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RECENT DEVELOPMENT

THE LI SHUANG CASE: A WET BLANKET OVER ROMANTIC LOVE?

AN CHEN*

A newspaper special report, written by Mr. Christopher S. Wren and entitled "China Jails Woman for Affair with Frenchman,"¹ has been duplicated, together with another short report,² and distributed to the students of Harvard Law School this January as reference materials for a course in Contemporary Chinese Law. It seems that both of these reports, especially the first, are now considered to be important materials for researching current Chinese law.

Since I have recently arrived at Harvard Law School from the People's Republic of China (PRC), a lot of American friends and students here put many questions to me regarding this case, such as: Who is Li Shuang? What is the background of her case? What laws did she violate, what crimes did she commit? Why did the Chinese government interfere with her freedom to marry, throwing a wet blanket over romantic love and disrespecting human rights? Confronted so often with so many questions, I feel obligated to discuss this case with any who are interested. I should like, therefore, to present my personal view of Chinese law in order that the truth and essence of this case might be as clear as possible, for the aforesaid newspaper reports contain many unclear, incorrect or self-contradictory points.

WHO IS LI AND WHAT IS THE BACKGROUND OF HER CASE?

Mr. Wren's special report stated:

Li Shuang, a 24-year-old avant garde artist, fell in love with Emmanuel Bellefroid, a 33-year-old French Embassy attaché, and they became engaged. Friends here say that the couple

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This article was written in January, 1982 on the basis of a speech made by the author at Harvard Law School.

1. N.Y. Times, Nov. 13, 1981, at 36, col. 1. See App. 1.

2. *French Diplomat Says China Holds His Fiancée*, N.Y. Times, Sept. 13, 1981, at 5, col. 6. See App. 2.

were promised by the Chinese that they could get married. . . . On Tuesday the authorities disclosed that Miss Li had been sentenced to two years of "re-education through labor" in a penal institution. . . . Mr. Bellefroid was separated from his wife

This account contains much misunderstanding, misstatement and inexactitude.

Who is Li? As Chinese reports say, she was originally an art designer for the China Youth Arts Theater. After resigning in January 1981, she became an unemployed vagrant and woman hoodlum. She had no regular employment for a long time, and instead engaged in indecent activities, offensive to public morals, thus affecting social order. It is especially necessary to point out that she refused to mend her ways in spite of the repeated admonitions of authorities. Heedless of the consequences, she moved flagrantly into Bellefroid's apartment and lived with him for two months, taking advantage of his diplomatic privileges to protect herself. As a result, in accordance with the provisions of Chinese law, she was detained and subjected to two years of rehabilitation through labor (RHTL) by a Chinese judicial organ and according to correct judicial procedure. Since then, Bellefroid has incited a large-scale outcry about this case, distorting the facts and attacking the perfectly correct actions of the Chinese authorities.

Here, a word about the strict distinction between illegal sexual relationships and lawful love and marriage may be quite necessary. As we know, first of all, the People's Republic of China is a socialist country. The state requires each citizen to live by his own work, so long as he is able to work, and to observe public order and social morals. The Constitution of the PRC confirms many kinds of freedom, such as, *inter alia*, freedom of speech, correspondence, the press, assembly, association, and even freedom of demonstration and freedom to strike. But it has never provided for so-called "individual freedom" for immoral and unlawful corruption of sex. Quite to the contrary, all immoral and unlawful sexual activities are condemned by the public and, if the circumstances are serious, are punishable by law. Undoubtedly, all honest and upright persons in the world, including all fair-minded humanitarians and human rights advocates should never consider "freedom" of adultery or of prostitution as a proper kind of freedom to individuals or as a proper part of human rights to citizens, because it is universally acknowledged that these activities offend public morals, and harm and endanger national health.

