

# AN INSIDE VIEW

BY ZHANG YOUJIE

A former Zhongnanhai official, Yu Meisun, witnessed first-hand how a rigidly legalistic approach to crimes of youthful error or financial desperation too often results in injustices that condemn people to a life with no future, and sometimes destroys their innocent families in the process.

On January 31, 1994, Public Security police secretly detained Yu Meisun, a former deputy secretary at the State Council who at the time was secretary to the vice-chairman of the State Council's Environmental Committee and was about to be promoted to a bureau position. On November 10, 1994, the Beijing Municipal Supreme People's Court rejected Yu's appeal and upheld the original judgment by Judge Zhang Cunying, in which Yu Meisun was sentenced to three years in prison on charges of "revealing state secrets." One week later, Yu Meisun was imprisoned in Beijing's No. 2 Prison in the suburban district of Dougezhuang. Over the next two years, Yu Meisun, who had been engaged in legal work and research for more than ten years, personally encountered many cases of wrongful imprisonments. He formed lasting friendships with people who had been heavily penalized for minor crimes, or without having committed any crime at all. The following article is drawn from Yu Meisun's recollections, and all of the names mentioned are those of real people.

## **Li Shusen and Kan Yongtian**

Li Shusen was born in 1968. He was of above-average height, with wavy hair, fair skin and large eyes framed by thick eyebrows—a good-looking and straightforward young man. His parents were both officials at a state-owned enterprise, and as the youngest of several siblings, Li enjoyed a comfortable home life. At the end of the 1980s, Li Shusen graduated with a major in foreign languages from a tourism school in Beijing, and went to work for the Holiday Travel Company in the Lido Hotel. He found that he was more interested in working in a different department of that company, and obtained permission for a transfer. But the American manager of his department saw that

Li was very capable, and when he learned of Li's contacts with the other department, he was unwilling to release him.

In a fit of pique, Li Shusen late one night took the manager's briefcase and concealed it in a washroom downstairs. When the manager returned the next day and found his briefcase missing, he filed a report. Li Shusen had told a few colleagues about what he had done, and eventually the police got wind of the truth and cracked the case. They noted that the misappropriated items, including a camera, were valued at more than 10,000 yuan, and that the victim was a foreigner, and classified the case as a major theft. On that basis, 20-year-old Li Shusen was sentenced to 12 years in prison. The American manager took steps to have the charges dropped, but the police vociferously maintained that the law was inflexible, that Li Shusen was over 18 and capable of taking responsibility for his actions, and that by so much as moving the goods he was already guilty of theft. They said the sentence already reflected the fact that this was Li's first offence, and that he might be sentenced more harshly if he appealed.

At that time, it was not common for defendants to have legal representation, and Li did not appeal his conviction. His girlfriend, a pretty young woman who worked at a foreign enterprise, initially visited Li every month in prison and insisted that she would wait for him to be released. Li Shusen's behavior in prison was exemplary, and each year he was named a model prisoner, resulting in his sentence being reduced to ten years. But in the eighth year, Li's girlfriend finally reached the end of her patience and left him. After Li was released from prison, the best he could do was go to work for his elder brother's company. He gained a reputation as a key employee and tireless worker. The days and nights followed each other in a similar fashion, and Li eventually found himself having reached the age of 32, without a penny to his name and still single.

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Li Shusen's youthful indiscretion had caused no real harm to anyone. It was a personal dispute that could have been resolved through criticism and education. But because of for-

eigner worship in the judicial system, a fine young man was obliged to sacrifice his youth. Yu Meisun puts it this way: “When the government imprisons a criminal, it costs at least 10,000 yuan per year, and the cost to the felon’s family is even higher. Li was imprisoned for 10 years for his malicious game involving goods worth 10,000 yuan, suggesting that the life of a 20-year-old youth is worth only 1,000 yuan per year. It is clear that a civilized people-centered approach is inconsistent with a judicial organ that is a tool of autocracy.”

