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Immigration and
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Commission de l'immigration
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China: Situation and treatment of sexual minorities, particularly in Guangdong and Fujian; state protection and support services (2011-February 2013) [CHN104302.E]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. General Situation

Homosexuality in China was decriminalized in 1997 (Human Rights Watch Jan. 2013; ILGA May 2012, 11; IGLHRC Aug. 2009, 3). In addition, sources report that homosexuality stopped being classified as a mental illness in 2001 (Human Rights Watch Jan. 2013; IGLHRC Aug. 2009, 3).

1.1 Visibility of LGBT Community

According to sources, most members of sexual minorities keep their sexual orientation hidden and do not reveal it to their families or colleagues (Visiting Professor 21 Feb. 2013; Professor of Anthropology 20 Feb. 2013; US 24 May 2012, 63). Over 90 percent of Chinese lesbian, gay, bisexual, transgender (LGBT) individuals who responded to a survey published in 2013 stated that they choose to (at least partially) hide their sexual identity at work, with over half not telling any colleagues or work friends (Aibai 2013, 9). The online survey was conducted by the Aibai Culture & Education Center in collaboration with other groups (Aibai 2013, 5). Aibai is an NGO with offices in Beijing, Shanghai, and Chengdu that promotes equal rights for LGBT communities in China (China CSR Map n.d.). Aibai received 2,161 online questionnaires completed between January to April 2013 by employees at Chinese companies (Aibai 2013, 5).

In a telephone interview with the Research Directorate, the Development and Operations Director of the Beijing LGBT Center, an NGO dealing with the rights of sexual minorities, stated that sexual identity is generally not talked about in China (Beijing LGBT Center 28 Feb. 2013). According to the Director, sexual minorities create two lives for themselves, one with their family and work colleagues and the other with friends (ibid.). A visiting professor of law at Boston University, who has written on the situation of sexual minorities in China from a legal perspective, stated in a telephone interview with the Research Directorate that sexual minorities tend to be "invisible communities" in China and fear "social death" and "the loss of face" if they reveal their homosexuality (21 Feb. 2013). The United States' *Country Reports on Human Rights Practices for 2011* likewise indicates that "[d]ue to societal discrimination and pressure to conform to family expectations, most gay men and lesbians refrained from publicly discussing their sexual orientation" (US 24 May 2012, 63). In a telephone interview with the Research Directorate, a professor of anthropology at the University of California, Santa Cruz, who has researched sexuality in China, stated that sexual minorities remain "closeted," even in cosmopolitan areas (20 Feb. 2013). The Professor of Anthropology added that individuals might hesitate to seek help from doctors for fear of disclosing their sexual identity (20 Feb. 2013).

According to the Visiting Professor, sexual minorities have become more publicly present in China, especially in the press, due to the outreach and education efforts of gay activists working against discrimination and prejudice (Visiting Professor 21 Feb. 2013). Sources also indicate that public activities have been organized by activists (Human Rights Watch Jan. 2013). For example, Human Rights Watch indicates that China's first LGBT conference was held in Beijing in June 2012, with more than 80 activists in attendance (Jan. 2013).

Both professors indicate that media coverage of issues relating to sexual minorities has become more positive (Visiting Professor 21 Feb. 2013; Professor of Anthropology 20 Feb. 2013). According to the Visiting Professor, there is more visibility in the media; activists and scholars are publicly discussing issues concerning sexual minorities in books, articles, and classrooms (21 Feb. 2013). According to the Professor of Anthropology, though state-owned media has been less negative in its reporting on sexual minorities, there have also been cases where media outlets and reporters have been "shut down" for discussing or attempting to report on homosexuality (20 Feb. 2013). She added that the discussion of homosexuality is not permitted on television, "not even the word itself" (Professor of Anthropology 20 Feb. 2013). Corroborating information for this statement could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.2 Lesbians

The Professor of Anthropology stated that lesbians tend to be even less visible than gay men and stay "more closeted"; few public spaces are available to them, so they tend to meet instead in private spaces and at

peoples' homes (20 Feb. 2013). For example, the Director of Development and Operations of the Beijing LGBT Center noted that Beijing has "many" gay bars, but there is one bar that caters to lesbians "one night of the week" (28 Feb. 2013).

