

Sexual Orientation and Gender Identity and Expression (SOGIE) Rights in China Fact Sheet

China does not have any explicit protection nor anti-discrimination law or policy towards SOGIE rights and lacks a comprehensive anti-discrimination law

The Most Often Violated Rights

- The right to freedom from discrimination
- The right to freedom from violence
- The right to work
- The right to health
- The right to physical and mental integrity
- The right to education

Positive Advances

Legislation and Policies

The enactment of Anti-Domestic Violence Law in 2016 enables individuals with diverse SOGIE to seek remedy when they experience domestic violence from their same-sex partners, as it is inclusive of protection for people who cohabit without specifying gender.

Since 2016, administrative regulations of multiple level have been adopted by the Chinese government which specifically target on the prevention of the prevalence of bullying and violence in schools.

Access to Justice

In 2017, the judgment handed down by the Guiyang Intermediate People's Court in a controversial case of employment discrimination finding that workers must not experience differential treatment because of gender identity.

In 2017, a court in Zhumadian city, Henan province, ordered a city psychiatric hospital to publish an apology and to pay compensation to a gay man who had been forcibly admitted to the institution for "conversion treatment" in 2015.

Challenges in Key Issues

Employment Equality

A 2016 [survey report released by UNDP](#) reveals that 21% of LGBT respondents were subjected to different levels of discriminatory treatments in the workplace due to their SOGIE. A 2017 report on Chinese transgender people indicates that 11.87% of the transgender respondents were unemployed.

School Violence and Bullying

Current school violence prevention regulations have not covered SOGIE-based discrimination, bullying, and abuse. A 2016 [UNDP survey](#) revealed that 39.6% of the LGBT respondents were subjected to different levels of discriminatory treatments in the school settings because of their SOGIE. A 2017 [report focused on transgender](#) persons indicates that 70.8% of the respondents reported suffering from verbal abuse and other forms of violence in school.

Domestic Violence

A [2015 report](#) indicates that 42.64% lesbian and female bisexual respondents had been violently treated or abused by their same-sex partners. According to a report released by UNDP in 2016, over half of the respondents reported that they had been unfairly treated or discriminated against by their family members on the basis of SOGIE.

"Conversion Therapy"

According to a [2015 study](#), out of 532 psychiatrist and psychologist respondents who had provided service to LGBT clients, 14% admitted that they had conducted conversion therapy. A 2017 [survey report](#) on transgender people reveals that 11.9% out of 1640 respondents had been coerced to receive "conversion therapy" by their parents or guardians.

Legal Recognition of Gender Identity for Transgender People

The Chinese Classification of Mental Disorders still lists *transsexualism* as a mental illness or mental disorder. Transgender individuals are required to receive psychiatric or psychological treatment for at least one year before applying for gender affirming surgery. Even after they finish gender affirming surgery and change their gender marker on ID cards and household registrations, there is still great difficulties for transgender persons to change their gender marker on various other official documents, including university diplomas and other academic certificates.

Proposed Recommendations

1. Revise the Law on the Promotion of Employment, and the Law on the Protection of Rights and Interests of Women of the People's Republic of China to explicitly prohibit all forms of SOGIE-based discrimination in relation to anti-discrimination provisions to protect LGBT persons from different forms of violence and discrimination at the workplace, school, home, and other private and public spaces.
2. Implement the recommendations (186.89, 186.90) supported during the second cycle of the UPR, by adopting the proposed Employment Anti-Discrimination Law inclusive of SOGIE, and ensure that LGBT persons fully enjoy an equal and non-discriminatory treatment in the workplace, and with regards to employment issues (including recruitment) in general.
3. Issue a judicial interpretation of the Anti-Domestic Violence Law of the People's Republic of China through the Supreme People's Court to define "people living together with other than family members", articulated in article 37 of the law, as inclusive of same-sex partners.
4. Issue regulations, guidelines and/or notices in accordance with WHO standards to revise the existing psychiatric standards and norms regarding the classification and diagnosis of mental illness, and declassify transgender identity as well as ego-dystonic homosexuality and bisexuality as mental disorders.
5. Issue regulations to allow all transgender people to change their gender marker on school certificates and diplomas, including those who have already obtained school certificates and diplomas before their gender marker is changed on other official documents such as ID and/or household registration.

Proposed Advance Questions

What laws, regulations and measures are in place to ensure that the LGBT persons fully enjoy equal and non-discriminatory treatment in the workplace, and live free from the fear or risk of being fired and denial of employment or promotion when their sexual orientation is exposed, or when their gender identity and gender expression do not match expected social norms?

What steps is China taking to adopt a comprehensive Employment Anti-Discrimination Law inclusive of sexual orientation and gender identity and expression as a cause for discrimination?

China has made great achievements in the protection of individuals against domestic violence, for example, the enactment of Anti-Domestic Violence Law provides legal tools for combatting widespread domestic violence in the Chinese society. We noted that the article 37 of law has stipulated that this legislation also protects cohabitating partners other than family members against domestic violence, does it inclusive of the same-sex partners *who cohabitare* in the scope of protection? Could China provide a clear and precise interpretation of the stipulation and its consequences in the framework of combatting domestic violence?

Evidence shows that the practice of so-called conversion therapy still exists in China and that affects LGBT persons, harming their physical and psychological health and integrity, what measure are taken or plan to take by the government to protect people from the practice of conversion therapy that aims at changing one's sexual orientation and gender identity against one's will? Will China take steps to declassify gender incongruence (transgender identity) and ego-dystonic homosexuality and bisexuality as mental disorders in the existing China's psychiatric standards and norms regarding the classification and diagnosis of mental illness?

What laws, regulations and financial support are in place in order to ensure Chinese CSOs working on SOGIE-related issues can legitimately register as civil society organizations and carry out their programs with efficient support?

Will China take steps to lift the control over offering assisted reproductive technologies to unmarried women and protect equal reproductive rights for unmarried women?

Contact

Coalition for Advancing SOGIE Equality