



**Crisis Implies Possibilities:
A Delicate LGBTIQ Movement
in China**



Crisis Implies Possibilities: A Delicate LGBTIQ Movement in China

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This publication is commissioned by ILGA Asia - the Asian Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, representing more than 170 LGBTIQ organizations in East, South, Southeast, and West Asia. The document has been produced in consultation with member organisations and key partners as suggested by member organisations in the country. Permission to quote or otherwise use the information has been provided by the informants.

The analysis in the report is intended to recommend ILGA Asia to produce a strategic plan for 2021-2025. Positions in the report lie with the participants of the consultations and interviews, and do not reflect the values and viewpoints of the collective network.

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Executive Summary

From October 2020 to April 2021, we conducted the research for the purpose of understanding what has been done by LGBTIQ organizations in China over the last five years, the living conditions of Chinese LGBTIQ people, and the direction of where the movement is going in the future. In order to survive in the confined political and civil society space, we see a delicate movement landscape configured by LGBTIQ civil society organizations in China. Abundant strategies emerged during the research present us a tough yet lively picture of the Chinese LGBTIQ community.

It is tough because LGBTIQ people still encounter discrimination and marginalization from heteronormative society and State institutions in many aspects. There is limited visibility of LGBTIQ issues in social media, and online activism is in a vulnerable state due to strict censorship by the authoritarian government. The lack of marriage equality and legal recognition of same-sex relationship not only puts tremendous amount of pressure on LGBTIQ individuals, but also endangers their personal safety in cases of intimate partner violence. The State's control over citizens' bodies makes it difficult for LGBTIQ people to achieve their reproductive rights. Religious LGBTIQ individuals have to deal with possible discrimination from both sides of their communities and suppression from the authorities. Health issues like HIV/AIDS, are still a significant part of the movement. LGBTIQ youth are receiving education in unfriendly campus environments every day, and are at high risk of being exposed to school bullying based on their sexual and gender identities. Transgender people are struggling to live their life as they want and as their gender identity, while the needs and rights of non-binary people are invisible in the binary societal system.

There are indeed many challenges for improving the LGBTIQ situation in China, such as the grim political situation, the vulnerable legal status of civil society organizations,

and inveterate social values. Despite the bleak scenario, however, we have also seen opportunities for changing the situation. Through actively connecting with the international and transnational LGBTIQ community, as well as optimizing social media and economic globalization, we hope to foresee a better situation for Chinese LGBTIQ community. In the next five years, activists and civil society organizations will be focusing on legal rights advocacy, enhancing protection for LGBTIQ people against violence and discrimination, improving their mental/physical health and well-being, promoting gender education, and supporting transgender issues.





Introduction

Over the past years, issues surrounding LGBTIQ rights in China have ignited heated discussions in public spheres.¹ The work done by LGBTIQ activists and organizations laid the ground for an increasing awareness on issues concerning gender and sexuality, which has become significantly more visible in society. Although the debate of whether there is an LGBTIQ movement in the Chinese context exists among some advocates due to the strict controls over social mobilization and civil society under the authoritarian regime, Chinese LGBTIQ activism challenges the traditional imagination of “social movement”, which depends on collective action in public spaces.² It also contributes to the knowledge and our understanding of how a social issue could be developed and advanced through everyday resistance, whether overtly or covertly.³

For the purpose of understanding the living conditions of LGBTIQ people, what has been done by LGBTIQ organizations in China in the last five years, and the future direction of where the movement is going forward, we conducted this research. In order to have a general picture and thorough understanding of the Chinese LGBTIQ movement, both literature review and interviews are conducted as research methodology. We went through news reports and research papers on LGBTIQ movement in China from the past five years. In addition, we interviewed 13 people who were deeply involved in the movement and focusing on diverse issues. They are either currently working as the director or are core volunteers of the organizations located in different parts of China,⁴ or have been actively engaged in activism as an individual,

¹ In this report, we use “LGBTIQ” as an umbrella term for all nonheterosexual desires and noncisgender identities to keep it the same with other ILGA Asia reports.

² Notwithstanding the ongoing debate, we use “LGBTIQ movement” in the report to refer to all the work and advocacy done by LGBTIQ organizations.

³ This sentence is inspired by the words “To those who resist injustice, whether loudly or softly” at the beginning of the book *Chinese society: Change, conflict and resistance* published in 2003 by Perry, E. J., & Selden, M

⁴ Most of the organizations are located in metropolises like Beijing, Shanghai, and Guangzhou. Also, there are organizations located in capital cities of provinces involved. In order to get a general picture for

advocating for LGBTIQ rights in multiple ways (such as through offering legal advice or writing articles).⁵ As both of us have been participating through organizing events with LGBTIQ organizations in mainland China for several years, our positions as insiders of the activism field have given us access to the LGBTIQ network and their experiences, which has helped us to get in contact with the interviewees and have honest and trustworthy conversations with them.

Prior to this research, we assumed that a shrinking social space for civil society, particularly for Chinese LGBTIQ NGOs would lead to a more difficult and risky situation for LGBTIQ organizations. After conducting the interviews, however, we realize that a shrinking space may not always indicate a lifeless activism landscape. Indeed, the status quo of Chinese LGBTIQ activism is not seemingly prosperous, but there are many possibilities embedded in it. It is very inspiring to see the positive attitudes of the interviewees towards the current difficult social and political environment and how they seize opportunities to go a step further. Thus, this report intends to focus on agency rather than oppression in order to provide more possibilities of solving the issues and moving forward, rather than only exhibiting the difficult environment that Chinese civil society is operating in.

Therefore, the title of the report - *Crisis Implies Opportunities* - is named after this observation. The subtitle "A Delicate LGBTIQ Movement" refers to the continual negotiation of Chinese LGBTIQ organizations to keep a delicate balance while working in a difficult environment - they have to be less radical and avoid direct confrontation with the government in order to be "safe". The word "delicate" implies the vulnerable status of Chinese LGBTIQ movements, but also how they employ abundant strategies and tact. Currently, the most basic and important goal for all the organizations is to survive, and not to stand against the authorities. LGBTIQ advocates try to make sure that they do not provoke State authorities.

this report in a limited time, we had to choose those large organizations although there are lots of small organizations and groups providing services for the local community in other cities and the work done by small organizations is definitely not less important than the big ones. We chose big organizations because they are renowned with a long history in the movement, which allows us to see the trajectory and change of civil society from a historical perspective. The fact that large organizations are located in metropolises also reveals the concentrated and disproportionately distributed resources for LGBTIQ movement in China.

⁵ Please see the list of the interviewees at the end of the report. To protect them, names and the organizations they work for are redacted in the list.



An overview of human rights situation and civil society in China

In March 2016, China passed its first *Charity Law*, which has witnessed a far reaching influence on Chinese civil society.⁶ In 2017, another law - the *Law of the People's Republic of China on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China* took effect. These laws impose strict restrictions on Civil Society Organizations (CSOs), and allow the State to further control and institutionalize them and only legitimize those which facilitate the version of social development backed by the authorities.⁷ The laws indicated a shrinking social space for civil society.

There have been discussions and debates around whether the Chinese legal system is “rule of law”⁸ as asserted by the Chinese authorities, or “rule by law”. The discussion matters when understanding the human rights situation in China because

“[T]he rule of law is the implementation mechanism for human rights, turning them from a principle into a reality” (UN 2005).⁹

⁶ http://www.gov.cn/zhengce/2016-03/19/content_5055467.htm.

⁷ A. J. Spiers, ‘Regulation as political control: China’s first charity law and its implications for civil society’, 2020, *Nonprofit and Voluntary Sector Quarterly*, 49(3), 571-588.

⁸ “The rule of law contrasts with arbitrary power while, rule by law, on the other hand, involves the use of the legal form to cloak arbitrary power.”- R. R. Balasubramaniam, ‘Indefinite detention: rule by law or rule of law, 2008, *Emergencies and the limits of legality*, 118-140. More details on the discussions of China’s law, please see: R. Peerenboom, *China’s long march toward rule of law* (CUP 2000). See also: E. Smith, ‘The Rule of Law in Party Documents’, 2019, *China Law and Society Review*, 4(1), 41-69.