The Director also explained that there is a "double challenge" for lesbians: as women, they may need to enter into marriages of convenience for economic security (Beijing LGBT Center 28 Feb. 2013). He added that these women could be in danger of violence from their husbands [if their sexual orientation was discovered], and also noted that there is no provision against marital rape in Chinese law (*ibid.*). Corroborating information for this statement could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.3 Differences Between Urban and Rural Areas

According to sources, there is a difference in the situation of sexual minorities in urban and rural areas (Aibai 25 Feb. 2013; Visiting Professor 21 Feb. 2013; Professor of Anthropology 20 Feb. 2013). The Visiting Professor stated that people in larger cities have a better understanding of "gay identity" (21 Feb. 2013). The Visiting Professor added that this understanding is greater in people who have spent time abroad and those who have more access to media and education, as well as expatriates (21 Feb. 2013).

The Professor of Anthropology stated that members of sexual minorities will settle in more urban or cosmopolitan areas, where individuals can find each other and have access to shared public spaces (20 Feb. 2013). According to the Professor of Anthropology, many move to cities to escape pressures from their families, workplaces and smaller communities (20 Feb. 2013). The Development and Operations Director of the Beijing LGBT Center likewise stated that Beijing is more "open" and many people living there are from other areas (28 Feb. 2013).

Similarly, in correspondence sent to the Research Directorate, a representative of the Aibai Culture & Education Center stated that "in rural areas, LGBT people typically encounter more familial pressure and stigmatization from their neighbours" (25 Feb. 2013). Aibai's survey results similarly indicate that "sexual orientation and gender identity based discrimination and unfair treatment are more likely to occur in medium and small cities" than in larger ones (2013, 12). The survey also showed that members of sexual minorities face more pressure in their workplaces in medium and small cities (Aibai 2013, 12).

1.4 Difficulties of Relocation

Sources note that it may be difficult for Chinese citizens to relocate permanently (Beijing LGBT Center 28 Feb. 2013; Visiting Professor 21 Feb. 2013; Professor of Anthropology 20 Feb. 2013). The Professor of Anthropology stated that many are unable to officially register in other cities, especially if they come from smaller localities (*ibid.*) Corroborating information for this statement could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. The Professor of Anthropology added that the situation of individuals from smaller communities and lower socio-economic levels is more difficult as they may not have the means and resources to relocate (*ibid.*).

Sources indicate that without official registration, it is difficult for Chinese citizens to obtain employment, housing, and access to social services (*ibid.*; Visiting Professor 21 Feb. 2013). The Professor of Anthropology stated that members of sexual minorities rely on "odd jobs" to survive and depend on "gay networks" to assist them in obtaining jobs and housing (20 Feb. 2013). The Director of Development and Operation of the Beijing LGBT Center stated that without the right *hukou* [household registration record], it is not possible to buy a house, and added that it was also not possible for unmarried people to buy a house (28 Feb. 2013). Corroboration for this statement could not be found among the sources consulted by the Research Directorate.

However, the Visiting Professor explained that the system, which governs the official registration of permanent residence, has been somewhat relaxed in recent years (depending on the locality) and that there is greater freedom of movement within the country, although he had no information about how this has translated with regard to accessing social services (21 Feb. 2013). He added that people with higher paying jobs seem to be able to relocate more easily and may even be able to officially re-register their residence, although difficulties still exist (21 Feb. 2013). The Director likewise stated that people with lower incomes had more difficulty in relocating and noted that some companies might hire people without going through the process of having the employee's *hukou* changed (Beijing LGBT Center 28 Feb. 2013). For more information on internal migration in China and the *hukou* system, please refer to Response to Information Request CHN103882.

2. Treatment by Society

According to the Professor of Anthropology, the majority of people in China are "disapproving" of sexual minorities (20 Feb. 2013). In correspondence with the Research Directorate, a Research Fellow at the Helsinki Collegium for Advanced Studies at the University of Helsinki, who has written on sexual minorities in China, stated that there is "considerable social stigma against sexual and gender minorities, alongside poor understanding of such issues in the general population" (Research Fellow 27 Feb. 2013).

Sources also indicate that discrimination towards sexual minorities exists (Professor of Anthropology 20 Feb. 2013; US 24 May 2012, 63). In addition, sources report that members of sexual minorities may also face the loss of jobs and expulsion from their families (Professor of Law 21 Feb. 2013; Professor of Anthropology 20 Feb. 2013). According to the Professor of Anthropology, while LGBT individuals may face difficulties no matter their economic level, wealthier individuals may find it easier to keep their privacy and to protect their jobs (ibid.). Further information regarding the loss of employment and expulsion from families could not be found among the sources consulted by the Research Directorate.

