

## Sharon Hom, Executive Director, Human Rights in China

### Statement for Hearing:

### "Examination into the Abuse and Extralegal Detention of Legal Advocate Chen Guangcheng and His Family"

November 1, 2011

Mr. Chairman, Commission members, thank you for convening this timely hearing and bringing international attention to the urgent situation of Chen Guangcheng and his family. As documented extensively again this year in the U.S. Congressional-Executive Commission on China's *2011 Annual Report* and the U.S. Department of State's *2010 Human Rights Report*, human rights violations in China remain serious, systematic, and widespread.<sup>1</sup>

Today I have been asked to focus on the persecution of Chen and his family, and the treatment of those who have attempted to visit him.

#### Chen Guangcheng's Story

Chen Guangcheng's story has attracted wide attention inside and outside China. A blind, self-taught "barefoot lawyer" and activist, he has been a vocal advocate for the disabled, farmers, rural communities, and other disadvantaged groups since the late 1990s.<sup>2</sup> Chen's story is the struggle of one principled, committed advocate for social justice violently targeted by the Chinese authorities.

For three months after Chen was taken into custody in March 2006, his status and whereabouts were not disclosed, and his lawyers had no access to him. In June 2006, Chen was charged with "intentional damage of property and organizing people to block traffic," and in August 2006 was convicted and sentenced to four years and three months in prison. His lawyers were not allowed to appear at his trial. Chen lodged an appeal of the conviction. On October 31, 2006, the court overturned the verdict and ordered a new trial by the Yinan County People's Court in Shandong Province. On November 29, 2006, Chen was again found guilty of the same charges and given the same sentence. Chen appealed the verdict, but his appeal was rejected on January 9, 2007, as reports of harassment of Chen's lawyers during the trials continued to surface.<sup>3</sup>

Chen served the full four years and three months of his sentence. Yet, back in November 2006, an independent United Nations body, the **Working Group on Arbitrary Detention** (UNWGAD), had determined that Chen's detention was arbitrary, as it contravened the principles and norms set forth in the *Universal Declaration of Human Rights*. The UNWGAD requested that the Chinese government take the necessary steps to remedy the situation and bring it in to conformity with standards and principles set forth in the *Universal Declaration of Human Rights*.<sup>4</sup> The Chinese authorities failed to release Chen or take any remedial steps.

In addition to enduring Chen's absence, Chen's family suffered in other ways throughout his ordeal, particularly in the lead-up to his trial. His mother and three-year-old son were kidnapped from their home in Beijing by Linyi authorities. Chen's brother, **Chen Guangjun**(陈光军), testified that he was coerced into giving false information to the police. Chen's other brothers and cousins were detained, threatened,

and intimidated by the authorities. Chen's wife, **Yuan Weijing (袁伟静)**, was consistently physically and verbally harassed, put under surveillance, barred from seeing her husband, and was even prevented from seeking medical care.

Following Chen's release on September 9, 2010, Chen and his family have been subjected to the most draconian forms of surveillance, abuse, and restrictions on their most basic freedoms. All of these restrictions on Chen and his family lack any basis in law. Under Chinese law, an individual may be subjected to further restrictions on his or her freedoms following completion of a prison sentence—for example, deprivation of political rights may be imposed.<sup>5</sup> In Chen's case, he was not legally subject to any further restrictions upon his freedoms following his release.

It is important to note that Chen Guangcheng's situation reflects the fate of countless other human rights defenders in China subject to extra-legal measures, including being restrained under constant surveillance within closed premises—in their homes, temporary residences such as boarding houses or hotels (also known as “black jails”), or other undisclosed locations—where they are not permitted to leave. As distinguished from formal sentences of imprisonment, in which authorities officially charge and detain individuals pursuant to cited criminal laws and procedures, Chinese government officials have articulated no specific legal basis for these detentions. As a result, extra-judicially detained rights defenders are left entirely outside the protection of the law, without any recourse to procedures to challenge their detention, under circumstances that could permit serious rights violations—including the use of torture or other ill-treatment.