Second, since the smashing of the "Gang of Four," contacts between the peoples of China and other countries have increased. Most foreigners are true friends of the Chinese people. They continue to work hard to accelerate the cultural and economic exchanges between

China and other countries. But a few foreigners inherit the insulting attitude of old colonialists and mistakenly consider the new China to be still the old China — a semi-colony, a paradise for the foreign adventurers — where sexual enjoyment and dissoluteness can be obtained at will. They go in for bullying the Chinese under the cover of various garbs.

Unfortunately, a few Chinese girls, dazzled by the display of wealth of some foreigners, disregard national dignity and forfeit national character and their own personality, by selling their own souls and bodies. In other words, they engage in prostitution, or prostitution in disguised form. As everyone knows, prostitution, strictly banned since 1949, has disappeared from the Chinese mainland. Its recrudescence in a very few cities, especially that which occurs *under the flagrant protection of foreigner's powerful position or certain privileges of a foreigner* and thus despises and mocks the *sanctity of Chinese Law*, seriously injures the national self-respect of the Chinese people and enrages them, because it has brought back the painful memories of the colonial humiliations that they suffered for more than one hundred years before 1949. They do wish to prohibit sternly this phenomenon in its re-sprouting stage as soon as possible.

This is an important part of the background of Li's case. If we view this case against such a background, together with other factors, we can easily understand why the Chinese authorities handled this case in such a serious manner. This strictness accurately reflects the common will of the Chinese people and meets with their full support.

Of course, it is not difficult to imagine that the same situation would probably be viewed quite differently in some Western countries because of the difference in history, culture, social system and concepts of morality. But I am sure that all foreign friends can understand that the Chinese have had to review their bitter experiences of the past, which are full of untold tribulations, trappings, violations and insults imposed on the Chinese people by colonialists and imperialists. They must also, therefore, fully understand and willingly respect the proper national feelings of the Chinese people.

WHAT LAWS DID LI VIOLATE AND WHAT CRIME DID LI COMMIT?

Since Li is a citizen of China and her illegal activities occurred in China, it is entirely proper for China, a sovereign state, to handle the violation of law by Li according to Chinese law, treating it as a purely internal affair. This common sense choice of law seems to have been forgotten by many, so we must re-emphasize it as a prerequisite to analyzing this case.

My own speculation is that Li may have violated the following laws of China: First, she may have violated the Security Administra-

tion Punishment Act of PRC.³ Article 5 provides: "A person who commits any one of the following acts disrupting public order shall be punished by detention, fine or warning." One of the acts listed in section 8 is "engaging in prostitution or having sexual relations with a woman secretly engaged in prostitution in violation of the government order repressing prostitutes."⁴ As an important addition, Article 30 further provides: "After their punishment has been completed, persons who are habitual loafers, do not engage in proper employment and repeatedly violate security administration may be sent to organs of RHTL if they require such rehabilitation."⁵

Second, she violated the Decision of the State Council of the PRC on Rehabilitation Through Labor.⁶ Article 1 of this decree provides: "The following kinds of persons shall be taken in and their RHTL shall be carried out: (1) Those who do not engage in proper employment, behave like hoodlums, . . . violate security administration and refuse to mend their ways despite repeated admonitions."⁷ In 1979, a Supplementary Regulation was promulgated, in which Article 3 added, "The time period for RHTL is from one to three years . . . Holidays and Sundays shall be days of rest."⁸

Mr. Wren's report said that the statement issued by the Chinese Embassy in France on November 12 last year "did not say what crime Miss Li had committed." Of course not. The Embassy's statement was not a written verdict or judgment, and so it did not need to list, one by one, the details of the charges and to cite the relevant laws. But the commentary issued by *Xinhua Reporter* on November 14 last year had already clearly pointed out that Li was sent to RHTL for two years in accordance with Article 1 of the State Council's "Decision on Rehabilitation Through Labor."⁹

Then, did Li violate the current Criminal Law of the PRC? To

3. Passed at the 81st Meeting of Standing Committee of the National People's Congress, Oct. 22, 1957; promulgated on the same day.