A case such as Li Shusen’s was by no means unique in Beijing’s No. 2 Prison. Kan Yongtian’s case and sentence offer a similar example. When Kan Yongtian was 17 years old, he was sentenced to 12 years in prison for a prankish theft. Kan was only 17 at the time of his offence, and should have been dealt with more leniently because of his age, but because he had turned 18 by the time of his trial, he was sentenced as an adult. After Yu Meisun was released from prison, he looked up Kan Yongtian’s father and said, “I was with your son day and night, and he helped me a great deal. He seems to be the kind of good person who enjoys helping others.” These words moved the 70-year-old father so much that his whole body trembled.

Kan Yongtian’s father had been wounded while fighting in the Korean War. He later worked as a bodyguard, and after he was demobilized he worked for a while as a guard at the Ministry of Culture. Now retired, he had fallen into a deep depression since his son’s imprisonment, and after Yu Meisun’s visit, he telephoned Yu every year to wish him a happy New Year. In the spring of 2001, the old man rushed over from the eastern

suburbs to the West City, and gasping for breath he told Yu Meisun, “My son had his sentence reduced again for good behavior. He’s already been in prison for nearly ten years, and it looks like he may be able to get out by the end of the year.”

## Judicial organs should show a broader concern for human fate and show leniency toward those who commit a crime in a moment of foolishness.

Yu Meisun says, “I came across many people in prison who were sentenced more harshly than their crime warranted. These two young scamps fortunately had family members who regularly made the long trip to the suburbs to visit them in prison. The support of a happy and loving family allowed them to return to a normal life once they left prison and returned home. There are many people in prison who come from broken homes, and when they leave prison they have no way to return to a normal life, and may not even have a home to go to. They can easily develop a rebellious attitude and decide to revenge themselves on society, with the kind of results that don’t bear contemplating.

“Law arises from common sense and is also held together by common sense. When the police write up a case, they should carefully analyze the circumstances. Anything that puts the law in opposition to common sense, or applies laws in an



Family support can make all the difference for a prisoner. Photo: Reuters.

indiscriminate fashion by imposing a heavy penalty on a minor crime, or a light penalty on a serious crime, is not in accordance with law. Judicial organs must not only avenge evil, drive out villains and protect the virtuous, but must also show a broader concern for human fate and show leniency toward those who commit a crime in a moment of foolishness. Giving such people a chance to redeem their lives can help resolve social contradictions.”

Yu goes on to observe, “I feel it is of paramount importance for judicial officials to have professional morals and to respect their own work. The year 2000 marked the Education and Training Year for Beijing’s municipal law enforcement officers. Only around 30 percent of the city’s law enforcement officials have a tertiary education, a relatively low proportion compared with elsewhere in the country. Among these, only 17 percent graduated in law-related subjects, and the educational credentials of police officers are particularly low. A significant proportion of law enforcement officials do not meet the knowledge and skill requirements of their postings. The effect of these poor standards on the administration of justice can easily be imagined. If the national capital is like this, the poor standards and brutality characterizing some other localities can well be imagined!”

#### **The effect of harsh sentences on families**

Kang Bao, an illiterate peasant from Wangzuo Village in Beijing’s Fengtai District, is a tiny and unprepossessing man. In 1994 he broke into the finance office of a local work unit and stole a check. By the time he took the check to a nearby brickyard to buy bricks a few days later, the theft had been reported, and he was arrested and sentenced to 13 years in prison. The fact of the matter was that he never bought anything with the check he stole, and according to law he should have received a lighter sentence for intent.