## **International Support and Concern**

International expressions of concern and support for Chen Guangcheng and his family have been strong. In fact, governments including the U.S. and the EU had called for Chen's release throughout his four years, three months' imprisonment.<sup>6</sup> Beginning in 2005, numerous independent human rights experts have also expressed concerns and sent urgent appeals to the Chinese authorities regarding reports of deterioration of Chen's health and abusive treatment in prison, and of his family's mistreatment, including:

- On September 19, 2005, a joint urgent appeal from the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on violence against women, the Special Representative of the Secretary-General on human rights defenders, and the UNWGAD<sup>7</sup>;
- On October 31, 2005, a joint letter of allegation from the Special Rapporteur on torture, the Special Rapporteur on violence against women, and the Special Representative of the Secretary-General on human rights defenders<sup>8</sup>;
- On April 7, 2006 a joint urgent appeal from the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture, the Special Representative of the Secretary-General on human rights defenders, and the UNWGAD<sup>9</sup>;
- On July 14, 2006, a joint urgent appeal from the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture, and the Special Representative of the Secretary-General on human rights defenders<sup>10</sup>;
- On December 1, 2006, a joint allegation letter from the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on human rights defenders<sup>11</sup>; and
- On December 21, 2006, a joint urgent appeal from the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture, and the Special Rapporteur on violence against women, and the Special Representative of the Secretary-General on human rights defenders.<sup>12</sup>

Yet despite strong concerns expressed by the international community to the Chinese authorities and the high profile of Chen's case in the media, the local authorities in Linyi continue to allow thugs and plainclothes police to trample on the rights of Chen and his family. This egregious disregard for the rights of Chinese citizens protected by Chinese and international human rights law is part of the continuing severe crackdown on lawyers, activists, and rights defenders.

## **Treatment of Chen Guangcheng's Supporters**

Chen's supporters, including activists, prominent writers, bloggers, petitioners, and ordinary Chinese who felt outraged by the persecution of Chen and his family, have attempted to visit him to show their solidarity. They have been met with threats, intimidation, and beatings by thugs while the authorities stand by doing nothing to stop the violence and abuses.

Human Rights in China (HRIC) issued a press bulletin yesterday detailing the most recent abuse of Chen's supporters. Eyewitnesses told us that on October 30, 2011, 37 rights defenders and netizens attempting to visit Chen were beaten by around 100 unidentified individuals. Many of them were seriously injured. The rights defenders and netizens had come from different parts of the country to show their support for Chen.

According to rights defender Mao Hengfeng (毛恒凤), who was among those beaten and injured, at around 1:30 p.m. on October 30, she and the other 36 visitors were surrounded and beaten by around 100 people at Quanjiao, Yi'nan, on Route 205, about 200 meters away from the village where Chen lives. Among those injured were Li Yu (李宇), Liu Li (刘力), Zhao Zhengjia (赵振甲), Zheng Peipei (郑培培), and Li Guanrong (李贯蓉). Mao said that a villager who witnessed the beating told the group that Chen himself is currently being beaten daily and is facing grave danger.

Shanghai rights defender Jin Yuehua (金月花) told HRIC that when she and Shan Yajuan (单亚娟) tried to videotape the group's beating, they were almost hit by a police vehicle with a license plate number Lu-Q9753 and another vehicle without a license plate. After they called the emergency hotline, four ambulances arrived but left without helping anyone.

Netizen San Long Yong Shi (三龙勇士) told HRIC that after dialing the emergency hotline numerous times, several officers from the Duozhuang substation of the public security bureau of the neighboring Mengyin County arrived. The officers took Li Yu (李宇), Liu Ping (刘萍), and Shan Yajuan (单亚娟) away; since then, their cell phones have been turned off, and, as of Monday evening, no one has been in contact with them.

Also according to San Long Yong Shi, more than 20 of the victims went to the Linyi Municipal Public Security Bureau to report and file the case on the following day, October 31. They asked the police to guarantee their safety while in Linyi. San Long Yong Shi said that the vice director of the bureau, a Mr. Xie (Officer No. 078171), met with the group and asked them to report the case to the plainclothes policemen and "special" police officers present. One of the plainclothes officers told the group to get into a police vehicle to go to a police substation. When the group insisted on seeing his police identification, that person said: "If you keep making trouble, we will wipe you out."