4. THE POLICY AND LAW RESEARCH SECTION OF THE PUBLIC SECURITY MINISTRY OF THE PEOPLE'S REPUBLIC OF CHINA: A CORPUS OF PUBLIC SECURITY LAWS AND REGULATIONS (1950-1979) 114, Mass Press, Beijing (1980) [hereinafter cited as PUBLIC SECURITY LAWS]. See also 22 XINHUA BANYUEKAN 82 (1957).

5. PUBLIC SECURITY LAWS, *supra* note 4, at 121.

6. Approved at the 78th Meeting of the Standing Committee of the First Session of the NPC, Aug. 1, 1957; promulgated by the State Council, Aug. 3, 1957.

7. PUBLIC SECURITY LAWS, *supra* note 4, at 391. See also 17 XINHUA BANYUEKAN 195 (1957).

8. Supplementary Regulations of the State Council on RHTL. Approved at the 12th Meeting of the Fifth Session of the NPC, Nov. 29, 1979; promulgated by the State Council on the same day. See PUBLIC SECURITY LAWS, *supra* note 4, at 393. See also 11 XINHUA YUEBAO 12-13 (documents ed. 1979).

9. Commentary by Xinhua Reporter, *A Big Fuss Over a Trifle*, GUANGMING DAILY, Nov. 15, 1981.

answer this question it is necessary to point out both of the following: 1) In the light of reports that I have read, the Chinese government did not consider Li's behavior a crime violating the Criminal Law and therefore did not punish her according to that law, but disposed of this case pursuant to the Decision on RHTL. This point has been mentioned previously and will be developed further in Part Three of the present article. 2) Whether Li's activities violated the Criminal Law depends upon the marital status of Bellefroid: when he was living with Li, was he single, married, widowed, divorced, or only separated? Mr. Wren reported: "Bellefroid was separated from his wife." But at the beginning of the same report, he said that Bellefroid and Li "became engaged . . . [and] were promised by the Chinese that they could get married."¹⁰ Isn't this contradictory? As everyone knows, "separated" is a marital status substantially different from "divorced." Even in the legal provisions and official documents of the United States, the former has always been strictly distinguished from the latter.¹¹ It is obvious that "divorced" means the death of the legal marital relationship, while "separated" means the legal marital relationship is still alive, but that each spouse lives apart from the other. How could a husband, then, having a lawful wife, legally "become engaged" to another woman and call the latter his "fiancée"? How could they be "promised by the Chinese that they could get married" legally? Thus, if Mr. Wren's version is correct, Bellefroid and Li were committing the crime of bigamy.¹²

One might argue that Li didn't marry Bellefroid, but merely lived together with him for two months, therefore, she didn't commit bigamy. True, according to the Marriage Law of the PRC (1980), a marriage, to be legal, must be registered at the marriage registration office and a marriage certificate must be issued.¹³ But there are many cases in which a man or a woman having a legal spouse, lives with another person of the opposite sex, not only secretly committing adultery, but openly treating each other as husband and wife without a second marriage registration. In judicial practice, these cases have always been considered *de facto* bigamy and have been punished as bigamy, so as to

10. *Supra* note 1. The other report, published Sept. 13, 1981 also stated that Li was Bellefroid's "fiancée." See *supra* note 2.

11. For instance, such a distinction also appears in the 19th column of the Non-immigrant Visa Application issued by the U.S. Embassy in China.

12. Article 180 of the Criminal law provides: "Whoever has a spouse and commits bigamy or whoever marries another person clearly knowing the other has a spouse shall be sentenced to not more than two years of fixed-term imprisonment or to criminal detention." Criminal Law of the PRC. See RENMIN RIBAO (People's Daily), July 7, 1979. See also 6 XINHUA YUEBAO 77 (documents ed. 1979).