2.1 Violence

The Professor of Anthropology indicated that instances of violence against sexual minorities are mostly the result of parents beating their children (20 Feb. 2013). The Aibai representative likewise stated that "the only violence specifically targeting LGBT people that we have heard report of (other than economically motivated crimes such as robbery) are committed by parents or family members" (25 Feb. 2013). The Professor of Anthropology indicated that this was more common in the case of lesbians, but also happened in the case of gay men (20 Feb. 2013). According to the Development and Operations Director of the Beijing LGBT Center, some parents may resort to "corrective rapes" directed against their lesbian daughters (Beijing LGBT Center 28 Feb. 2013). Corroboration for this statement could not be found among the sources consulted by the Research Directorate.

2.2 Family Pressure

Sources indicate that there is strong family pressure in China to marry and have children (ibid.; Professor of Anthropology 20 Feb. 2013). According to the Professor of Anthropology, this is especially true for individuals born after the introduction of the one child policy (20 Feb. 2013). The Development and Operations Director of the Beijing LGBT Center stated that this pressure may also be exerted by extended family members acting on behalf of parents (28 Feb. 2013).

According to the Professor of Anthropology, some families feel "shamed" by their children's sexuality (20 Feb. 2013). Both the Visiting Professor and the Professor of Anthropology indicated that individuals may be rejected by their families (Visiting Professor 21 Feb. 2013; Professor of Anthropology 20 Feb. 2013). The Director added that responses to a child revealing his or her sexuality may be "more extreme" within low-income families who are less educated or less aware of sexual identity differences (Beijing LGBT Center 28 Feb. 2013). The Director also stated that some younger people living in bigger cities with wealthier, more educated parents who have greater exposure to differences and foreigners may be able to reveal their sexual identity to their parents more easily (Beijing LGBT Center 28 Feb. 2013).

2.3 Transgendered Individuals

According to the Aibai representative, transgendered people are "the group that suffers the worst stigmatization and discrimination" largely because they also face prejudice from lesbians and gay men and it is more difficult for them to hide (Aibai 25 Feb. 2013). The Development and Operations Director of the Beijing LGBT Center stated that he was aware of an instance in Beijing where a transgendered individual's home was set on fire (Beijing LGBT Center 28 Feb. 2013). The Director added that there are very few resources available to transgendered individuals and many male-to-female transgendered people will enter into sex work, which is "both illegal and dangerous" (ibid.).

The Visiting Professor nonetheless stated that authorities have permitted sex-reassignment surgeries for transgendered individuals (21 Feb. 2013). He added that it was unclear if a law existed to allow for the change of sex on official registration (21 Feb. 2013).

3. Treatment by Authorities and State Protection

3.1 Legal Situation

According to a report by the International Gay & Lesbian Human Rights Commission (IGLHRC) on the legal status of sexual minorities in China,

as LGBT people in China largely lack legal recognition and legal protections there is no legal certainty as to their position. This results in a situation where the population is unable to clearly determine whether they will face official opposition in meeting together, organizing and providing services within the community (Aug. 2009, 3).

According to the IGLHRC report, this general silence of authorities with regard to LGBT people results in their legal status being unclear, "with varying official treatment across different parts of China" (IGLHRC Aug. 2009, 3). The Visiting Professor likewise stated that localities have their own regulations and that there is potential for sexual minorities to be targeted for abuse or to face discrimination by authorities at the local level (21 Feb. 2013).

Sources indicate that there are no anti-discrimination laws to protect sexual minorities in China (Visiting Professor 21 Feb. 2013; Human Rights Watch Jan. 2013; IGLHRC Aug. 2009, 3). According to the Visiting Professor, while some anti-discrimination laws exist in the country, they do not specifically refer to sexual orientation (21 Feb. 2013). Sources also indicate that same-sex couples are not officially recognized and that LGBT people have no adoption rights (Human Rights Watch Jan. 2013; IGLHRC Aug. 2009, 5).

The Visiting Professor stated that there are no overt government policies towards homosexuals, although the previous general attitude of "wilful blindness" towards homosexuals by the government has changed into somewhat recognizing their existence due to concerns over health issues (21 Feb. 2013). He noted that the only overt mentions of homosexuality are in health regulations, which discuss men who have sex with men and their high risk health factors (Visiting Professor 21 Feb. 2013). Corroboration could not be found among the sources consulted by the Research Directorate.

