pioneers in 1919, but which in the nearly one hundred years that followed has remained little more than a slogan... Do we need another generation to take to the streets shouting slogans like the May 4th generation? Society needs stability, and stability needs the government to put its democratic agenda at the forefront. We look forward to seeing the premier's May 4th speech become more than just words."

Honored by *Time* magazine, Wen Jiabao lauds the great principles of equality, righteousness and freedom in his speech, but fellow honoree Chen Guangcheng's attempt to make these principles part of daily life has subjected him to the under-world tactics of the authorities. The Chinese authorities have set power and human rights in opposition to each other. Chen Guangcheng remains unlawfully detained by Linyi Party Secretary Li Qun and the evil authorities under him. I feel compelled to ask China's top administrative official, Premier Wen Jiabao, do you indeed have the desire and the power to resolve this situation?

Translated by Wei Liu

The original Chinese article appeared on the Web site of HRIC's electronic journal *Ren Yu Renquan*: http://www.renyurenquan.org/ryrq_article.adp?article_id=456

EDITOR'S NOTES

1. The *Dongfang Zaobao* article, "Wen Jiabao ruxuan Shidai quanqiu yingxian-gli bairen bang," can be accessed at <http://news.sina.com.cn/c/2006-05-02/08478837932s.shtml>.
2. *Time*, May 8, 2006. For the profile of Chen Guangcheng, see Hannah Beech, "Chen Guangcheng: A Blind Man with Legal Vision," <http://www.time.com/time/magazine/article/0,9171,1186887,00.html>.
3. Yang Ziyun, "Chen Guangcheng, yi falü wei ye de mangren," *Falü yu Shenghuo*, March 28, 2005. The article is posted on some Chinese blogs, including <http://duoduo.fyfc.cn/blog/duoduo/index.aspx?blogid=22702>.
4. *Newsweek* journalist Melinda Liu refers to the cover photo and her accompanying story on "Barefoot Lawyers" on her *Newsweek* blog, <http://www.msnbc.msn.com/id/9677608/site/newsweek/page/3/>.
5. Chen's open letter can be accessed in its entirety on the Peacehall Web site: <http://www.peacehall.com/news/gb/china/2005/11/200511191148.shtml>.
6. A link for this article could not be located. However, the reporter, Yang Ziyun, has continued to report sympathetically regarding Chen on Chinese blogs, for example, <http://duoduo.fyfc.cn/blog/duoduo/index.aspx?blogid=80241>, posted June 17, 2006.
7. According to news reports, Chen was later temporarily released to discuss his case with an official on March 11. Police reportedly halted traffic, took photographs and then charged him with "disrupting traffic." Chen is facing this charge and the earlier one of damaging public property in the current indictment against him. See Robert Marqand, "In China, Activist Becomes the Victim," *Christian Science Monitor*, July 28, 2006, <http://www.cbsnews.com/stories/2006/07/28/world/main1845443.shtml>.
8. Wen's speech is quoted on a number of Chinese Web sites, including <http://www.china-embassy.org/chn/xw/t250473.htm>.
9. See <http://cn.qikan.com/blog/blog-zz-article.asp?userid=230271&titleid=blog200606020000014>.