⁹ Details on the relationship between rule of law and human rights, please see Report of the Secretary General, In larger freedom: towards development, security and human rights for all (Fifty Ninth Session, 21 March 2005), <https://undocs.org/A/59/2005>.

In January 2021, China issued a plan on building rule of law with basic principles including maintaining the centralized and unified leadership of the Chinese Communist Party (CCP).¹⁰ However, governed by a dominant political party which has decisive power and absolute authority over the legal system, it leaves the question: to what extent is the law developed by the authoritarian regime protecting human rights of its citizens?

Many studies conducted by international institutions have revealed that the human rights situation in China is alarming and deteriorating in the past years.¹¹ It is stated in the Constitution that every citizen of the PRC enjoys the freedom of speech, of assembly, or religious belief, however, the violations of these rights have been witnessed and criticized by the international community.¹² For example, the detainment and sentencing of citizen journalists who covered the COVID-19 outbreak in 2020 continually endangers press freedom, and the number of human rights lawyers who got their licenses revoked, got themselves assaulted and imprisoned is on the rise and is “shocking”.¹³ At the same time, China is condemning the West for monopolizing the human rights narrative and trying to reframe the meaning of “human rights” under the sovereignty of the CCP and challenging the international human rights norms.¹⁴

The trajectory of development and the status quo of civil society in the People’s Republic of China (PRC) is

¹⁰ China issues plan on building rule of law (*Xinhua*, 1 October 2010), http://www.xinhuanet.com/english/2021-01/10/c_139656578.htm.

¹¹ For more details, please refer China 2020 (*Amnesty International*, 2020), <https://www.amnesty.org/en/countries/asia-and-the-pacific/china/report-china/>; and China: Events of 2020 (*Human Rights Watch*, 2020).

¹² The Constitution of the Republic of China, 2004. Access at http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/2007-11/15/content_1372964.htm; See also Regimes uses Covid-19 to clamp down even more (*Reporters without Borders*, 2021) <https://rsf.org/en/china>.

¹³ Revoking of Lawyers’ licenses create a chilling effect (SCMP Editorial, 13 February 2021), <https://www.scmp.com/comment/opinion/article/3121667/revoking-lawyers-licences-creates-chilling-effect>; China undermining human rights by locking up rights lawyers, UN independent expert says (*UN News*, 16 December 2020), <https://news.un.org/en/story/2020/12/1080242#:~:text=UN%20Podcasts-,China%20undermining%20human%20rights%20by%20locking,lawyers%2C%20UN%20independent%20expert%20says&text=China%20has%20mounted%20a%20%22shocking,in%20a%20statement%20on%20Wednesday>.

¹⁴ Mu Lu, West cannot monopolize human rights narrative (*Global Times*, 14 October 2020),

<https://www.globaltimes.cn/content/1203508.shtml>; See D. Chen, ‘Explaining China’s changing discourse on human rights’, 2005, 1978-2004. *Asian Perspective*, 155-182.; T. C. Chen, & C. Hsu, ‘China’s human rights foreign policy in the Xi Jinping era: Normative revisionism shrouded in discursive moderation,’ 2020 *The British Journal of Politics and International Relations*, 23(2), 228-247.

greatly influenced by the authorities and State entities. As a party-state country led by the CCP, one priority of authorities is to ensure its power over social control. Being self-organized and independent from the government, as well as gathering and acting voluntarily in public interests, civil society (*Gongmin Shehui*) has been seen as potentially antagonistic to the authorities. Ever since its emergence, which was nurtured by economic development and a relatively tolerant political environment after the implementation of reform policies and opening up of Chinese markets in the late 1970s, Chinese authorities have been vigilant towards civil society and nongovernmental organizations (NGOs) and cautiously regulate them through laws and policies concerning political disciplining and resource distribution.^{16,17}

Under the above circumstances, developing strategies to improve their legitimacy and negotiating with the State have always been the top priorities for Chinese LGBTIQ CSOs in order to stay safe, especially the ones advocating for issues which are unwelcomed and seen as a potential threat to social stability and to state power by authorities. On the one hand, Chinese LGBTIQ people are citizens of China, who enjoy the same basic rights like other citizens do, and Chinese LGBTIQ CSOs share the difficult circumstances of civil society as with other organizations. On the other hand, Chinese LGBTIQ people and organizations encounter specific difficulties which are brought about by heteronormative society and State organs. The rest of the report will be focusing on LGBTIQ people and organizations. In the context of a shrinking social space for civil society, this report proves its importance with regard to documenting and discussing strategies, challenges and possibilities of LGBTIQ organizations and the future of LGBTIQ movements in such historically challenging times.

¹⁵ While the word “civil society” has many translations in Chinese, such as “*Shimin Shehui* (市民社会)”, “*Minjian Shehui* (民间社会)”, here we used “*Gongmin Shehui* (公民社会)” when conducting interviews for the purpose of emphasizing the citizen’s participation in political issues. For more clarifications of these terms, see Keping, Y. *The emergence of Chinese civil society and its significance to governance*, (2000) *Civil Society and Governance Programme*.

¹⁶ In China, there is another kind of NGO called GONGO (government-organized non-governmental organization) which enjoys self-governance to some extent but is affiliated with the government. We do not address it in this report.

¹⁷ Y. Keping, ‘The emergence of Chinese civil society and its significance to governance’, 2000, *Civil Society and Governance Programme*; M. Hu, & J. Zhu, ‘Fostering civil society through community empowerment: An extended case of the Sichuan Earthquake in China’, (2021) *Administration & Society*, 53(1), 13-35.



A snapshot of LGBTIQ human rights

In China, LGBTIQ people encounter discrimination and marginalization from heteronormative society and State institutions in many aspects. The general picture of LGBTIQ people is as such: there is limited visibility of LGBTIQ issues in social media, and online activism is in a vulnerable state due to strict censorship by the authoritarian government. The lack of marriage equality and legal recognition of same-sex relationship not only puts tremendous amount of pressure on LGBTIQ individuals, but also endangers their personal safety in cases of intimate partner violence. The State's control over citizens' bodies renders it difficult for LGBTIQ people to achieve their reproductive rights. Religious LGBTIQ individuals have to deal with possible discrimination from both sides of their communities and suppression from the authorities. Health issues, like HIV/

AIDS, are still a significant part of the movement.¹⁸ LGBTIQ youth are receiving education in unfriendly campus environments every day, and are at high risk of being exposed to school bullying based on their sexual and gender identities. Transgender people are struggling to live their life as they want and as their gender identities, while the needs and rights of non-binary people are invisible in the binary societal system.¹⁹

Social media

Social media has grown into an indispensable space for the empowerment of LGBTIQ people and cultivation of LGBTIQ activism.²¹ In China, offline marches and assemblies with large numbers of people in the streets (such as Pride Parades) are unlikely to happen due to strict social control, thus drawing activists to the online space to advocate, raise social awareness, increase public visibility, and offer services for the LGBTIQ community. In a vast country like China, social media also plays an important role in providing support for LGBTIQ people who are living in small cities or rural areas where access to offline resources and information is limited. In this way, it contributes to mitigating the problem raised by the uneven geographic distribution of resources of LGBTIQ organizations.

Generally speaking, Chinese LGBTIQ advocacy on social media is under pressure and human rights for LGBTIQ people are at stake due to constant online surveillance and censorship.²² The censorship is taken to avoid potential collective action, and controls are tightened to “clean” the climate of opinions in cyberspace whenever the time period is deemed sensitive by the authorities.²³ For example,

¹⁸ Xiadong Lin, *Queer comrades: Gay identity and Tongzhi activism in postsocialist China*, (2018), *Feminist Encounters: A Journal of Critical Studies in Culture and Politics*, 2(2), 25.

¹⁹ 2017 Chinese Transgender Population General Survey Report. (*Beijing LGBT Center*, 2017) <https://weareaptn.org/2019/03/18/2017-chinese-transgender-population-general-survey-report/>.

²⁰ Y. Yang, 'Bargaining with the State: The empowerment of Chinese sexual minorities/LGBT in the social media era', (2019) *Journal of Contemporary China*, 28(118), 662-677.

