

Discrimination Faced By Lesbian, Bisexual and Transgender Women in China

Submitted by China LBT Rights Initiative

This brief report is based on the joint research by community-based organizations that work in China for the rights of lesbian, bisexual and transgender (LBT) women. An overview of the situation, challenges and recommendations are made surrounding four issues on the discrimination against LBT women in China:

1. Violence against women, especially family violence;
2. Health, especially mental health;
3. Employment;
4. Marriage, especially binational same-sex marriage (or similar partnership).

Issue 1: Violence against women

Overview:

LBT women in China face severe violence from their families. In 2009, Chinese civil society organization Common Language conducted a survey that revealed 48% of participants were victim to violence from family members as a result of exposed sexual orientation. The violence reported in the 2009 survey took the form of involuntary captivity, battery, economic control, forced marriage, marital rape, and sexual violence perpetrated by family members.

Due to pervasive discrimination and stigma against lesbians and gays in Chinese society, LBT women face extreme social pressures, leading to high rates of intimate partner violence. In the afore-mentioned 2009 survey, 46% of participants had experienced violence from a same-sex intimate partner. The violence reported in the survey took the form of threats, involuntary captivity, battery, self-mutilation, economic control and etc. Due to limited social support, LBT women who are survivors of violence find it difficult to access adequate services; in fact, in the process of reaching out to local Women's Federations or police departments, some survivors were again discriminated against on the basis of their sexual orientation.

Challenges:

1. Lack of national "anti-family violence law"; in local anti-violence laws, lack of inclusion of protections for LBT women.
2. Lack of accurate information and understanding of the needs of LBT women among relevant department representatives (Women's Federation, police, state prosecutors, judges); limited capacity of these departments to prevent and/or intervene in instances of family violence against LBT women.

Recommendations:

1. Draft and pass national-level anti-family violence law that includes protections for same-sex intimate partner violence.
2. Require relevant department personnel to undergo training that educates on the

unique violence that LBT women face from the family and in same-sex relationships; ensure that the rights of LBT women are protected in the process of implementing the law.

Issue 2: Health

Overview:

Due to weak standards of medical practice, inadequate education about sexual and gender minorities, and general ignorance and bias surrounding sexual orientation and gender identity among medical personnel, LBT women are unable to access appropriate psychological and physiological medical care in China. Some doctors and medical practitioners view sexual orientation as a “condition” that can be “cured”; often, this type of treatment is conducted under the pressure and insistence of parents, resulting in involuntary commitment to psychiatric wards with the intent to “correct” sexual orientation through “conversion therapy.”

In 2001, the third edition of the Chinese Classification of Mental Disorders (CCMD-3) removed homosexuality and bisexuality from the mental disorder category; however, the CCMD-3 retained a category of “ego-dystonic homosexual” to describe people who are unable to accept their same-sex attractions. This effectively creates a loophole for “treatment”, and is a category not found in the World Health Organization’s 10th edition of the International Statistical Classification of Diseases and Related Health Problems (ICD-10). Furthermore, China’s mental health educational and information materials still commonly describe homosexuality as a perversion, despite the 2001 revision to the CCMD. These factors and general bias lead to the common practice of “conversion therapy” among psychiatrists and psychotherapists throughout the country.

Challenges:

1. China retains the category of ego-dystonic homosexuality in the CCMD, distancing itself from international standards.
2. Psychiatrists and psychotherapists lack updated and accurate scientific information about sexual orientation and gender identity.
3. Ineffective supervision and implementation of the “People’s Republic of China Mental Health Law”.
4. Ineffective supervision and revision of relevant educational materials containing information concerning sexual orientation and gender identity.

Recommendations:

Revise the Chinese Classification of Medical Disorders to completely depathologize homosexuality and bisexuality; adhere to international standards.

1. Strictly implement the “People’s Republic of China Mental Health Law” (2013)¹; put an end to involuntary commitment of LBT women into

¹ See “People’s Republic of China Mental Health Law” Article 30: Voluntary principle for mental disorder hospital treatment.

- psychiatric wards and any “treatment” that takes conversion of sexual orientation as its mission.
2. Require relevant medical personnel to undergo training that educates on the unique psychological and physiological needs of sexual and minority women, and disseminate accurate information regarding sexual orientation and gender identity; ensure that the rights of LBT women are protected in the process of receiving medical care.
 3. Rectify and replace any educational materials that do not meet international and national standards for treatment of sexual orientation and gender identity.

Issue 3: Employment

Overview:

LBT women in the workplace in China face discrimination based on sexual orientation and gender expression. Examples include discrimination in hiring against out lesbian and bisexual women; discrimination in hiring against gender-non-conforming individuals (clothing and/or mannerisms that do not match traditional female gender expression); termination of employment after disclosing sexual orientation and/or gender identity, etc.

According to Chinese law, post-operative transsexuals are entitled to update their gender identity on household registration and identity cards; however, transsexuals are unable to update their gender identity on academic records or other crucial documents. The lack of congruency of identity cards and academic records causes many employers to distrust or discredit potential job candidates who are transsexual.

Challenges:

Relevant labor laws do not contain non-discrimination provisions for sexual orientation and gender identity.

Recommendations:

1. In the “People’s Republic of China Labor Law”² and “People’s Republic of China Employment Promotion Law”³, add non-discrimination protections for sexual orientation and gender identity and expression.
2. Draft and pass national-level employment non-discrimination law that encompasses broad protections for any discrimination based on identity or status.
3. Establish an “equal opportunity commission” to supervise and monitor relevant employment discrimination appeals and emergency assistance.

² See “People’s Republic of China Labor Law” Article 20: Laborers shall not be discriminated on the basis of ethnicity, race, gender, and/or religious faith.

³ “People’s Republic of China Employment Promotion Law” Article 3: In accordance with the law, laborers will receive equal employment rights. Laborers shall not be discriminated in employment on the basis of ethnicity, race, gender, and/or religious faith.

4. Enable post-operative transsexual individuals to update all relevant identity documents, including academic records; standardize the process of document updating for transsexuals.

Issue 4: Marriage

Overview:

As more nations throughout the world recognize marriage equality or equivalent partnership status for same-sex couples, there has been an increase in Chinese LBT women that have entered same-sex marriages in foreign countries, and/or reproduced or raised children in foreign countries with a same-sex partner. China's current laws do not recognize same-sex marriage, so these Chinese LBT women in binational same-sex marriages are not protected by law; for example, foreign partners are denied spousal visa, lack of right to inheritance, lack of child custody rights, lack of hospital visitation rights, lack of social welfare etc.

Challenges:

China does not recognize Chinese women who have entered same-sex binational marriages (or other similar partnership), thereby not protecting the rights of these women.

Recommendations:

1. Legally recognize Chinese women who have entered same-sex binational marriages, and protect the rights of both individuals.
2. Strengthen legal research about China's sexual and gender minorities; legally protect the marriage and family rights of sexual and gender minorities.