3.2 General Treatment by Authorities

According to the Visiting Professor, homosexuals are not seen as a "threat" by the government, but rather as a "marginalised" and "underground" group, which can be forgotten (21 Feb. 2013). However, the Visiting Professor added that authorities are wary of public events or demonstrations in general (21 Feb. 2013). The Development and Operations Director of the Beijing LGBT Center similarly stated that any organized action demanding rights is not well looked upon by authorities (Beijing LGBT Center 28 Feb. 2013). The Professor of Anthropology likewise stated that across the country, individuals who are more visible or who publicly demand rights in China are those who will have "trouble" with authorities (20 Feb. 2013). According to the Aibai representative "[t]he only time Chinese police mistreat LGBT people is when they suspect that a group of people are organizing and might become a political force" (25 Feb. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources indicate that activists and organizations working on behalf of sexual minorities may face resistance from authorities (Beijing LGBT Center 28 Feb. 2013; Visiting Professor 21 Feb. 2013; US 24 May 2012, 64). According to sources, authorities may prevent public activities from being held (Visiting Professor 21 Feb. 2013; US 24 May 2012, 64). For example, the US *Country Reports* indicates that in June 2011, the Fifth Beijing Queer Film Festival was held clandestinely due to "harassment" from police and government agents, including police claiming the event was "illegal" (US 24 May 2012, 64). However, the visiting professor offered the view that government actions in such cases were based more on concerns over public demonstrations rather than homophobia (21 Feb. 2013).

Both of the professors interviewed indicated that the Ministry of Health does some outreach work within the gay community (Visiting Professor 21 Feb. 2013; Professor of Anthropology 20 Feb. 2013). According to the Professor of Anthropology, the Ministry of Health "quietly" gets gay men to hold health seminars in gay bars or other public spaces (20 Feb. 2013). However, according to the Visiting Professor, the Ministry's outreach on LGBT issues is done through academics and activists because it "does not really understand" the gay community (21 Feb. 2013). The Visiting Professor added that individuals will not turn to the Ministry or the government in general as recourse but did not provide an explanation (21 Feb. 2013).

3.3 Police

Sources indicate that members of sexual minorities may experience police harassment (Research Fellow 27 Feb. 2013; Professor of Anthropology 20 Feb. 2013; Human Rights Watch Jan. 2013). The Research Fellow at the Helsinki Collegium for Advanced Studies stated that "[t]he police has a long record of maltreatment, censorship and persecution of sexual and gender minorities, and sexual and gender minorities will, categorically speaking, not turn to the police for protection" (27 Feb. 2013).

The Visiting Professor indicated that policing in China varies from province to province and from locality to locality, adding that while there are "no real legal interdicts" regarding homosexuality, police have "broad powers" and may arrest individuals for reasons such as "public lewdness" or "lascivious conduct" (21 Feb. 2013). Sources note that gay venues may be subject to raids by police (Beijing LGBT Center 28 Feb. 2013; Professor of Anthropology 20 Feb. 2013; Human Rights Watch Jan. 2013).

According to the Professor of Anthropology, police may allow a gay bar to be open for a while, then conduct a raid or come around seeking bribes (Professor of Anthropology 20 Feb. 2013). She added that in larger cities, there are fewer requests for bribes and individuals are less subject to be arrested (ibid.). She also expressed the view that there are probably more cases of extortion by police in Fujian (ibid.).

3.4 Judiciary

According to the Research Fellow at the University of Helsinki, "[t]he judiciary is categorically ineffective and unwilling in punishing people who commit crimes against sexual minorities and in protecting their rights" (27 Feb. 2013). The Visiting Professor stated that homosexuals may be disadvantaged in the criminal justice

system as they may have difficulty in accessing counsel and that courts may not be willing to take "an aggressive stance" against police (21 Feb. 2013). As well, the Visiting Professor stated that gay people incur the risk of becoming more "public" by pursuing a court case (21 Feb. 2013). According to the Development and Operations Director, the Beijing LGBT Center has pushed for individuals to pursue legal recourse in some cases in order to "set precedents," but it has been unable to find individuals willing to do so (28 Feb. 2013).

4. Support Services

According to the Visiting Professor, most LGBT support groups are based in Beijing and Shanghai and do not really work at the national level (21 Feb. 2013). He added that some private support hotlines exist (Visiting Professor 21 Feb. 2013). The Development and Operations Director of the Beijing LGBT Center stated that there about ten groups working on LGBT issues in Beijing alone, holding between five to eight events a week between them (Beijing LGBT Center 28 Feb. 2013). He added that due to the history of the LGBT movement in China as a development of AIDS awareness and prevention efforts, there are "hundreds" of organizations dedicated to gay men in China, but there are only approximately 80 to 90 groups dedicated to lesbians throughout the country (ibid.).