The thugs may be threatening and beating people physically, but the authorities have been unable to shut down online campaigns both to virtually "visit" Chen and express their support for him. In the "Travel to Shandong to Visit Chen Guangcheng" campaign—a trip mockingly referred to as new destination in the "adventure tourism" industry<sup>13</sup>—netizens (including lawyers, writers, journalists, rights defenders,

independence election candidates, and others) have travelled to Dongshigu Village in Linyi to try to visit Chen, reporting their progress—and harassment—on Twitter and their Sina Weibo microblogs.<sup>14</sup> An estimated hundred people have attempted visiting Chen in Linyi as of October 28.<sup>15</sup> Netizens are also running the virtual campaign “Dark Glasses Portrait” campaign, inviting all supporters of Chen Guangcheng to take photos of themselves wearing dark glasses reminiscent of Chen’s signature spectacles and to write a few words with their thoughts. The campaign has received 245 submissions from people across the world as of yesterday.<sup>16</sup>

## **Role of the International Community**

I would like to close with some brief remarks on the role of the international community and by referencing the recent example of Relativity Media which began filming its new production—*21 and Over*, a feature comedy film—in Linyi. In HRIC’s open letter to Relativity Media and its partners in this project, SAIF partners, and IDG, we expressed our deep concern about their apparent failure to do due diligence before selecting Linyi as a filming location for a comedy film.<sup>17</sup>

We pointed out that Linyi is indeed a “historic” city, as proclaimed by Zhang Shaojun (张少军), Linyi’s Party secretary. But Linyi has entered into the annals of history for something inglorious: it is a place where the local authorities are responsible for the egregious, ongoing, and widely reported human rights violations against one of the most prominent human rights advocates in China. We urged these companies to demonstrate their professed commitment to human rights by concrete action, including terminating the filming of a comedy in a city of human rights shame. We also urge them to raise with the Linyi Party secretary their human rights concerns about the ongoing persecution of Chen Guangcheng and his family as well as the violence and intimidation perpetrated against Chen’s supporters.

## **Closing**

We thank the Commission for your ongoing commitment to your critical mandate --to closely monitor and report on China’s progress on civil and political rights and development of rule of law. The severity of persecution and suffering endured by Chen, his family, and the efforts the authorities to intimidate his supporters are ongoing as we convene here today. The urgent challenge remains to ensure the safety and freedom of Chen and his family, and respect for human rights for all the people in China. The courage, persistence and creativity of netizens and Chen’s supporters are lights in China’s darkness. Our collective mission is to stand in solidarity with them.

Thank you for this opportunity to speak and I look forward to your questions.

<sup>1</sup>U.S. Congressional-Executive Commission on China, 2011 Annual Report (2011), <http://www.cecc.gov/pages/annualRpt/annualRpt11/AR2011final.pdf>; U.S. Department of State, 2010 Human Rights Report: China (includes Tibet, Hong Kong, and Macau) (2011), <http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154382.htm>.

<sup>2</sup>Human Rights in China, “About the Individual: Chen Guangcheng,” <http://www.ir2008.org/02/about.php>.

<sup>3</sup>Members of Chen’s legal team were variously harassed, prevented from meeting Chen, prevented from attending the hearings, and even assaulted and detained. Members of that legal team include Li Jinsong (李劲松李劲松), XuZhiyong (许志永), Li Subin (李苏宾), Li Kechang (李克昌), Cheng Hai (程海), MengXianming (孟宪明), Li Fangping (李方平), Zhang Lihui (张立辉), Yang Zaixin (杨在新), and Zhang Jiankang (张鉴康).

<sup>4</sup>The United Nations Working Group on Arbitrary Detention, “Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Opinions Adopted by the

Working Group on Arbitrary Detention,” U.N. Doc. A/HRC/7/4/Add.1, Opinion No. 47/2006 (2008), [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/7/4/Add.1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/7/4/Add.1).