²¹ S. Liao, "#IAmGay# What About You?": Storytelling, Discursive Politics, and the Affective Dimension of Social Media Activism against Censorship in China', (2019) *International Journal of Communication*, 13, 21. J. Cao, & L. Guo, 'Chinese "Tongzhi" community, civil society, and online activism', (2016) *Communication and the Public*, 1(4), 504-508.

²² G. King, J. Pan, & M. E. Roberts, 'Reverse-engineering censorship in China: Randomized experimentation and participant observation', (2014) *Science*, 345 (6199).

²³ Clean Cyberspace: China Internet Development Report 2017 (Chinese Academy of Cyberspace Studies, 2019).

it might be the time when there are important national conferences of the CCP, or when it is the anniversary of certain historical events.²⁴

Despite the “not encouraging, not discouraging and not promoting” (*Chinese*: 不支持、不反对、不提倡, *Bu Zhi Chi, Bu Fan Dui, Bu Ti Chang*) attitude of the authorities, the LGBTIQ population’s desires and identities have been categorized as “abnormal” and “unhealthy”, and are stringently regulated on social media and cyberspace through policies administered by different government departments (such as National Radio and Television Administration, Cyberspace Administration of China, etc.).²⁵ Many events that happened over the past years have shown that the attitude of the government towards LGBTIQ issues has not been fundamentally changed, and that the discourses of the State seem to be focusing more on maintaining a harmonious society instead of defending LGBTIQ rights.²⁶

Family-related issues

Family-related issues remain one of the most important advocacy priorities for the Chinese LGBTIQ movement. For Chinese LGBTIQ individuals, “coming out” and family acceptance is still an inevitable agenda where LGBTIQ organizations provide relevant strategies and support.²⁷ In Chinese culture, the filial responsibility of having children to continue one’s family line is thought highly of, while the CCP has mobilized the concept of “family (jia)” to reinforce filial nationalism for its authoritarian governance.²⁸

²⁴ For further reading, please refer to: Online reviewer’s statement: It is the review team that determines the development of the Internet platform in the future (*The Initium*, 2019), https://theinitium.com/article/20190314-mainland-internet-censors/?utm_medium=copy.

²⁵ Mountford, T. Montford, The legal status and position of lesbian, gay, bisexual and transgender people in the People’s Republic of China. (2010), International Gay & Lesbian Human Rights Commission, 395-1; See also: Lianrui Jia & Tianyang Zhou, Regulation of Homosexuality in the Chinese Media Scene, (*The Asia Dialouge*, 2015) <https://theasiadialogue.com/2015/07/28/regulation-of-homosexuality-in-the-chinese-media-scene/>.

²⁶ For example, in the year 2017: https://mp.weixin.qq.com/s/0FF66K5qcSD9m-_DHecnng. In 2018: 72 hours, 600 million readings—#我是欢乐#, why can we get the most of Weibo? (Vista sees the World, 19 April 2018) https://www.sohu.com/a/228830374_220034; J. Zhao, Queer Dreams. In *China Dreams*, (2020) ANU Press.

²⁷ J. Cao, & X. Lu, ‘A preliminary exploration of the gay movement in mainland China: Legacy, transition, opportunity, and the new media’, (2014) *Signs: Journal of Women in Culture and Society*, 39(4), 840-848.

²⁸ For details on the analysis of how the CCP develops the “state-family project” to maintain its governance, see: D. Wang, ‘Jia, as in Guojia: building the Chinese Family into a Filial Nationalist Project,’ (2020) *China Law and Society Review*, 5(1), 1-32.

This entanglement not only makes family issues more complicated for LGBTIQ movements and Chinese LGBTIQ people as the citizens who are marginalized by heteronormative State institutions, but also renders human rights abuses hidden in the private sphere.²⁹ Advocates over the past years have sought to challenge and redefine the concept of “family” and have broadened people’s understanding and imagination of an “LGBTIQ family”.³⁰

Marriage equality advocacy and mutual guardianship

At the time of writing, *The Marriage Law of the People’s Republic of China* does not recognize same-sex couples, which therefore implies that LGBTIQ people do not enjoy the same rights guaranteed by the law like heterosexual couples do.³¹ The legal invisibility of LGBTIQ partnerships brings much inconvenience and pain to individuals in regard to their everyday practices of identities and relationships. For example, in the situation of battling for the custody of the child when an unrecognized relationship (by the law) is over, or medical decision-making when one’s partner is in need of surgery or any medical help which requires a signature, etc.³² Advocating for the equal rights of marriage has become one major goal in the diverse Chinese LGBTIQ movement landscape.³³

The past years have witnessed some changes thanks to the advocates and the work done by LGBTIQ organizations and the community. In December 2019, a body of the National People’s Congress (the country’s highest law making institution) has publicly acknowledged there were a large amount of petitions for same-sex marriage legalization, which raised heated discussions on domestic social media

²⁹ J. L. Chia, ‘What’s Love Got to Do with It?: LGBTQ Rights and Patriotism in Xi’s China’ (2020) *Australian Journal of Asian Law*, 20(1); T. Hildebrandt, ‘The One-Child Policy, Elder Care, and LGB Chinese: A Social Policy Explanation for Family Pressure’, (2019) *Journal of Homosexuality*, 66(5), 590-608.

³⁰ Ibid. See also: Qi, X, ‘Social movements in China: Augmenting mainstream theory with guanxi’, (2017) *Sociology*, 51(1), 111-126.

³¹ Ben Blanchard, China’s parliament rules out allowing same-sex marriage (*Reuters* 21 August 2019), <https://www.reuters.com/article/us-china-lgbt-marriage-idUSKCN1VB09E>.

³² For a landmark legal case of lesbian parents’ custody battle, see: Wang Xuandi, Court Rules on LGBT Couple’s Landmark Child Custody Case (*Sixth Tone*, 17 September 2020) <https://www.sixthtone.com/news/1006193/court-rules-on-lgbt-couples-landmark-child-custody-case>.

³³ J. L. Chia, ‘LGBTQ rights in China: movement-building in uncertain times’, *Handbook on Human Rights in China*. Edward Elgar Publishing (2019).

since it was the first time in history.³⁴ Just before this event, the China Marriage Equality Advocacy Network (*Chinese: 爱成家, Ai Cheng Jia*) was established in November 2019. Consisting of several organizations, the network intends to specifically advocate for legal marriage equality in China.

Meanwhile when marriage equality has not been achieved, “mutual guardianship” (*Chinese: 意定监护, Yi Ding Jian Hu*) has been practiced as a legal tool to protect same-sex couples after the amendment of the *Civil Law* in 2017.³⁵ Some of the notary public offices in big cities like Nanjing, Changsha, Chengdu, Guangzhou, etc. have approved the guardianship agreement for same-sex couples to have rights such as power of attorney and inheritance rights.³⁶

Reproductive rights

In China, only heterosexual couples with marriage certificates would be able to legally get access to Assisted Reproductive Technology (ART). The heteronormative policies to regulate bodies endanger the reproductive rights of single women who want to have their own offspring; among them are LGBTI. Thus, assisted by LGBTIQ organizations such as the Advocates For Diverse Family Network (*Chinese: 多元家庭网络 Duo Yuan Jia Ting Wang Luo*), lawsuits have been filed as strategies to advocate for equal reproductive rights.³⁷ For example, lawsuits of single women’s frozen eggs and of maternity insurance were in the spotlight.³⁸

³⁴ Eric Baculiano, Why is China raising the prospect of same-sex marriage? (*NBC News*, 7 January 2020), <https://www.nbcnews.com/feature/nbc-out/why-china-raising-prospect-same-sex-marriage-n1109471>

³⁵ General Provisions of the Civil Law of the People’s Republic of China, No. 66 <http://www.npc.gov.cn/englishnpc/lawsoftheprc/202001/c983fc8d3782438fa775a9d67d6e82d8.shtml>.