The Beijing LGBT Center website describes the Center as "a non-profit, community-based organization that empowers the Beijing ... LGBT community through providing social services and organizing advocacy programs" (Beijing LGBT Center n.d.). Human Rights Watch reports that the Beijing LGBT Centre was forced to relocate as the landlord believed that the topic of homosexuality was too "sensitive" for his property (Human Rights Watch Jan. 2013). It was the second year in a row that the Centre faced an eviction (ibid.).

5. Situation and Treatment in Guangdong and Fujian

5.1 General Situation

According to the Aibai representative, "there is still widespread prejudice and stigmatization toward sexual minorities" in the rural areas of both Guangdong and Fujian, but "there is no systematic governmental persecution of LGBT people" (Aibai 25 Feb. 2013). He added that "[i]n larger cities, there [is a] fairly vibrant gay life, although mostly very low key and hidden out of the way" (ibid.).

5.1.1 Guangdong

According to the Professor of Anthropology, Guangdong is a "cosmopolitan" region of China and its cities are comparable to Beijing and Shanghai (20 Feb. 2013).

Please refer to Response to Information Request CHN104301 for more information on the treatment of sexual minorities in Guangdong.

5.1.2 Fujian

The Professor of Anthropology stated that the Province of Fujian is "less cosmopolitan" than the cities of Guangdong and places such as Shanghai and Beijing (Professor of Anthropology 20 Feb. 2013). She expressed the view that day-to-day life in Fujian was "probably very difficult" for sexual minorities (ibid.). The Development and Operations Director of the Beijing LGBT Center similarly stated that the cities in Fujian are "lower tier" cities where civil society organizations are not as present, which is reflected in the relatively less significant level of "outness" among sexual minorities in the province (28 Feb. 2013).

Two sources report that a public wedding between two men was held in Zherong County in Fujian province in October 2012 (Xinhua 20 Oct. 2012; *People's Daily* 18 Oct. 2012). According to the Xinhua news agency, "thousands" of locals were attracted to the event (Xinhua 20 Oct. 2012). An article on the *People's Daily* website indicates that nearly a thousand people joined the wedding procession (18 Oct. 2012). However, Xinhua notes that the marriage was not legally recognized (Xinhua 20 Oct. 2012).

5.2 Treatment by Authorities

Information on the treatment of sexual minorities by authorities in Fujian could not be found among the sources consulted by the Research Directorate. For information on the treatment of sexual minorities by authorities in Guangdong, please refer to Response to Information Request CHN104301.

5.3 Support Services

5.3.1 Guangdong

According to the Visiting Professor and the Development and Operations Director of the Beijing LGBT Center, support organizations exist in Guangdong (Visiting Professor 21 Feb. 2013; Beijing LGBT Center 28 Feb. 2013) especially in Guangzhou (Visiting Professor 21 Feb. 2013). In correspondence with the Research

Directorate, another representative of the Beijing LGBT Centre stated that while they did not know much about the situation of sexual minorities in the south of China, they were aware of the existence of PFLAG China and the Chihang LGBT centre, both based in Guangzhou (20 Feb. 2012).

For more information on support services present in Guangdong, please refer to Response to Information Request CHN104301.

5.3.2 Fujian

The Professor of Anthropology stated that any existing support groups or public venues in Fujian were not "well known" among LGBT groups in Beijing and Shanghai (20 Feb. 2013). The Development and Operations Director of the Beijing LGBT Center stated that he was not aware of any LGBT groups in Fujian (28 Feb. 2013). He noted that Xiamen's university had a very active group (Beijing LGBT Center 28 Feb. 2013).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: A representative of Tongyu in Beijing could not provide information within the time constraints of this Response. A professor of Law at China University of Political Science, a gay-rights activist based in Guangdong and representatives of Asia Catalyst could not provide information for this Response. Attempts to contact a Beijing- based gay-rights activist as well as representatives of Civil Rights for Sexual Diversities, the Chi Heng Foundation and of Beijing Sisters were unsuccessful within the time constraints of this Response.

Internet sites, including: Amnesty International; The Bilerico Project; *China Daily*; China Law; China – Ministry of Health; ecoi.net; Factiva; Freedom House; Fridae; *The Gaysian*; GlobalGayz; Other Sheep; Pink News; University of Michigan – International Spectrum; US – Congressional-Executive Commission on China; Utopia; What's On Xiamen.