13. See article 7 of Marriage Law of the PRC (1980), RENMIN RIBAO, Sept. 16, 1980. See also 9 XINHUA YUEBAO 61 (documents ed. 1980).

control this crime more effectively. These practices have already been summed up in a generally recognized principle accepted in the recently published *Legal Dictionary*¹⁴ and also adopted by the authoritative weekly, *ZHONGGUO FAZHI BAO* (Chinese Legal System Reports).¹⁵

Contrasted with these practices, we may say that Li's openly living together with Bellefroid inside the diplomatic compound for two months (had Mr. Wren's narration about Bellefroid's marital status at that time been correct) would have already constituted a crime of bigamy in fact.

Certainly, I should add that if Bellefroid had *actually* gone through the formalities of divorce with his French wife before Li publicly lived together with him, Li would not have been committing bigamy in fact, but her relationship with Bellefroid, as a whole, would still have been considered hoodlumish and meretricious.¹⁶

A WET BLANKET, A BIG STICK, OR A LIFE BUOY?

Mr. Wren reported that in China, "the authorities have warned Chinese citizens against mixing with foreigners. . . . While she (Li) was obviously used as an example for other couples, it is uncertain whether the case represents a more significant crackdown against the intellectual nonconformity." These ambiguous comments confuse the normal,

14. "Bigamy: A man or a woman who already has a spouse and does not go through formalities of divorce, marries another person via marriage registration; or although not via such a registration yet lives together with the other, factually treating each other in the relationship of husband and wife." *THE LEGAL DICTIONARY* 521, Shanghai Dictionaries Press (1980).

15. See *Did He Commit a Bigamy?*, *ZHONGGUO FAZHI BAO*, Oct. 2, 1981, at 3: Concretely to say, bigamy means that a man or a woman who already has a spouse, registeredly marries another person again before his/her spouse has died or before their marriage relationship has been legally terminated; or, although (he or she) has not yet initiated any marriage registration again, yet lives together with the other factually in the status of husband-and-wife relationship, it thus constitutes a factual marriage.

Id.

16. Another source said: Bellefroid met Li Shuang at an art exhibition in Beijing in September 1980. As Bellefroid put it, "It was love at first sight." At the time Bellefroid's wife was working in the AFP office in Beijing. Up to May, 1981 Bellefroid applied to the Chinese authorities concerning his intention to marry Li Shuang and produced a certificate of his divorce. At the time, Li Shuang's indecent behavior for several months had already seriously interfered with social order, and had made the masses extremely angry. The departments concerned obviously could not approve the marriage of Li Shuang to Bellefroid while her hoodlum case was pending. Then, in spite of repeated admonitions, she flagrantly moved into Bellefroid's apartment and lived with him for two months, taking advantage of his diplomatic privileges to protect herself. Hence, in accordance with Chinese law, Li was detained in September 1981, and was sent to RHTL in November 1981. See *Zhongguo Xinwen She*, Feature, U.S. Department of Commerce: FBIS. Daily Report — China, Nov. 16, 1981, G2.

legal contacts between the Chinese and foreigners with the abnormal, illegal ones. They also confuse problems of law with those of politics, and mistake an attempt to rehabilitate for persecution and intimidation.

It is common knowledge that Chinese are never blindly xenophobic, never indiscriminately opposed to things and persons foreign, and have never objected to normal and legal contacts, including normal and legitimate marriages between Chinese and foreigners. We can cite many examples to illustrate this. There is no need to list the couples who have been married throughout the years. The recent happy marriage between another diplomat of the very same French Embassy in Beijing, Christian Galliano, and a Chinese woman, Zhao Jiang, last October, speaks sufficiently for Chinese allowance of the matrimony between the Chinese and foreigners. This marriage, I am glad to say, has been reported objectively in Mr. Wren's article.