³⁶ Cui Fandi, Beijing Approves Mutual Guardianship for Gay Couple (*Sixth Tone*, 12 August 2019), <https://www.sixthtone.com/news/1004416/beijing-approves-mutual-guardianship-for-gay-couple>; Katrin Büchenbacher, LGBT couples in China file for voluntary guardianship (CGTN, 11 August 2019), <https://news.cgtn.com/news/2019-08-09/LGBT-couples-in-China-file-for-voluntary-guardianship-J15eC8QcrC/index.html>.

³⁷ The organization also developed reports on reproductive rights and practical guidelines for “single” women: <https://mp.weixin.qq.com/s/myzBeCvjg4Bmg2NKRX1puw>. (The 2nd edition has been published by the organization; for details, please refer to their WeChat account); Lecture on “The Fertility Dilemma of Single Women in China (Equal Rights Online, 26 July 2020), <https://www.equalityrights.hku.hk/post/>

³⁸ More information on the case of single women frozen eggs: Single woman sues Chinese hospital for refusal to freeze eggs (*The Guardian* 24 December 2019) <https://www.theguardian.com/world/2019/dec/24/single-woman-sues-chinese-hospital-refuse-freeze-eggs>; Zhang Wanqing, Proposed Ban on Single Women Freezing Eggs Gets Chilly Reception (*Sixth Tone*, 26 May 2020), <https://www.sixthtone.com/>

Domestic violence

The nonrecognition of non-heterosexual relationship in the *Marriage Law* also makes it difficult for LGBTIQ people who experience domestic violence in their intimate relationship to get protection. It is not uncommon for LGBTIQ people to not disclose their relationship for the fear of possible homophobic and/or transphobic remarks from society. This may also result in a lack of support when there is intimate partner violence.³⁹

In 2016, the *Anti-domestic Violence Law* was implemented in China.⁴⁰ Article 37 expands the law to cover domestic violence between persons who are not family members *de jure*. Although the law did not intentionally cover the rights of LGBTIQ people, activists and organizations see it as an opportunity to mobilize for the protection of LGBTIQ people involved in domestic violence.⁴¹

Elderly care

Over the past years, discussions on LGBTIQ elderly care and related anxiety have been heard in the LGBTIQ community. This does not mean the issue did not exist before, but it has become more conspicuous along with the fact that the activists who started the LGBTIQ movement in China are getting older and the thought of their own elderly care problem has become more apparent in their lives.⁴² Elderly care anxiety also connects to the unachieved marriage equality for LGBTIQ population, as well as the inadequate social insurance system in China.

news/1005711/proposed-ban-on-single-women-freezing-eggs-gets-chilly-reception; For details of the maternity insurance lawsuit, see: https://mp.weixin.qq.com/s/A-_SXZWzdMAEYBD0hztr0g. For a report on policy and lived experience of “single” women and their maternity insurance issues, see: <https://mp.weixin.qq.com/s/JjLqhPqHe4JuROuNI-KN2Q>.

³⁹ For more details, please refer to: <http://www.tongyulala.org/uploadfile/2019/0409/20190409093956953.pdf>. See also K. Lin, R. Hu, X. Wang & J. Xue, ‘Female Same-Sex Bidirectional Intimate Partner Violence in China’, (2020) *Journal of interpersonal violence*, 0886260520959624.

⁴⁰ For a detailed analysis of the influence of the law after its four years of implementation, please refer to the monitoring report: Xia Tian & Feng Yuan, ‘Monitoring report on the implementation of China’s Anti-domestic violence covering 1st March 2016 to 29 Feb 2020’, (Equality Beijing, April 2020), https://cnlgbtdata.com/files/uploads/2020/06/20200506164338_6944.pdf.

⁴¹ China’s first anti-domestic violence law was passed, covering cohabitation relations but still insufficient (*The Initiative*, 29 December 2015), <https://theinitium.com/article/20151228-dailynews-china-anit-domestic-violence/>

⁴² Undisclosed ILGA interview, Online (13 November 2020).

From another perspective, the LGBTIQ population is not only subjected to the pressure of how to live well when they are aged, but also to the pressure of raising their aged parents. The previous one-child policy in China has added stress to LGBTIQ individuals to be a “perfect” only child who has the responsibility to live up to their family’s expectations.⁴³ Although the pressure of elderly care for LGBTIQ people’s parents is not directly related to the rights of LGBTIQ people themselves, it deserves attention too because it helps to benefit LGBTIQ individuals’ well-being in everyday life.

In order to cope with the issue, some pilot programs have been conducted by LGBTIQ organizations. In the year 2020, the organization PFLAG (*Chinese: 亲友会, Qin You Hui, or 出色伙伴 Chu Se Huo Ban*) tried to launch a program for parents who do not live in the same city as their LGBTIQ children. Assistance would be provided by volunteers in urgent situations when these parents need it, such as going to a hospital, etc.⁴⁴

Religion

LGBTIQ people with religious beliefs are facing more difficult situations and oppression.⁴⁵ Being religious is seen as being in conflict with being LGBTIQ, thus for many of them, struggles stem from homophobia and transphobia within their religious groups, and from the idea of having to choose between being religious and living in a way which may be rejected by their religion. In the LGBTIQ community, people with religious beliefs may also encounter questions and doubts from other people about them being religious.

Due to compulsory atheism in the Chinese party-state governmentality, the issue is more complicated. It is stated in the *Constitution of the People’s Republic of China* that citizens of the People’s Republic of China enjoy freedom of religious beliefs, however, religious practices are strictly supervised by the government with regulations such as only allowing a limited number of people to get together for religious practice.⁴⁶ The control over religious practices

⁴³ T. Hildebrandt, ‘The One-Child Policy, Elder Care, and LGB Chinese: A Social Policy Explanation for Family Pressure’, (2019) *Journal of Homosexuality*, 66(5), 590-608.

⁴⁴ The organization changed its name at the beginning of 2021; Undisclosed ILGA interview, Online (13 November 2020).

⁴⁵ For this part about religion, we only specify Christianity and Catholicism due to a lack of knowledge concerning Chinese LGBTIQ people having other religious beliefs.

⁴⁶ *Supra* Note 12.

has been strengthened in the past several years, especially over the so-called “Western religions” like Christianity and Catholicism.⁴⁷ As an interviewee who identifies as a Christian lesbian puts it:

“I think religious issues may be more politically sensitive than LGBT issues in China right now.”⁴⁸

Under the circumstance of a changing space for civil society and advocacy, LGBTIQ people with religious beliefs in China not only have to deal with the struggles of their identities and facing possible denunciation and expulsion from the religious groups once their sexual and/or gender identities are exposed, but also to negotiate with potential violent monitoring from the local government when they get together to practice their religious beliefs. This overlapping fear may engender a situation where the activities of rainbow fellowships are less visible in the public sphere and on social media, and that the discussions within these fellowships may be more focused on the LGBTIQ movement instead of religious devotion.

LGBTIQ people with religious beliefs are hoping for a more diverse space with possibilities of being both LGBTIQ and religious.

“We’re not asking for a religious space where there are only LGBT people, but a religious space where it is ok to be LGBT.”⁴⁹

Education

The right to education is the basic right of citizens stipulated and protected by China’s constitution and other relevant educational legislation in China.⁵⁰ The legislation emphasizes that all citizens are entitled to enjoy the equal right to education, regardless of their race,

⁴⁷ Shen Hua, China Is Stepping Up Its Control over Religion (VOA News, 19 October 2020), <https://www.voanews.com/east-asia-pacific/voa-news-china/china-stepping-its-control-over-religion>; Xu Xiaohong: Persist in the direction of the sinicization of my country’s Christianity and actively adapt to the socialist society (Xinhua Net, 11 March 2019) http://www.xinhuanet.com/politics/2019lh/2019-03/11/c_1124221042.htm.

⁴⁸ Undisclosed ILGA interview, Online (06 November 2020).

⁴⁹ Id.