<sup>5</sup>Under the Criminal Law of the People’s Republic of China, in addition to imprisonment, courts imposing punishment on convicted criminal defendants may also order an additional sentence of “deprivation of political rights” for a period following the completion of a prison term. Pursuant to relevant regulations, individuals serving a sentence of “deprivation of political rights” face a number of severe restrictions on their rights to freedom of opinion, expression, association, and assembly. Among other things, individuals under deprivation of political rights “shall not organize or participate in any gatherings, marches, demonstrations, or form associations,” “shall not accept interviews or give speeches,” and “shall not issue, publish, or distribute discussions, books, or recordings that are detrimental to the state’s honor and interests or that otherwise endanger society domestically or abroad.” Gonganjiguan dui beiguanzhi, boduozhengzhiquanli, huanxing, jiashi, baowaijiuyizufan de jianduguanli guiding [公安机关对被管制、剥夺政治权利、缓刑、假释、保外就医罪犯的监督管理规定] {Regulations on the Supervision and Administration by Public Security Organs of Criminals Who Have Been Put Under Surveillance, Deprived of Political Rights, Given Reprieve, Given Parole, or Released on Bail for Medical Treatment}, issued by the Ministry of Public Security [公安部], promulgated and effective February 21, 1995, Art. 12.

<sup>6</sup>In October 2007, 34 members of the U.S. Congress urged President Hu Jintao to release Chen, and on September 7, 2006, the EU Parliament passed a resolution calling for the release of Chen Guangcheng and other human rights defenders. See U.S. Representative Trent Franks AZ, District 2, “Congressman Franks and 33 Members of Congress Call on China to Respect Human Rights: Urge the Release of Pro-Life Advocate Chen Guangcheng,” October 3, 2007, [http://www.house.gov/list/press/az02\\_franks/chenguangcheng.html](http://www.house.gov/list/press/az02_franks/chenguangcheng.html); European Parliament Resolution on EU-China Relations, 2005/2161 (INI) (September 7, 2006), art. 61, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0346+0+DOC+XML+V0//EN>.

<sup>7</sup>United Nations Commission on Human Rights, “Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Ambeyi Ligabo: Addendum: Summary of Cases Transmitted to Governments and Replies Received,” U.N. Doc E/CN.4/2006/55/Add.1, paras. 171-2 (2006), [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=E/CN.4/2006/55/Add.1](http://ap.ohchr.org/documents/dpage_e.aspx?si=E/CN.4/2006/55/Add.1).

<sup>8</sup>United Nations Commission on Human Rights, “Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy: Situations in Specific Countries or Territories,” U.N. Doc A/HRC/4/25/Add.1, para. 78, [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/4/25/Add.1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/4/25/Add.1).

<sup>9</sup>Ibid.

<sup>10</sup>Ibid, para. 81.

<sup>11</sup>United Nations Human Rights Council, “Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy: Addendum: Situations in Specific Countries or Territories,” U.N. Doc A/HRC/8/4/Add.1, para. 74 (2008), [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/8/4/Add.1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/8/4/Add.1).

<sup>12</sup>Ibid. See also United Nations Human Rights Council, “Report Submitted by the Special Representative of the Secretary-General on the Situation of Human Rights Defenders, Hina Jilani: Addendum: Summary of Cases Transmitted to Governments and Replies Received,” U.N. Doc A/HRC/7/28/Add.1, paras. 239-268 (2008), [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/7/28/Add.1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/7/28/Add.1).

<sup>13</sup>Hu Jia, quoted in “A New Tourism Promo for Dongshigu Village?” Shiweiluozi’s Blog, October 8, 2011, <http://www.siweiluozi.net/2011/10/new-tourism-promo-for-dongshigu-village.html>.

<sup>14</sup>“The Never-ending List of Visitors” [探险者不完全名录], iSun Affairs [阳光时务], October 24, 2011, <http://www.isunaffairs.com/?p=871>; Louisa Lim, “Chinese Activists Turn to Twitter in Rights Cases,” National

Public Radio, October 28, 2011, <http://www.npr.org/2011/10/28/141606687/chinese-activists-turn-to-twitter-in-rights-cases>.

<sup>15</sup>Verna Yu, "Blind Activist a Touchstone of Freedom," South China Morning Post, October 29, 2011, <http://topics.scmp.com/news/china-news-watch/article/Blind-activist--a-touchstone--of-freedom>.

<sup>16</sup>墨镜.肖像 Dark Glasses.Portrait, 爱光诚, 自由光诚 Love Guangcheng, free Guangcheng, <http://ichenguangcheng.blogspot.com>.

<sup>17</sup>Human Rights in China, "HRIC Open Letter to Relativity," October 31, 2011, <http://www.hrichina.org/content/5607>. See also C. Custer, "An Open Letter to Relativity Media," China Geeks, October 29, 2011, <http://chinageeks.org/2011/10/an-open-letter-to-relativity-media/>