Regrettably, Bellefroid's case was quite different from Galliano's. Taking advantage of his diplomatic privileges, including the immunity of judicial jurisdiction,¹⁷ Bellefroid paid no heed to the statutes and codes of the host country to which he was accredited, and behaved in a way incompatible with his diplomatic status. Together with Li Shuang, he transgressed the above-mentioned Chinese laws and *abused* his diplomatic privilege of residence inviolability¹⁸ to harbor and shield Li. Why do I say "abused"? Because the Vienna Convention on Diplomatic Relations expressly provides: "Without prejudice to their privileges and immunities, it is the *duty* of all persons enjoying such privileges and immunities to *respect* the laws and regulations of the *receiving State*. They also have a duty not to interfere in the internal affairs of that State."¹⁹ And, of course, the private residence of a diplomat as well as the premises of the mission "*must not be used in any manner incompatible with the functions of the mission* as laid down in the present Convention or by other rules of general international

17. Vienna Convention on Diplomatic Relations, *done at Vienna* April 18, 1961, 23 U.S.T. 3227, T.I.A.S. No. 7502, 500 U.N.T.S. 95 [hereinafter cited as Vienna Convention]. "The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention." *Id.* art. 29. "A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State." *Id.* art. 31. As of January 1, 1981, one hundred and forty-eight nations including the People's Republic of China, France, United Kingdom, United States and the U.S.S.R. were parties to the Convention. TREATIES IN FORCE—A LIST OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES IN FORCE ON JANUARY 1, 1981 (1981).

18. See Vienna Convention, *supra* note 17, art. 30 which provides: "The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission." *Id.* art. 30, sec. 1. The treaty provides in advance that: "The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission." *Id.* art. 22, sec. 1.

19. *Id.* art. 41, sec. 1.

law."²⁰

In the event a diplomat abuses his diplomatic privileges and thereby violates the law of the receiving State, the host sovereign State is entitled, according to the principles of international law, to take harsh action against the law-violating diplomat, such as making public all facts concerning his (such as Bellefroid's) disreputable behavior, pronouncing him a *persona non grata* and deporting him.²¹ But the Chinese government refrained from doing this out of respect for the Sino-French friendship. This is why the Chinese authorities limited themselves only to punishing a law-violating citizen of their own, in accordance with their internal law.

Bellefroid, however, requited kindness with ingratitude. He and his friends wantonly attacked China's handling of the Li Shuang case as a "cracking down" on intellectuals, "suppressing liberalization" and as an indication of "a change of policy in China." This hullabaloo of slander and fabrication, of entirely random accusations, is obviously intended to create confusion, so as to cover up Bellefroid's activities, which were extremely incompatible with his diplomatic status, and to divert public attention. In a word, Bellefroid tried hard to whitewash and prettify himself by confusing legal problems with politics: embellishing and beautifying Li's indecent law-violating behavior as so-called "political liberalization," and calumniating a proper legal punishment of Li as so-called political "cracking down" on intellectuals.

This is nothing but a smoke-screen! Those with discerning eyes can see the essence of it at first sight. Someone ignorant of the real facts, but without prejudices, perhaps even Mr. Wren, would gradually come to see the truth clearly, even through Bellefroid's smoke-screen.

I must also say a few words about the procedure and nature of the RHTL that Li has been subjected to. Many may assume that no procedure for RHTL existed before the decision was made against Li because they didn't find it in the narration of the said report. But, as the statement issued by the Chinese Embassy in France noted, Li was subjected to two years of RHTL "by a Chinese judicial organ according to judicial procedure."²² In accordance with the Supplementary Regula-

20. *Id.* art. 41, sec. 3.

21. *Id.* art. 9.

The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is *persona non grata* or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission.

Id.

22. See *PRC Paris Embassy Clarifies Li's Reeducation*, U.S. Department of Commerce: FBIS, Daily Report — China, Nov. 13, 1981, G1.

tions on RHTL promulgated in 1979, when a person is to be subjected to RHTL, the matter shall be considered and approved (on the basis of a full investigation, of course) by the "Administrative Committees for Rehabilitation Through Labor." These Committees are established in the provinces, as well as the large and medium cities, and are composed of responsible persons of the civil administration, public security and labor departments. All activities of RHTL organs must be "supervised" by the peoples procuracies.²³

Certainly, no one should criticize Mr. Wren too harshly for his failure to outline the RHTL procedure in his report. We understand that it is impossible to include everything in a short special report and that he might not have been familiar with the procedure involving RHTL. Even if he were, he had not been accorded the opportunity to be present at the interrogation proceedings.