After Kang Bao was sent to prison, his illiterate wife found it hard to support herself and her two daughters, and the best she could do was remarry. Forty-year-old Kang Bao, who attended literacy classes under Yu Meisun’s encouragement, no longer had anyone at home to write to. With his wife and children gone, Kang Bao became deeply despondent in prison. At the time that Yu Meisun was about to leave prison, Kang Bao still had 10 years of his sentence left to serve. In his deep respect for Yu Meisun, Kang Bao begged repeatedly for Yu to adopt his elder daughter, Xiaowei, of whom he had been granted custody in his divorce. Yu Meisun declined this request at first, and wrote a letter explaining the situation to Xiaowei. Unfortunately, his letter was intercepted by the prison guards, and Yu Meisun was brought in for a reprimand, during which he was told that ex-cons were all bad people, and that such an arrangement would harm Xiaowei. When Yu Meisun was discharged from prison, he was carefully searched to make sure he wasn’t carrying the contact information of Kang Bao’s family, but in fact he had memorized Xiaowei’s address.

Out of respect for his friend’s wishes, Yu Meisun made an effort to locate Kang Bao’s ex-wife soon after he left prison. The woman earned only 300 yuan per month at her job, so she had rented out the three rooms of the family home to boarders at 100 yuan per month, and moved with her two daughters to

live with her new husband 20 miles away. Because of the family’s straitened circumstances, the younger daughter was unable to continue her primary education, and went out every day to sell flowers in the street. The elder daughter, Xiaowei, felt that Yu Meisun was a bad person, and was unwilling to go with him. Yu Meisun felt there was nothing more he could do, so he gave 200 yuan to the family and left. Yu Meisun made a point of going back to the prison to report back to Kang Bao that all of his efforts had been in vain. Kang Bao’s face, twisted with grief, remained etched in Yu Meisun’s memory for a long time afterward.

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Early on the morning of September 1, 2000, Yu Meisun was awakened from his sleep by a telephone call from Kang Bao’s ex-wife. She said her new husband was unable to support her and her two daughters, and they had divorced. Xiaowei had enrolled in a professional computer course that began that day, but the family was unable to pay the 2,000 yuan tuition. Yu Meisun’s mother immediately produced the required sum and gave it to Yu, who sped off on his bicycle to deliver it. When they met, Kang Bao’s ex-wife told Yu Meisun that in order to support the family and to meet Xiaowei’s tuition costs, she was arranging to sell their house and expected to get 10,000 yuan for it. She promised to repay Yu Meisun’s 2,000 yuan as soon as she received the money. Yu Meisun urged her not to sell the house, because then Kang Bao would have no home to return to when he left prison. He assured her that she didn’t need to repay him right away, and that he would continue to subsidize Xiaowei’s school expenses. One month later, he received a letter from Xiaowei urgently requesting another 1,000 yuan for computer usage fees. Yu Meisun immediately sent her the money. By then he had started carrying out legal research for a research organization and was pulling in a small monthly income.

A month later, Yu Meisun received another phone call from Xiaowei’s mother telling him that Xiaowei’s school performance had put her among the top five students in her class, and she had been awarded a scholarship of 60 yuan. Xiaowei’s mother no longer planned to sell their home, and would wait to remarry Kang Bao when he was released from prison. Yu Meisun was very gratified that his modest efforts had managed to rescue this troubled family. “I never expected that Kang Bao’s desperate measures to ensure that his daughter stayed in school would bear results,” Yu said. “I’ve read reports that Liu Qingshan and Zhang Zishan’s children were all supported by the State until they reached adulthood, and that they were well educated, but Kang Bao’s younger daughter lost out on her schooling. This contravenes the ‘Nine Years’ Compulsory Education Law’ passed by the fourth plenum of the sixth National People’s Congress in 1986, as well as the ‘Implementation Regulations’ passed by the State Council in 1992, which state that education is one of the foundations of the country and that the Education Law is even more important than the Criminal Law.”