⁵⁰ The relevant educational legislation includes but is not limited to: Education Law of the People’s Republic of China, Compulsory Education Law of the People’s Republic of China, Higher Education Law of the People’s Republic of China, Vocational Education Law of the People’s Republic of China, and Teachers Law of the People’s Republic of China.

ethnicity, gender, occupation and religion, whereas there is no specific provision related to LGBTIQ people's right to education.⁵¹

Gender education remains insufficiently discussed in the Chinese education system, let alone LGBTIQ-friendly education.⁵² It is good to see the *National Program for the Development of Chinese Children 2011-2020* (PDCC) emphasizing sexual and reproductive health education, and the *National Program for the Development of Chinese Women (PDCW) 2011-2020* addressing "the full embodiment of the principle and concepts of gender equality in curriculum standards and teaching process at all levels."⁵³ Despite the government promising to improve the provision of sex and gender education in all school settings, there still lacks resources and expertise in educational institutions and teachers to deliver such lectures. Instead, LGBTIQ NGOs have been actively engaging in organizing sexual orientation, gender identity and expression (SOGIE) and inclusive gender education workshops to middle schools, universities, corporations, as well as authoritative departments.

In addition, LGBTIQ students are suffering from a high risk of school bullying due to LGBTIQ-phobic school environments. According to Common Language's report, 24.6% of LGBTIQ students suffer from school-related gender-based violence (SRGBV) or school bullying due to their gender nonconformity and non-normative sexuality.^{54,55} Some even choose to end their lives when they

⁵¹ X. Liu, 'The realization of the right to education of the transgender in China and the legal countermeasures', (2009) *Anti discrimination review*, (00): 225-278.

⁵² In China's context, sex education relates more to sexual and reproductive health education, and gender education focuses more on gender equality. However, some practices in gender education tend to reinforce the binary gender system and gender stereotypes (e.g. masculinity and femininity education), which requires us to differentiate LGBTIQ-friendly education (that includes "gender diversity") from the concept of general gender education. Besides, comprehensive sexuality education (CSE) is a concept promoted by UN agencies, it includes both sex education and gender education, while how to realize it in China's context is still under debate.

⁵³ The National Program for the Development of Chinese Children 2011-2020 (PDCC), and the National Program for the Development of Chinese Women (PDCW) 2011-2020, http://www.gov.cn/zhengce/content/2011-08/05/content_6549.htm.

⁵⁴ Common Language, Chinese: 同语, is an organization focusing on Chinese communities suffering from discrimination and violence based on sexual orientation, gender identity and expression (SOGIE), advocating for equal rights, public awareness, and combating violence and discrimination through community empowerment, direct aid services, public education, and policy advocacy.

⁵⁵ Common Language, (2016). *LGBT+ Students Living Condition in China*, <http://www.tongyulala.org/uploadfile/2019/0404/20190404055620718.pdf>;

are facing school bullying against their LGBTIQ identity.⁵⁶ The Chinese government consecutively promulgated three policies pertaining to school bullying in the forms of notifications, guidelines, and plans from April 2016 to December 2017. However, SRGBV is not fully included and considered in the documents, and continues to have a negative impact on campus safety and students' physical and mental health.^{57,58}

Textbooks are another battlefield for LGBTIQ education. In 2017, a series of sex education textbooks for primary school students that openly discusses sexual knowledge and gender diversity were used in some schools. However, there was fierce backlash against them, and the Ministry of Education withdrew the books eventually.⁵⁹ For example, a local LGBTIQ activist, Xixi (alias), appealed a lawsuit case in September 2020 against the publisher of a homophobic textbook which defined homosexuality as "a sexual activity disorder or a sexual subject inversion", but met with failure.⁶⁰

HIV/AIDS

LGBTIQ people in China are facing an increasing risk of being infected by human immunodeficiency viruses (HIV). The newly diagnosed HIV infection rate of men who have

⁵⁶ In 2019, a 15-year-old junior high school student in Qingdao posted a suicide note saying that he "decided to solve the problem in the most extreme way" because he suffered school bullying due to his sexual orientation. See <https://www.voicenews.cn/32077.html>. At the same year, a 19-year-old student chose to end his life with a suicide note saying he was bullied on campus because of his feminine personality. See https://www.sohu.com/a/324625402_120146415. The former was rescued, while the latter was not saved in time.

⁵⁷ These three policies are: The State Council, Notifications on the management of campus bullying [关于开展校园欺凌专项治理的通知], (2016) http://www.gov.cn/xinwen/2016-05/09/content_5081203.htm; Ministry of Education, Guidelines on the prevention and control of bullying and violence among primary and secondary school students [教育部等九部门关于防治中小学生欺凌和暴力的指导意见], (2016), http://www.moe.gov.cn/srcsite/A06/s3325/201611/t20161111_288490.html; Ministry of Education, Plans for strengthening comprehensive treatment of bullying among primary and secondary school students [加强中小学生欺凌综合治理方案], (2017), http://www.moe.gov.cn/jyb_xwfb/xw_fbh/moe_2069/xwfbh_2017n/xwfb_20171227/sfcl/201712/t20171227_322963.html.

⁵⁸ Common Language, (2016). LGBT+ Students Living Condition in China, <http://www.tongyulala.org/uploadfile/2019/0404/20190404055620718.pdf>.

⁵⁹ Sex education textbooks have been withdrawn. Is this textbook really wrong? (Sohu, 13 March 2017), https://www.sohu.com/a/128646423_172239.

⁶⁰ Wang Xuandi, Jiangsu Court Rules in Favor of Publisher Sued for Homophobic Book, (Sixthtone, 03 September 2020), <https://www.sixthtone.com/news/1006015/jiangsu-court-rules-in-favor-of-publisher-sued-for-homophobic-book>.

sex with men (MSM) increased from 6.1% in 2008 to 25.5% in 2018.⁶¹ or transgender women, 16.8% self-reported as HIV positive and 9.1% were detected to be HIV positive through free HIV testing among 220 respondents.⁶² Without revealing the reasons behind the increasing numbers and examining the issue from the perspective of the community, the government and social media attributed the increasing HIV infection rate to the emerging gay population and constructed them as a public health threat. It sponsored and strengthened the stigma and discrimination towards the LGBTIQ community.⁶³

The Chinese Center for Disease Control and Prevention (CDC) continues to focus on the HIV/AIDS issue by providing free tests and free antiretroviral therapy across the nation. It also creates space for LGBTIQ NGOs, especially those who are aiming at gay men or trans women, to get funding via government purchase (government procurement).⁶⁴ HIV/AIDS also represents a strategy adopted by NGOs to not only connect to the community, but also establish dialogues with the government by addressing public health.

HIV/AIDS issues are not only a strategy for NGOs to raise money and gain legitimacy from authorities, but it is also a real need arising from LGBTIQ community (gay men and trans women, specifically). Three advocate strategies are emerging to mitigate the health risk and social panic against HIV/AIDS among MSM: U=U, PEP and PrEP. First, U=U (Undetectable equals Untransmittable) refers to people living with HIV who take their medication as prescribed and have a durably undetectable viral load, and have effectively no risk of transmitting HIV to their sexual partners.⁶⁵ PEP (post exposure prophylaxis) and PrEP (Pre-Exposure Prophylaxis) are promoted by CSOs and China's CDC to prevent HIV transmission, and the first HIV PrEP

⁶¹ T. Burki, HIV in China: a changing epidemic. (2018) *Lancet Infect Disease*, 18: 1311–12.

⁶² Y. Cai, Z. Wang, J. T. Lau, J. Li, T. Ma & Y. Liu, Prevalence and associated factors of condomless receptive anal intercourse with male clients among transgender women sex workers in Shenyang, China, (2016) *Journal of the International AIDS Society*, 19, 20800.

⁶³ T. Mountford, 'The legal status and position of lesbian, gay, bisexual and transgender people in the People's Republic of China' (2010) *International Gay & Lesbian Human Rights Commission*, 395-1.

⁶⁴ It is "purchasing of services" policies - "programs in which the state pays registered NGOs for social and welfare services the state determines are important." (Chan and Lei 2017) See: C. Kwan Chan, & J. Lei, Contracting social services in China: The case of the integrated family services centres in Guangzhou, (2017) *International social work*, 60(6), 1343-1357.