As to the last point, according to the Criminal Procedure Law of the PRC, though all cases shall, in general, be publicly tried by people's court, those "cases involving state secrets or the *shameful secrets of individuals* shall not be tried and heard in public."²⁴ On such occasions, i.e., in cases where the state secrets, personal reputation, or public morality and the fresh air of the community are felt to be at stake, attendance is denied to both ordinary Chinese and foreigners (including foreign newsmen and reporters). These persons are neither interested parties to the action, nor witnesses, nor are they persons who are ordinarily allowed entry into the courtroom: close relatives and friends of the actual parties, legal counsels, jurors, judges and court officers and other persons having business with the court in the case.

Indeed, Li's case was not considered a criminal one and therefore was not tried strictly according to the Criminal Procedure Law; nevertheless, it is obvious that the fundamental spirit of the aforesaid provision should be applicable since it would have been applied to a case such as Li's.

In this regard, some American friends have raised important questions: Even though those cases that are not heard and tried in public are exceptional and may be few in number, don't they nonetheless in-

23. See Supplementary Regulations of the State Council on RHTL, art. 1, 2, and 5. Article 5 provides, "the people's procuracies shall exercise supervision over the activities of the organs of rehabilitation through labor." See also 11 XINHUA YUEBAO 13 (documents ed. 1979).

24. See RENMIN RIBAO, July 8, 1979, and 6 XINHUA YUEBAO 79, 88 (documents ed. 1979). Article 8, "the people's courts shall try and adjudicate all cases in public unless otherwise provided by this law. Defendants have a right to obtain defense, and the people's courts have a duty to guarantee that defendant's obtain defense." Art. 111, "the people's courts shall try and adjudicate cases of the first instance in public. However, cases involving state secrets or the shameful secrets of individuals shall not be tried and heard in public."

fringe upon and injure freedom of the press? And even more important, do not such exceptions pose the threat that defendants may be treated unjustly when the court's actions are not subject to public scrutiny?

These are very interesting and significant questions, worthy of further discussion. And, as people are well aware, these issues themselves are not only debatable, but have been debated in legal circles in the United States too. The exceptions to public trial is a subject that requires in-depth research and analysis, and can comprise many treatises in itself. Here we may only point out that in the United States there exist *principles* and *exceptions* with regard to public trials that are considerably similar to those of China.

For example, as a general principle, the United States Constitution provides in its First Amendment that the "Congress shall make no law abridging freedom of the press." Furthermore, the Sixth Amendment provides: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial"; and section 1 of the Fourteenth Amendment provides that no state shall deprive any person of life, liberty, or property without "due process of law." In short, freedom of the press and the defendant's right to a public trial both are generally protected by the Constitution against deprivation by federal and state authorities.²⁵

On the other hand, however, the judicial practices of the United States show that *neither* freedom of the press *nor* the defendant's right to a public trial is *absolute*, but that each must be balanced against other interests that might justify closing the courtroom to the public and the press. Various state interests have been held to be sufficiently compelling to justify the total or partial exclusion of the public and the press *even over the defendant's objections*. Such interests have included protecting young victims and complaining witnesses in rape cases;²⁶ preventing the revelation of an undercover agent's identity;²⁷ avoiding disclosure of a corporation's trade secrets;²⁸ and preserving the confidentiality of anti-skyjacking procedures,²⁹ etc. Moreover, according to these cases, total or partial exclusion of the public and the press is not without constitutional foundation.