### Yang Jun loses everything

Yang Jun, a handsome young man who slept in the bunk bed above Yu Meisun's, was a frail bookworm. He persisted in his studies in prison, and had already passed the national exams for self-study in several subjects. In 1988, when he was only 18 years old, Yang Jun and two friends were on a trip, and they ran out of money in Hangzhou. In the middle of the night, they broke into a shop and stole some money and goods,

which started off a theft spree that continued as they traveled for another month or so. Finally they were caught in Tianjin and sent to the Public Security Bureau. Their series of thefts, involving goods with a total value of a bit more than 20,000 yuan, was designated as a roving crime ring operating under serious circumstances and involving a large sum of money, and after being sent back to Beijing, the young men received suspended death sentences. Realizing the deadly implications of

## Juvenile Crime Fact Sheet

COMPILED BY STACY MOSHER

China's approximately 1.5 million prison inmates include 19,000 juveniles. Juveniles are usually held in "education centers" separate from adult prisons.

Official statistics show that 317,925 juveniles were arrested from 1998 to 2003, making up 7.3 percent of the criminal suspects arrested during that period.

Chinese authorities arrested 69,780 juveniles in 2003, accounting for 9.1 percent of all criminal suspects arrested that year, and an increase of 12.7 percent over the number of juveniles arrested in 2002.

- 75.3 percent of the juveniles were held on allegations of encroaching on the property of others.
- 17.4 percent were charged with assault and infringing on the rights of others.

A survey by a juvenile delinquency prevention office found that most young criminal suspects were aged between 15 and 16. In 1996 this age group made up 95.4 percent of Beijing's juvenile offenders, dropping to 82 percent in 2002. An increasing number of offenders aged under 14 have been arrested in recent years.

Yang Soujian of the China Youth and Children Research Center said robbery, theft, assault and rape were the leading crimes among juvenile offenders, with gang crimes accounting for 70 percent of juvenile delinquency. Juveniles make up an estimated 85 percent of China's drug addicts.

China has 2,400 juvenile courtrooms set up in courts nationwide. However, it was not until the beginning of 2004 that plans to establish China's first specialized juvenile court were announced, with Guangzhou saying it would be the first city to set up a court exclusively to hear cases involving juvenile offenders and to safeguard the rights and interests of minors.

Chengdu announced a similar plan on October 15, with judges in the new court required to be proficient not only in law, but also in education, psychology, sociology and ethics.

China's official policy toward juvenile offenders is to employ rehabilitation rather than punishment. Under Chinese law, 16 marks the age of criminal responsibility. Children under 14 are not considered criminally liable. Children aged between 14 and 16 are held criminally liable for certain serious crimes, such as murder, aggravated assault, rape, robbery, narcotics offences and arson, but offenders aged below 18 are normally handed lighter sentences.

Under China's official policy, the death penalty is considered "unsuitable" for juveniles, and execution will only be imposed in "special circumstances." In May 1996, the UN Committee on the Rights of the Child expressed concern that Chinese law allowed children aged between 16 and 18 to be sentenced to death with a two-year suspension of execution. In October 1997, China revised its criminal law to eliminate the imposition of suspended death sentences on prisoners convicted of crimes committed when they were 16 or 17 years old.

However, Amnesty International cites reports suggesting that people aged under 18 at the time of offence have continued to be executed because the courts do not take sufficient care to determine their age. In January 2003, Zhao Lin, aged 18 years and three months, was executed for a murder committed in May 2000, when he was 16 years old. On March 8, 2004, Gao Pan was executed for a murder committed in August 2001, before he was 18 years old. There was confusion over Gao's age because of conflicting records employing the Western and Lunar calendars.

### SOURCE MATERIAL:

[http://www.legalinfo.gov.cn/tbgz/2004-09/17/content\\_134703.htm](http://www.legalinfo.gov.cn/tbgz/2004-09/17/content_134703.htm)  
[http://www.legaldaily.com.cn/xwzx/2004-10/28/content\\_145126.htm](http://www.legaldaily.com.cn/xwzx/2004-10/28/content_145126.htm)  
[http://news.xinhuanet.com/english/2004-10/15/content\\_2093050.htm](http://news.xinhuanet.com/english/2004-10/15/content_2093050.htm)  
[http://news.xinhuanet.com/english/2004-10/25/content\\_2138047.htm](http://news.xinhuanet.com/english/2004-10/25/content_2138047.htm)  
[http://www.legaldaily.com.cn/xwzx/2004-09/16/content\\_134482.htm](http://www.legaldaily.com.cn/xwzx/2004-09/16/content_134482.htm)  
<http://web.amnesty.org/library/index/ENGACT500152004>

their pranks sent Yang Jun into despair, and he attempted suicide several times.