⁶⁵ U=U China AIDS Network, <https://www.endaids.cn>

medicine is approved by the National Medical Product Administration in 2020.⁶⁶

Transgender issue

The International Classification of Diseases 11th Revision (ICD-11) has redefined gender identity-related health, replacing diagnostic categories like ICD-10's "transsexualism" and "gender identity disorder of children" with "gender incongruence" in 2018, representing a success in transgender depathogenization.⁶⁷ However, China's National Health Security Administration required the continuous use of ICD-10 for disease classification codes in 2019, which means, transgender persons are still regarded as having a mental disorder in China under current circumstances.⁶⁸

Almost half of the transgender respondents report a need to get access to gender-affirming surgeries (GAS), while 62% percent report a need for hormone replacement therapy (HRT).⁶⁹ However, over 70% percent of them indicate that it is extremely difficult to obtain reliable information and healthcare services; the lack of these services may cause depression, anxiety and suicide ideation.⁷⁰ Limited access to prescribed medication has driven Chinese transgender individuals to obtain hormone treatments in ways that may put themselves at risk.⁷¹ For instance, some of them purchase hormonal medication on Taobao (the largest e-commerce platform in China), where hormone medication sellers are facing criminal liability.⁷² Regarding GAS, proof of family member approval is stringently required by the 2017 Sex Reassignment Procedural Management Standards, even though the individual transgender person is an adult.⁷³ Because

⁶⁶ China's first PrEP drug approved for pre-exposure prevention of HIV, (Sohu, 11 August 2020), https://m.sohu.com/a/412982375_120055798.

⁶⁷ WHO, Transgender Health in the Context of ICD-11, <https://www.euro.who.int/en/health-topics/health-determinants/gender/gender-definitions/who-europe-brief-transgender-health-in-the-context-of-icd-11>.

⁶⁸ National Healthcare Security Administration, NHA's Guidance on the Standardization of Medical Security [国家医疗保障局关于印发医疗保障标准化工作指导意见的通知] (2019) http://www.nhsa.gov.cn/art/2019/6/27/art_37_1435.html.

⁶⁹ Beijing LGBT Center (n 19).

⁷⁰ *Ibid.*

⁷¹ The Chinese transgender individuals forced to take treatment into their own hands (Amnesty International, 2019), <https://www.amnesty.org/en/latest/campaigns/2019/05/chinese-transgender-forced-to-take-treatment-into-own-hands/>.

⁷² Precarious Progress: Advocating for LGBT Equality in China (Outright, 2020) <https://outrightinternational.org/content/precious-progress-advocating-lgbt-equality-china>

⁷³ Beijing LGBT Center (n 19).

family rejection (even domestic violence) experienced by many transgender individuals makes it impossible to get family approval, it compels some of them to pursue highly dangerous means of transitioning, such as self-surgery.⁷⁴

In China, the national identification card only recognizes two legal gender markers: male and female, and there has been no hint that the government is going to recognize any non-binary gender. For transgender individuals who are willing to change their gender marker on their ID card, a GAS is required as legal prerequisite. For those who want to change their gender markers on educational credentials, the procedure is more stringent and difficult because it is stipulated by the Ministry of Education (MOE) that the school cannot change any information after registration of a student and it is the MOE who has the right to change it.⁷⁵ The first case of changing gender markers on diplomas took half a year to succeed in 2019.⁷⁶

Trivial pressure faced by transgender individuals also leads to high drop-out rates, high turnover rates, high risk of mental health issues, and lower social integration.⁷⁷ The lack of a supportive public environment is a major source of trivial pressure. As public space follows a binary gender system (e.g. dressing code, restroom, dormitory, locker room, etc.), it is hard for transgender individuals to feel comfortable and integrated in those places. In addition, their gender non-conforming behaviour leads to a higher risk of suffering verbal and physical violence in public spaces.⁷⁸

Transgender issues were relatively invisible compared with gay and lesbian issues in Chinese LGBTIQ community until 2018, when increasing international funding and rising public concern made the transgender movement more

⁷⁴ Barries to Gender-Affirming Treatment for Transgender People in China (Amnesty International, 2019), <https://www.amnestyusa.org/wp-content/uploads/2019/05/Barriers-to-gender-affirming-treatments-for-transgender-people-in-China.pdf>.⁶⁷ WHO, Transgender Health in the Context of ICD-11, <https://www.euro.who.int/en/health-topics/health-determinants/gender/gender-definitions/whoeurope-brief-transgender-health-in-the-context-of-icd-11>.

⁷⁵ The Ministry of Education, (2014). MOE's Measures for Electronic Registration of Students' Status and Academic Qualifications in Higher Education [教育部关于印发《高等学校学生学籍学历电子注册办法》的通知] http://www.gov.cn/xinwen/2014-10/17/content_2766902.htm.

⁷⁶ TransLives, (2019). Historical Breakthrough: A graduated transgender has successfully changed her gender mark on diploma [历史性突破 | 毕业生成功修改了学历证书性别]. <https://www.translives.net/news/611>.

⁷⁷ Beijing LGBT Center (n 19)

⁷⁸ *Ibid.*

prominent.⁷⁹ Several trans NGOs and trans groups have been established in the past two years and have gained a stronger voice in the Chinese LGBTIQ community.



⁷⁹ There has been a hot debate on “whether transgender women can use female restrooms if they have not had gender-affirming surgery”, e.g. <https://zhuanlan.zhihu.com/p/63000099>.



Strategies and approaches employed by the LGBTIQ community and allies in protecting and advancing their human rights

As mentioned previously, we can see that navigating the sociopolitical climate is the prerequisite for LGBTIQ organizations in China to advocate. The strategies and approaches employed by organizations are for the purpose of ensuring their survival while being able to seize the opportunities to change the scenario and advocate for LGBTIQ rights. In the following part, we will first discuss the strategies for survival, including how the organizations solve financial problems for sustainable advocacy, and how they negotiate and deal with the relationship with the authorities. Then we further enumerate some pragmatic approaches to promoting LGBTIQ human rights.

1

Funding and financial sustainability

Stable financial resources are of significance for the sustainability of a CSO and their advocacy. The suspicion of the Chinese authorities towards civil society has brought restrictions to LGBTIQ

organizations, and financial difficulty has been a challenge for their development. Funding from international foundations used to be one of the main financial resources for the organizations, however, it is considered to be more and more politically sensitive to receive money from abroad to advocate for human rights in China. This trend follows the economic boost in China and the CCP's stronger determination over the past years to prove to the world that there is an alternative way of societal development under the authoritarian one-party State. Democratic Western countries are seen as an ideological threat by the central government.⁸⁰

In order to improve their legitimacy and ensure that they would not be seen as an extension of threat linked to the so-called 'foreign forces' and a lackey of the Western world which may undermine the governance of the CCP, LGBTIQ organizations have to pay more attention to their financial resources.⁸¹ The changes of resources also have been a result of the *International Nongovernmental Organization Law* mentioned in the first part of the report, which was implemented in 2017 to further regulate CSOs in China.⁸²

Many organizations have been trying to be independent from previous foreign financial support and diversify their funding resources, aiming at more stable and legal ways to finance their operations. Three possible sources are identified as being more secure for the survival and sustainability of LGBTIQ NGOs.

⁸⁰ The analysis of the politics of China and its international relationship, see, for example, A. Nathan, 'China's challenge', (2015) *Journal of Democracy*, 26(1), 156-170.

⁸¹ A.J. Spire, *China* in A.J. Spire, Routledge handbook of civil society in Asia (eds.) Routledge. 49-65.

⁸² The law makes the foreign organizations and foundations illegal if they are not registered in China, limiting the number of organizations which could "legally" work in the Chinese context, and excludes those focusing on the human rights issues that may be considered to undermine the governance of CCP. Receiving funding from unregistered foreign organizations also has a possible negative effect on Chinese CSOs since it is illegal. More analysis, see C. Feng, C., 'The NGO law in China and its impact on overseas funded NGOs' (2017) *Cosmopolitan Civil Societies: An Interdisciplinary Journal*, 9(3), 95-105.

Crowdfunding and private donation

Stable monthly donations from the general public living in mainland China are made through fundraising platforms, such as yearly Tencent 99 Charity Day, or large donations from some individual donors.⁸³

Government purchase (government procurement)

Some of the LGBTIQ organizations focus on issues that align with the social welfare goals of the state, especially public health issues such as HIV/AIDS. In this situation, it is more likely for the organization to be registered in the local Civil Affairs Office, which makes them eligible to apply for the programs funded by the government.

