

**Information Submitted by the China LBT Rights Initiative
(a Coalition of Chinese LBT Women NGOs)
to the Committee on the Elimination of Discrimination Against
Women**

**List of Issues related to the Combined Seventh and
Eighth Periodic Report of the People's Republic of
China
Pre-Sessional Working Group Meeting of the
Committee's 59th Session
Submitted February 20, 2014**

Introduction

This joint submission is prepared by community-based organizations working in China for the rights of lesbian, bisexual and transgender (LBT) women for the Committee on Elimination Discrimination Against Women (“the CEDAW Committee”). The contents are based on the research and documentation of these community-based groups, in consultation with other activists and experts. The names of the participating groups are withheld due to concerns for possible retaliation by Chinese authorities. The submission does not seek to provide a comprehensive overview of the situation of Chinese LBT women, but focuses on several key issues. The annexed report, “Discrimination Faced by Lesbian, Bisexual and Transgender Women in China,” is referenced and provides further details for the Committee’s information.

Article 2 (State Obligations)

The CEDAW Committee has previously stated in its General Recommendation No. 28 that “the discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste, and sexual orientation and gender identity.” (General Recommendation No. 28, para. 18). States parties are thus required to “legally recognize and prohibit such intersecting forms of discrimination and their compounded negative impact on the women concerned” as well as “adopt and pursue policies and programmes designed to eliminate such occurrences.”

We recommend that the Committee ask the Chinese government what measures it has taken to legally recognize and prohibit intersecting forms of discrimination, including discrimination faced by LBT women because of their sexual orientation and gender identity.

Article 5 Elimination of Stereotypes and Violence Against Women

In its 2006 Concluding Observations, the CEDAW Committee urged the Chinese Government “to adopt a comprehensive law on violence against women and to ensure that all forms of violence against women and girls, both in the public and private spheres, constitute a crime punishable under criminal law. It calls upon the State party to provide immediate means of redress and protection to women and girls victims of violence, in accordance with the Committee’s general recommendation 19.” (Concluding Observations, para. 22)

As noted by the annexed report, LBT women in China face severe violence from their families, with 48% of participants in a survey stating that they had faced violence from family members because of their sexual orientation, while 46% of participants had experienced violence from a same-sex intimate partner. (Annexed Report, p. 1.) China has not yet adopted a comprehensive law on violence against women, and local-level anti-violence laws fail to recognize and protect LBT women from violence from family members or intimate partners. We urge the Committee to ask the Chinese government what measures it has taken to adopt a comprehensive law that protects all women, including LBT women, from all forms of violence, both in the public and private spheres.

Moreover, 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. The Committee has previously encouraged the Chinese government to "enhance victims' access to justice and redress, for example, through training aimed at judicial officers, including judges, lawyers and prosecutors, in order to enhance their capacity to deal with violence against women in a gender-sensitive manner and ensure that claims are investigated expeditiously." (Concluding Observations, para. 22) We suggest that the Committee ask the Chinese government what measures it has taken to train government officials to deal with violence against all women in a gender-sensitive manner, and to enhance victims' access to justice and redress.

The Committee has also requested that the Chinese government "strengthen its system of data collection in regard to all forms of violence against women and to include such information in its next report." (Concluding Observations, para. 22) However, the Chinese authorities have not included information about violence against LBT women in their State report, nor are we aware of attempts by the Chinese government to collect data about such violence. We also suggest that the Committee ask the Chinese government what measures it has taken to include violence against LBT women in its statistical data collection.

Article 5 Elimination of Gender Stereotypes & Article 11 Employment

In its 2006 Concluding Observations, the Committee expressed concern at "the persistence of deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society" in China and that "these prevailing attitudes continue to devalue women and violate their human rights." (Concluding Observations, para. 17.) Although the "People's Republic of China Labor Law"¹ and "People's Republic of China Employment Promotion Law"² both prohibit employment discrimination on the basis of gender, these laws do not adequately protect women who do not conform to gender-based stereotypes.

The discrimination that LBT women face in the workplace in China are often grounded in persistent gender-based stereotypes in Chinese society, including stereotypes about appropriate gender expression and the universal expectation of heterosexual marriage. As noted in the annexed report, LBT women in China often face discrimination based on sexual orientation and gender expression, include hiring discrimination 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); and

¹ 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.

² "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.

termination of employment after disclosing sexual orientation and/or gender identity.

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 discriminate against potential job candidates who are transsexual.

We urge the Committee to inquire how the Chinese government ensures that employment protections in legislation protect all women, including LBT women, in practice. We also urge the Committee to ask what steps the Chinese government has taken to monitor relevant employment discrimination appeals and emergency assistance so that all women who are discriminated against have adequate avenues of redress.

Article 12 Women's Health

Article 12 requires the Chinese government to take all measures to eliminate discrimination against women in the field of health care in order to ensure equal access to health services. As noted in the annexed report, LBT women face significant obstacles accessing appropriate psychological and physiological medical care in China due in part to “inadequate education about sexual and gender minorities, and general ignorance and bias surrounding sexual orientation and gender identity among medical personnel.” (Annexed Report, pg. 2.) Moreover, there have been many cases of LBT women subject to “conversion therapy” to “correct” their sexual orientation or gender identity—a practice that remains common in China.

We urge the Committee to ask the Chinese government what measures it has taken to eliminate discrimination against LBT women and sexual minorities in the field of health care, in particular, what measures it has taken to strengthen the implementation of the “People’s Republic of China Mental Health Law” and to revise educational materials for health care providers to contain accurate and comprehensive information concerning sexual orientation and gender identity.

Article 15 Equality Before the Law & Article 16 Marriage and Family Life

China’s current laws do not recognize same-sex marriage, and therefore Chinese LBT women in bi-national same-sex marriages are not afforded the same protections enjoyed by heterosexual couples in bi-national marriages. As noted in the annexed report, 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 have found that their marriages and families 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. (Annexed Report, p. 4.) These LBT women are therefore not treated equally before the law and face discrimination in their marriage and family life.

We urge the Committee to ask the Chinese authorities what steps it is taking towards reforming policies so that LBT women who have formalized their relationships overseas are accorded the same rights as heterosexual couples who have undertaken similar procedures.