Yang Jun took out his judgment, saved over all these years, and showed it to Yu Meisun. When Yu Meisun examined it closely, he found that the death sentence had been imposed through a judgment that was overly simplistic in its review of the facts of the case. He also noted that the judge was Zhang Cunying, the same judge who had so harshly sentenced Yu Meisun himself. Yu Meisun eventually discovered that many people in the prison had been harshly sentenced by this same judge over the past 10 years. Those who had been sentenced early on compared notes with more recent arrivals, and they consulted Yu Meisun on legal points. Yu Meisun sympathized with them, but could only do his best to console and pacify them: "You have been punished more than you deserved under the law. But the best you can do now is to finish your sentences, and after you're released from prison maybe you can find Judge Zhang and discuss the matter with her." The prisoners, hungry for vengeance, said, "After 10 or 20 years, this Judge Zhang may have already retired. If we all stand before her as a group, even without saying a word, we might well scare her to death!"

Yang Jun's father was originally the head of a state-owned factory, and his mother was a worker. His sister was married, and there was only a younger brother left at home. Yang's father, before his death, had entrusted the younger brother's future to Yang Jun even before he graduated from high school. Once Yang Jun found himself on death row, his conscience was

plagued by his inability to fulfill his father's death wish. By the time Yu Meisun left prison, Yang Jun had served eight years, and had heard nothing from home for two years. He obsessed over his belief that he had caused the ruin of his family, and pleaded with Yu Meisun to contact them.

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After leaving prison, Yu Meisun went to the address he had memorized, No. 12, Lane 3, Taifeng Road, but he could not find Yang Jun's family. The local committee chairperson, Wang Shuying, told Yu Meisun, "Yang Jun's mother went mad and spends all day wandering the streets. She can't find her own way home and has to be helped by neighbors all the time. Whenever there's a major festival or a meeting of the National People's Congress or the Chinese People's Political Consultative Conference, the local Public Security dispatch station detains her for the sake of maintaining security and order. Yang Jun's younger brother was caught stealing, and after being convicted, he was sent to the Chadian *laogai* farm. His elder sister is a bit weak in the head and lost her job, and has to be supported by her worker husband. Their life is very hard. Yang Jun's girlfriend married someone else a long time ago." Mrs. Wang added that Yang Jun had always been a good student, and she didn't understand what would lead him to commit such a seri-



Residents of a special village in Beijing for children who become homeless after their parents are imprisoned or executed. Photo: Reuters.

ous crime. She hoped Yu Meisun could find some legal loophole that would allow Yang Jun to be released early and come home to take care of his mother, which would greatly reduce the burden on the local committee and PSB dispatch station.

Yu Meisun sighed, “With a suspended death sentence, Yang Jun will have to serve at least 25 years before he can be released, so it’ll be another ten years before he can come home. According to clauses 81 and 82 of the Criminal Procedure Law, there are various circumstances under which someone can be released early, but all of these require money and *guanxi*. From what I saw when I was in prison, each year cut from a sentence requires the payment of at least 10,000 yuan in bribes, so Yang Jun would need more than 100,000 yuan to get out—and even then the results aren’t guaranteed. This process is out of the reach of the vast majority of ordinary people.”