Corporation funding

Corporate funding may come from the donation of transnational and/or local companies that support LGBTIQ rights and gender diversity as part of their corporate culture. In these enterprises, there are discussions on social responsibilities and diversity of the enterprise in the human resources department and related internal forums. Also, the increasing public concern on corporate social responsibility and corporate citizenship provides opportunities for LGBTIQ organizations to get funding from these companies.

Moreover, companies like Tencent would also offer donations to the organizations as incentives during the Tencent 99 Charity Day. However, the company has come under mounting criticism for its changing rules every year since 2015, which has made it increasingly difficult for grassroots organizations to obtain sufficient funding.⁸⁴

⁸⁴ Zhang Wanqing, Grassroots NGOs See Lots of Give, Not Enough Take on Charity Day (Sixth Tone, 10 September 2020), <https://www.sixthtone.com/news/1006157/grassroots-ngos-see-lots-of-give%2C-not-enough-take-on-charity-day>.

2

Relationship with the government

Besides the funding issues, another priority for the organizations is to navigate and keep a safe distance from the government - not too far to be seen as suspicious and get shut down by the authorities, or too close to lose its own character and agency in advocating for the rights of LGBTIQ people. Keeping a safe distance also allows space for organizations to advocate within a certain limit, and work with some state organs (such as the local Education Bureau, Women's Federation, CDC) to exert influence on social and policy change through these organs. The relationship with local authorities is an inevitable agenda for LGBTIQ organizations, and they coexist in a "contingent symbiosis".⁸⁵

In order to build trust with the government, some organizations would voluntarily conduct more frequent meetings with state agencies, such as with the local Ministry of State Security. Organizations would contact them through text messages or a call occasionally to try to open themselves up to some extent (instead of hiding) and increase the transparency between the organizations and the authorities.

Furthermore, for some LGBTIQ organizations that have successfully registered at the Civil Affairs Bureau, they are already in a legitimate position to have dialogues with the authorities.⁸⁶ For example, one of the organizations we interviewed mentioned that they were invited to NGOs' conferences organized by government departments where local officers also participated.⁸⁷ Notwithstanding the loads of paperwork required by the state agencies,

⁸⁵ A. J. Spires, *Contingent symbiosis and civil society in an authoritarian state: Understanding the survival of China's grassroots NGOs*, (2011) *American Journal of Sociology*, 117(1), 1-45.

⁸⁶ For CSOs in China, only the ones that can find a government agency as its "supervisory agency" are allowed to be registered in the Civil Affairs Bureau. It is very difficult for a LGBTIQ organization to do so. Therefore, some of them choose to register as businesses and most of them remain unregistered. More information about CSO registration in China, see A. J. Spires, L. Tao & K.M. Chan, 'Societal support for China's grass-roots NGOs: Evidence from Yunnan, Guangdong and Beijing' (2014) *The China Journal*, (71), 65-90.

⁸⁷ Undisclosed ILGA interview, Online, 18 November 2020.

they can leverage on the current policy to benefit themselves; for example, using preferential policies for “social enterprise” from local governments to get free-working space and financial support.⁸⁸

Discourse is of significance when LGBTIQ organizations try to improve its legitimacy and construct a non-threatening image to the authorities. Strategies of adapting the narrative of the organization to the outer world include:

Reframing the work

Some organizations would use the government’s words to reframe their own work in order to become acceptable by the government. For example, an organization would use the word “harmony” (*Chinese*: 和谐) when talking about how their work could contribute to lessen conflict within the family and increase social harmony, which is a key goal for the CCP’s governance.

Similarities to heterosexual people

Organizations may try to focus more on similarities instead of differences between LGBTIQ people and heterosexual people when presenting the work of the organizations in the public sphere. Approaches like “We are the same as straight people except for the ones we love have the same gender as we do” and “As people, we have more similarities than differences” are used to invoke empathy and respect from readers of articles on WeChat, from audiences of events held by LGBTIQ organizations, from students in schools, from people who represent state agencies, etc.⁸⁹

3

Pragmatic Strategies for Advocacy

Besides the above strategies for survival, other pragmatic approaches have been employed by the Chinese LGBTIQ community, activists and organizations to advocate for their rights.

⁸⁸ 《国务院关于促进慈善事业健康发展的指导意见》(国发〔2014〕61号)、《湖北省人民政府办公厅关于促进慈善事业健康发展的实施意见》(鄂政办发〔2015〕38号)、《市人民政府关于促进慈善事业健康发展的实施意见》(武民政规〔2017〕47号)

⁸⁹ Undisclosed ILGA interviews, Online, 13 November 2020, Undisclosed ILGA interviews, Online, 17 October 2020.

Art

Art can serve as a space for culturally tailored activism to raise awareness.⁹⁰ Diverse and creative forms of art concerning LGBTIQ rights advocacy have been witnessed over the past years; some of them have had a long history, while others are newer. The production and screening of movies and documentaries is an important way of portraying the life of LGBTIQ people. In Chengdu, the capital city of Sichuan Province located in Southwestern China, there was an exhibition about heterosexuality to demonstrate the absurdity of questions that are usually posed to people with non-normative sexual orientations and gender identities.⁹¹ In Guangzhou, the playback theater emerged and gained momentum and popularity even when it was under great pressure.⁹² LGBTIQ choruses are also organized in Beijing, Shanghai and Guangzhou.⁹³ Moreover, there are performances in public spaces to raise awareness about LGBTIQ issues such as the three trucks advocacy.⁹⁴

Litigation

The last couple of years, advocacy through lawsuits has been used for different issues regarding LGBTIQ human rights, including reproductive rights, workplace equality, and providing safe educational environments for LGBTIQ students (for instance, the homophobic textbook lawsuit). Details about these cases have been clarified in the earlier parts of the report.

Collaboration with companies

Some cooperation can be seen between LGBTIQ organizations and companies to organize job fairs, workshops, etc. Intending to raise "gender awareness among companies" and

⁹⁰ H. Bao, 'Queer China: Lesbian and gay literature and visual culture under postsocialism' (2020), Taylor & Francis.

⁹¹ <https://mp.weixin.qq.com/s/KQtEQ1jFcm-6uehdCSEKPA>.

⁹² <https://mp.weixin.qq.com/s/Mq4i4SuVnY4QCNCXQRhfKA>.

⁹³ <https://mp.weixin.qq.com/s/EoTOZP5uzc4HOKs8vjwLFw>.

⁹⁴ https://mp.weixin.qq.com/s/9Gu4oa6T0FtZ2uxXCR46_A.

staff via workshops, forums, and keynotes, two organizations, Beijing LGBT Center and ShanghaiPRIDE, co-launched a project to create an inclusive and diverse culture within the workplace.⁹⁵

Collaboration with broader civil society

As discussed in the first part of the report, Chinese authorities have been vigilant towards civil society, especially the ones advocating for the issues and rights of people whose discourse do not perfectly fit into the current CCP regime, among them being LGBTIQ NGOs. Most of the LGBTIQ organizations in China are not registered with the State agencies, and achieving legitimacy for these organizations has constantly been something to work towards. Being in a gray area in the legislation, some LGBTIQ activists feel like they are excluded from legitimised and mainstream CSOs that are recognized officially. As one of the interviewees expressed, *"We are not considered as doing public good"*⁹⁶

Recently, there is increasing agreement among local activists that it is necessary to explore and examine the connection between LGBTIQ issues with other social issues in China.⁹⁷ Doing intersectional activism and engaging with issues like gender and women, youth and health, people with disabilities, labor, and education, will strengthen the solidarity among civil society organizations and exert every effort when advocating and lobbying against the government on policy-making procedures.

⁹⁵ Diversity is Good for Business (Shanghai Pride, 10 April 2020), <https://www.shpride.com/2020/04/10/business/?lang=en>.

⁹⁶ Undisclosed ILGA Asia interview, Online, 2 December 2020.

⁹⁷ Ibid.