Additionally, the defendant often prefers to waive his right to a public trial and even on his own initiative asks for a closed or partially

25. See *In Re Oliver*, 333 U.S. 257, 272-73 (1948).

26. See *Geise v. United States*, 262 F.2d 151, 151-57 (9th Cir. 1958), *cert. denied*, 361 U.S. 842 (1959).

27. See *United States ex. rel. Lloyd v. Vincent*, 520 F.2d 1272, 1272-76 (2d Cir. 1975), *cert. denied*, 423 U.S. 937 (1975).

28. See *Stamicarbon v. American Cyanamid Co.*, 506 F.2d 532, 532-42 (2d Cir. 1974).

29. See *United States v. Bell*, 464 F.2d 667, 667-76 (2d Cir. 1972), *cert. denied*, 409 U.S. 991 (1972).

closed one in order to protect himself from sensationalism in the press, public favor, and any possibility of an unfair trial that may result therefrom.

Surely the right of access of the public or the press to judicial proceedings is of no greater constitutional moment than the defendant's right to a public trial. Thus, the former right might similarly be overridden in circumstances like those listed above.

Reviewing these legal provisions and judicial precedents, we may get a preliminary impression that with regard to the problem of public trials, the legislature or judiciary must carefully assess and *balance* the different *competing interests* in general, or in each particular case, attentively consider the advantages and disadvantages, so as to precisely carve out the properly principled exception that will be *fair and equitable* for the society, the state and the individuals concerned.

Finally, in addition to the closed trial issue, it is essential to further explain the nature and features of RHTL, to which Li has been subjected.

RHTL is not a penalty in the proper sense, but rather a form of education by compulsion. As everyone knows, the PRC is a socialist state. Its Constitution provides: "Work is an honorable duty for every citizen able to work"; the state applies the socialist principle: "He who does not work, neither shall he eat." Citizens must "observe labor discipline, observe public order, respect social ethics."³⁰ On the basis of this constitutional spirit, the RHTL system was established in order to reform those persons who have the capacity to work, but who loaf, violate law and discipline, and do not engage in proper employment. RHTL transforms them into new persons who support themselves by their own labor. Further, RHTL preserves public order and benefits socialist construction. In accordance with the express provisions of the relevant decree, the RHTL is "a measure of a coercive nature for carrying out the education and reform of persons receiving it. It is also a method of arranging their getting employment." Persons who receive RHTL shall "study labor and production skills and *cultivate the habit of loving labor*," so as to "have the conditions of getting employment." During the period of RHTL, they "shall be paid appropriate wages in accordance with the results of their labor." Moreover, consideration may be given to deducting a part of their wages in order to "provide for the maintenance expenses of their family members or to serve as a reserve fund that will enable them to have a family and an occupation."³¹

These provisions show that the RHTL quite differs from the "re-

30. Arts. 10, and 57. See REMNIN RIBAO, March 8, 1978.

31. PUBLIC SECURITY LAWS, *supra* note 4, at 392. See also 17 XINHUA BANYUEKAN 195 (1957).

form through labor" of Criminal Law in two main aspects: 1) The latter is an important part of fixed-term imprisonment, a kind of criminal punishment—penalty; and the former is not a simple penalty in its proper sense, but a coercive educational and professional-training measure; 2) The latter forced labor is without any pay, whereas the former enjoys appropriate wages.

This long-held practice in China has proved that the system of RHTL is especially effective in remolding and redeeming delinquent and sinking youths into people useful to the society. Both the active, and beneficial role played by this system and the revolutionary humanitarian spirit embodied in it have been recognized by many noted international jurists and scholars who have visited RHTL centers in China.

Thus, anyone without prejudice and bias would certainly come to the conclusion that what the Chinese authorities have done to Li is neither a wet blanket over romantic love, nor a big stick on intellectual nonconformity, but a *life buoy* for the sinking person!

APPENDIX 1

N.Y. TIMES, NOV. 13, 1981, AT 36, COL. 1.