Before he left, Yu Meisun gave Mrs. Wang 100 yuan to pass along to Yang Jun’s sister so she could go visit Yang in prison. A year later, Yu Meisun visited Yang Jun’s home again, and this time Mrs. Wang took him to see Yang’s mother. He found an unkempt old woman, her clothes hanging in tatters on her bony frame, her eyes dull and clouded—a shocking apparition. She incoherently claimed that she had no son, that her son had died, and fearfully babbled on about how someone wanted to grab her and take her away. There was nothing in the kitchen but a bowl of cold rice, not even any seasoning or vegetables. Water gushed from an open faucet. Yang’s mother was not willing to turn off the faucet because she believed someone had poisoned the water. In order not to affect the water meters of the entire neighborhood, the local committee had connected the old woman’s home to its own water source. Yu Meisun marveled at the waste and expense resulting from the endless water flow.

Seeing the condition of Yang’s mother moved Yu Meisun to tears. As an experienced legal practitioner, he felt too ashamed for words. Surely this was not the desired result of China’s penal and corrections system! This could not and should not be the spirit and purpose of the law. With the help of Mrs. Wang, Yu Meisun telephoned Yang Jun’s brother-in-law, who said he had received the 100 yuan Yu Meisun left a year ago, but had not gone to visit Yang Jun. He demanded impatiently, “Why are you butting into other people’s business? What’s it to you?”

“When Yang Jun leaves prison and finds out that his family is destroyed and his dreams are shattered, he’s sure to go mad with despair.”

Yang Jun was eventually transferred to Xiangfan Prison in Hubei Province, and Yu Meisun continued to send him goods and funds. He never told Yang Jun about his visits to his family, and Yang Jun fortunately never asked, treating Yu Meisun as his only family. Yu Meisun observed, “Prisoners love to sing ‘The Sailor’ by Zheng Zhihua:<sup>2</sup> ‘What is the pain of wind or rain to us when we still have our dreams?’ When Yang Jun leaves prison and finds out that his family is destroyed and his dreams

are shattered, he’s sure to go mad with despair. His leaving prison will do no good to himself, to others or to society. I don’t dare to think about or even hope that he will survive to leave prison . . .”

In November 1998, at the Annual National Symposium on Criminal Law Research, Yu Meisun heard one lawyer say that Zhang Cunying, the judge at Beijing’s No. 2 Supreme People’s Criminal Court, was preparing to become a lawyer. In 2002, Yu Meisun found Zhang Cunying, now in her 50s, listed on a Chinese lawyers’ Web site as a lawyer working at a certain law office. When Zhang Sizi<sup>3</sup> heard of this he was shocked, and immediately asked Yu Meisun to accompany him to meet this harsh judge turned so-called lawyer before whom he had presented so many unsuccessful cases.

In early 2004, Yu Meisun found out from a legal Web site that Zhang Cunying had moved to a different law office, and he took down her address and telephone number, but never made an appointment to see her. Yu Meisun worried that if he actually met Zhang Cunying, he would feel compelled to bring up her unlawful judgments, and would become so enraged that he might attack her and even kill her. In order to avoid such a disaster, and for the sake of long-term goals, he felt it was best to take a more low-key approach and endure his humiliation.

Although many of the people Yu Meisun met in prison have since been released, some victims of injustice, such as Kang Bao and Yang Jun, remain incarcerated, and every year Yu Meisun travels to the Beijing No. 2 Prison to visit them as a friend.

Translated by Stacy Mosher

The original Chinese article was posted on HRIC’s Ren Yu Renquan Web site: [http://big5.hrichina.org/subsite/big5/article.adp?article\\_id=5937&subcategory\\_id=174](http://big5.hrichina.org/subsite/big5/article.adp?article_id=5937&subcategory_id=174).

1. Liu Qingshan and Zhang Zishan were Party officials executed for embezzlement in the early 1950s.
2. “The Sailor” (Shuishou) is a popular song by Taiwanese singer Zheng Zhihua, born in 1961, who has inspired many young people by gaining success in spite of being handicapped by polio at the age of two.
3. Zhang Sizi is a long-time lawyer who in recent years has taken on the defense of a number of high-profile dissidents.