Prioritized issues for the local communities in terms of lobbying and advocacy and recommendations for the next five years

Prioritized issues for China's LGBTIQ community are identified through asking the advocates what their organizations would focus on for the next five years. Their prime concerns indicate the imperatives of the local community, revealing the direction of the LGBTIQ movement in China: legal rights advocacy, protection against violence and discrimination, mental and physical health and well-being, gender education promotion, and support for transgender issues.

China's legal system on LGBTIQ rights is always in a shadow of reticence, and it has never articulated whether LGBTIQ groups are allowed to operate, which calls for LGBTIQ people's rights advocacy in legislation. Relationship recognition, reproduction, and equal employment are the prioritized legal rights by the local LGBTIQ community. Fighting for the right to same-sex marriage is a longstanding proposition from the community, and will still be addressed by both the community and advocates in the next five years. Guardianship agreement, serving as a substitute for same-sex marriage, has been gradually accepted by LGBTIQ people for its pragmatic efficiency, and therefore needs to be more accessible to the public.

Besides, access to frozen eggs and assisted reproductive technologies for unmarried women is prohibited, but is needed by the lesbian community in China. Surrogacy, though debatable and controversial in society, is required by some LGBTIQ couples. In terms of employment, though the labor law guarantees every person's right to equality, there is no clause that includes sexual minorities. Discrimination faced by LGBTIQ people in the workplace demonstrates the urgent need to update the law.

Protection against SOGIE-based violence and discrimination includes protection against domestic violence and school bullying. Violence in both intimate relationships and natal families are covered by domestic violence. As for the former, though the Anti-Domestic Violence Law covers domestic violence among people living together, it should explicitly include LGBTIQ couples.⁹⁸ Taking natal family violence into consideration, providing social services and legal aid for LGBTIQ people will remain as a goal, especially in addressing forced conversion therapy, physical control, lavender marriage and coming-out issues.⁹⁹ In addition, advocates will continue to build bottom-up support for making school environments more inclusive for LGBTIQ students by providing training for teachers, lobbying policy-makers, and increasing awareness via social media.

As the local LGBTIQ community is at high risk of mental health issues and the threat of HIV/AIDS, more professional social services are required to tackle it. Due to hostile social environments and exclusive institutional rules, there is an urgent need to provide psychological services to the LGBTIQ community by social workers. Additionally, the supply of free antiretroviral therapy to people living with HIV should be guaranteed, especially in a COVID-19 context when people have limited access to the local hospital. Public education on HIV/AIDS is dedicated to promoting awareness and de-stigmatizing gay men, and hence should be emphasized in the next five years.

Gender education needs to be provided to multi-stakeholders in order to enhance the overall social

⁹⁸ Xie Wenting, *Gay people seek protection under China's first domestic violence law* (Global Times, 15 January 2016), <https://www.globaltimes.cn/content/963684.shtml>.

⁹⁹ A lavender marriage is a male-female mixed marriage, undertaken as a marriage of convenience to conceal the socially stigmatised sexual orientation of one or both partners.

acceptability and inclusion of the LGBTIQ community. SOGIE-inclusive gender education should be integrated into China's educational system in order to reduce school bullying and cultivate gender equality for new generations. Moreover, inclusive gender training should be provided to local authorities, which will contribute to the inclusion of LGBTIQ persons in social governance and implementation of laws. Providing training for enterprises is also one of the approaches to boost gender education, and has been gradually adopted and emphasized by CSOs.

The emerging transgender community presents another priority issue for the progression of the local LGBTIQ community. Apart from what we have mentioned above, the transgender community highlights its demands in more efficient changing of gender markers, provision of trans-friendly medical services, and trans-friendly infrastructure. The administrative procedure of changing gender markers needs to be simplified and standardized, and non-binary gender markers can be promoted by CSOs to better serve the trans and gender-diverse community. Limited access to gender-affirming surgeries and hormone replacement therapy restrains trans groups' subjectivity and acceptance of their bodies. Hence, the promulgation of trans-friendly healthcare services might be an alternative if increasing the medical supply is too difficult. Additionally, non-binary public infrastructure is required to facilitate trans people's social integration. For instance, unisex restrooms and gender-friendly dormitories can be promoted and constructed by CSOs.



Challenges and opportunities for the interventions of (national, regional and international) LGBTIQ civil society

It is undeniable that there is a long way for China's LGBTIQ community to strive for equal rights, as the situation faced by China's LGBTIQ civil society is indeed bleak and discouraging. Notwithstanding the poor environment, many advocates have confidence in their vision as the political climate and social attitudes are changing for the better.

Challenges

Challenges to improving China's LGBTIQ issues are derived from three aspects: the grim political situation, the vulnerable legal status of CSOs, and inveterate social values.

The Cold War mentality retains its influence on the CCP and China's government, especially in how they perceive LGBTIQ issues. The rising tensions of Sino-US relations, democratic protests in Hong Kong, and tricky relations with Taiwan have struck the nerve of the authoritarian government, increasing its sensitivity on Western political and cultural penetration. LGBTIQ issues, which are usually constructed as a Western product under a Western framework of human

rights, tend to be depicted as a political threat or scapegoat by the government to boost nationalism and undergird its monopoly in an intensified political dynamic.

Civil society organizations focusing on LGBTIQ advocacy have had a notoriously difficult time registering with the Bureau of Civil Affairs. Lack of a legal status as social organizations deprives local LGBTIQ CSOs of opportunities to have dialogues with the CCP and government officials, and to engage in the policy-making process. Besides, registering as businesses or not registering at all increases CSO's survival cost and risk, because they are not entitled to enjoy favorable tax deductions and gain legitimate endorsement provided by the government.

Heteronormativity perpetuates and revitalizes itself in contemporary Chinese society. An aging population and declining fertility rate in China forces the country and its society to attach crucial importance to heterosexual marriages and reproduction for economic development. This expectation supports China's ingrained stance on morality and social norms for heteronormativity, making it more difficult to promote LGBTIQ rights both at the policy level and in the daily lives of individuals.

Opportunities

Despite the bleak scenario, opportunities are available through capitalizing on the international community, social media and economic globalization, which will create momentum for LGBTIQ advocates.

The international community has paid increasing attention to LGBTIQ issues, pushing the Chinese government to move forward to effectuate the rights of LGBTIQ people. 2018 witnessed China's first response to LGBTIQ issues at United Nations Universal Periodic Review (UPR). Though China's stance was conservative as usual, it did reveal the government's attitudes and signalled that the government was including LGBTIQ issues in its political agenda. Additionally, the Chinese government is not a monolithic whole; it is also full of diversity. Although it is hard to have dialogues with the central government, there are many opportunities to cooperate with local governments and departments to address LGBTIQ issues. As reported by one of our interviewees, local governments and departments

are willing to purchase social services from civil society to deal with issues of school bullying, domestic violence and gender education.¹⁰⁰

Progress made in Asia in LGBTIQ field, such as same-sex marriage in Taiwan and supportive laws in Thailand, has revitalized public discussions on LGBTIQ issues on China's social media. It is heartening to see the increasing visibility of LGBTIQ groups on the internet and open discussions of LGBTIQ rights within the public. Younger generations, who are the major force on the internet, are showing their potential in leveraging on their influence and promoting gender diversity in leading public opinions. In spite of the inability for public opinion to penetrate the policy making process, it will gradually wear off the ingrained ideology of heteronormativity and build the foundation for future movements.

Due to increasing overseas investments and globalization of Chinese enterprises, private sectors are now putting more emphasis on its corporate social responsibility (CSR), among which, gender diversity and inclusion is one of the concerns. The growing global presence and demand of enterprises to integrate itself in the local legal framework and non-discriminatory culture has created more space for advocates to engage in.

¹⁰⁰ Undisclosed ILGA interview, Online, 18 November 2020.

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ILGA Asia is the Asian Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, representing more than 170 member organizations in East Asia, South Asia, Southeast Asia and West Asia.

Our vision is a world where Asia is a safe place for all, where all can live in freedom and equality, be properly informed in the nature of sexual orientation and gender identity & expression and sex characteristic (SOGIESC) rights, have access to justice, and diversity is respected.

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