CHINA JAILS WOMAN FOR AFFAIR WITH FRENCHMAN

By CHRISTOPHER S. WREN

*Special to The New York Times**

Peking, Nov. 12— The Chinese Government has been trying to justify to the West the sentence it imposed on a Chinese woman who was arrested, after she began living with a French diplomat in a compound for foreigners here.

Li Shuang, a 24-year-old avant garde artist, fell in love with Emmanuel Bellefroid, a 33-year-old French Embassy attaché, and they became engaged. Friends here say that the couple were promised by the Chinese that they could get married.

But on Sept. 9, after living for two months in Mr. Bellefroid's apartment, she was seized and taken away by plainclothes policemen at the entrance to the San Li Tun diplomatic compound while Mr. Bellefroid was in Hong Kong. He has since returned to France.

On Tuesday the authorities disclosed that Miss Li, who had not been heard from for two months, had been sentenced to two years of "re-education through labor" in a penal institution.

French Official Angered

The case took on wider implications because France's Foreign Trade Minister, Michel Jobert, was meeting officials in Peking when the two-year sentence was disclosed. Mr. Jobert reportedly tried to intervene for the couple with senior officials, including Deng Xiaoping and Prime Minister Zhao Ziyang, but was told that the matter was China's internal affair.

According to French sources here, an angry Mr. Jobert canceled a news conference and the last two technical meetings on his schedule and left Peking the same evening. One source reported that Mr. Deng called it a "regrettable coincidence" that Miss Li's sentence was disclosed while the French official was visiting Peking.

Today the official New China News Agency issued a statement prepared for Chinese embassies in Paris and elsewhere giving Peking's version of the affair.

"The problem is not a problem of marriage between Li Shuang and Emmanuel Bellefroid, as someone said, but her violation of the

Chinese law," according to the statement, which was also provided here by the Foreign Ministry to some Western reporters.

Exact Crime Not Specified

The statement did not say what crime Miss Li had committed. But the authorities have warned Chinese citizens against mixing with foreigners. In Peking, foreign residents are assigned to walled off, segregated apartment that are guarded by soldiers. At public restaurants, foreigners are usually steered to separate dining rooms away from other customers.

But while such contacts, and marriages, are discouraged, they are not impossible. Today's statment took note of another staff member at the French Embassy, Christian Galliano, who last month was allowed to marry a Chinese woman, Zhao Jiang. In an earlier case this year, a Canadian was allowed to marry a dancer.

Some foreign residents here familiar with Miss Li's case believe that she outraged Chinese officials, who in general hold puritanical views, by moving into Mr. Bellefroid's apartment, thereby flouting Communist strictures against fraternization and extramarital sex. Mr. Bellefroid was separated from his wife, who returned to France.

Moreover, Miss Li was prominent in an avant garde group of Peking artists who had flirted with political dissidence. While she was obviously used as an example for other couples, it is uncertain whether the case represents a more significant crackdown against the intellectual nonconformity.

The New China News Agency statement indicated that the Chinese are discomfited by the uproar that the incident has created in France, where Mr. Bellefroid is living.

"It is entirely proper for China, a sovereign state, to handle the violation of law by Li Shuang according to Chinese law," the statement said. "It has nothing to do with the relations between China and France. We are sure that our French friends will and can understand China's handling of this purely internal affair."

APPENDIX 2

N.Y. TIMES, SEPT. 13, 1981, AT 5, COL. 6.*

French Diplomat Says China Holds His Fiancée,

Peking, Sept. 12 (AP) — A French Diplomat said today that the police were holding his Chinese fiancée.

Emmanuel Bellefroid, 33 years old, an attaché at the French Embassy, said he returned from abroad Thursday and learned that Li Shuang, had been seized Wednesday outside the foreigners' compound in which they live.

Mr. Bellefroid said the police refused to see him when he went to explain that Miss Li had been in his apartment legally. She was seized as she was leaving the compound to meet her sister, the diplomat said. Chinese are allowed inside the compound only with special passes or in the company of a foreigner.

