

1. This is a joint submission made by a group of LGBT organizations advancing equality rights for persons with diverse sexual orientations and gender identities and expressions (SOGIE). This submission is made on the occasion of the third United Nations Universal Periodic Review of the People's Republic of China. It contains proposed recommendations to the Chinese government for the Human Rights Council Working Group of the 31<sup>st</sup> session of the UPR.
2. We acknowledge the positive measures that the Chinese government has taken towards improving the human rights of LGBT persons by decriminalizing and de-stigmatizing the LGBT population in China. The 1997 revision of the Criminal Law of People's Republic of China removed the crime of "hooliganism"<sup>i</sup>, an ambiguous term of offence that had been interpreted to criminalize consensual male same-sex behaviors. In 2001, the Chinese Society of Psychiatry revised the *Chinese Classification of Mental Disorders* (also known as CCMD-3) and removed homosexuality and bisexuality from the lists of mental disorder<sup>ii</sup>.
3. We commend the progress that China has achieved in terms of provision of protection for persons with diverse SOGIE since its second UPR cycle. As the *Anti-Domestic Violence Law*, enacted in 2016, protects people who cohabit without specifying gender<sup>iii</sup>, it enables individuals with diverse SOGIE to seek remedy when they experience domestic violence from their same-sex partners. In addition, the 2017 edition of regulations<sup>iv</sup> on gender reassignment surgery<sup>v</sup> and its application issued by the (to be reformed) National Health and Family Planning Commission requires a set of detailed criteria that medical institutions and their physicians should meet in implementing gender reassignment surgery, and the specific medical index of the treatment. And the newly revised regulations have also rephrased its language to be more gender-sensitive. Furthermore, the Chinese judicial system ensures that LGBT individuals have the opportunity to seek redress for the violation of their legal rights. In 2014, a gay man won a lawsuit against a private psychological clinic which imposed conversion therapy on him<sup>vi</sup>. In 2017, a transgender man sued his former employer for terminating his contract without a legitimate reason and won the case<sup>vii</sup>.
4. We notice the reply that China has made in relation to SOGIE within the United Nations treaty bodies. During the review of China's combined seventh and eighth periodic reports by the Committee on the Elimination of Discrimination against Women, Ms. Mu Hong, a delegate from China, made a positive and pertinent remark. "The rights of all Chinese citizens were protected by Chinese law, regardless of their sexual orientation."<sup>viii</sup> She said.
5. Despite these improvements and commitment, there is no specific law in place

---

that explicitly stipulates a prohibition against discrimination and unequal treatment of LGBT persons, nor is there a specific law in place to protect the rights of individuals with diverse SOGIE. LGBT individuals are facing widespread discrimination in the Chinese society. A 2016 UNDP report indicates that over half of the LGBT people surveyed had experienced discrimination and unequal treatments<sup>ix</sup>.

6. This submission illustrates the ongoing discrimination and violence faced by LGBT people in China in both public and private settings, including at the workplace, at school and at home. It also highlights the practice of so-called “conversion therapy” and the issue of legal gender recognition as particularly severe challenges and obstacles experienced by LGBT individuals. It also proposes recommendations to the Chinese government to improve the protection of LGBT people in China as follows:

- 1) *Revise the Labor Law, the Law on the Promotion of Employment, the Law on the Protection of Rights and Interests of Women, and the Law on Protection of Minors of the People’s Republic of China through the National People’s Congress of the People’s Republic of China and its Standing Committee, by extending the scope of anti-discrimination provisions to include the grounds of sexual orientation, gender identity and expression in line with international law, in order to ensure equal protection for LGBT individuals against all forms of discrimination and violence in both public and private settings, including at workplace, at school and at home.*
- 2) *Implement the recommendations (186.89, 186.90) accepted at its second cycle of UPR, adopting the proposed Employment Anti-Discrimination Law inclusive of SOGIE through the National People’s Congress of the People’s Republic of China and its Standing Committee, and ensure that LGBT persons fully enjoy equal and non-discriminatory treatment in the workplace, and with regards to employment issues (including recruitment) in general.*
- 3) *Issue judicial interpretation of the Anti-Domestic Violence Law of the People’s Republic of China through the Supreme People’s Court to explicitly protect cohabiting same-sex partners - including by defining “people living together other than family members”, articulated in article 37 of the law, as including same-sex partners – in order to ensure that individuals in same-sex relationships receive the same legal protections against domestic violence as people living in opposite-sex relationships.*
- 4) *Issue regulations, guidelines and/or notices through the National Health Commission to revise and normalize the existing psychiatric standards and*

---

*norms regarding the classification and diagnosis of mental illness, and clearly declassify transgender identity as well as the so-called ego-dystonic homosexuality and bisexuality as mental disorders, in compliance with international psychiatric standards and norms.*

- 5) *Issue regulations through the Ministry of Education to allow all transgender people to change their gender marker on school certificates and diplomas, including those who have already obtained school certificates and diplomas before their gender marker is changed on other official documents such as ID and/or household registration.*

### **Employment Equality**

7. During the second UPR cycle, the Chinese government accepted two recommendations (186.89, 186.90) regarding the establishment of inclusive laws and regulations to protect LGBT individuals against discrimination based on sexual orientation and gender identity in employment and at workplace, with a claim that those recommendations had already been implemented.<sup>x</sup> In spite of that, LGBT persons still live without adequate legal protection, and continue to face challenges in seeking equal treatment in employment and in obtaining effective legal redress.
8. While different forms of discrimination are prohibited under Chinese domestic laws, there is no *Anti-Discrimination Law* and/or *Employment Anti-Discrimination Law* in place that explicitly stipulates a prohibition against discrimination and unequal treatment towards LGBT persons.<sup>xi</sup> In addition, current laws regulating labor and employment issues do not explicitly recognize SOGIE as grounds for discrimination, but only mention ethnic background, race, sex<sup>xii</sup>, and religious beliefs as protected grounds on which discrimination is unlawful.
9. In 2015, a proposal for an *Employment Anti-Discrimination Law* was submitted to the National People's Congress (NPC),<sup>xiii</sup> which articulated a provision that prohibits SOGIE-based discrimination, and required equal access to employment and enjoyment of just and favorable conditions of work.<sup>xiv</sup> However, there is no indication if and when this proposal will be adopted and made into law, judging from the *NPC Standing Committee Plan for Legislation* in 2016 and 2017.<sup>xv</sup>
10. An inclusive Employment Anti-Discrimination law specifically prohibiting SOGIE-based discrimination and protecting rights of LGBT persons is also

---

lacking in the National Human Rights Action Plan (NHRAP) (2016-2020),<sup>xvi</sup> China's official guidelines for human rights development. Moreover, SOGIE issues are also missing from the "Progress in the Legal Protection of Human Rights in China and China Human Rights Memorabilia", China's official records of its own human rights activities and achievements.

11. LGBT individuals in China are facing discrimination, harassment, risk of being fired and denied employment/promotion when their sexual orientation is exposed, or when their gender identity and/or expression do not match expected social norms. A 2016 survey report released by UNDP reveals that among 18,088 LGBT respondents, 21% were subjected to different levels of discriminatory treatments in the workplace due to their SOGIE.<sup>xvii</sup> A 2017 report on Chinese transgender people released by a Chinese NGO indicates that 11.87% of the 2060 transgender respondents were unemployed<sup>xviii</sup>.
12. In 2014, a gay man was fired after his sexual orientation was unexpectedly revealed online. He later filed a lawsuit against his employer for violating his personal dignity and right to equal employment in accordance with the Employment Promotion Law.<sup>xix</sup> Unfortunately, the judge eventually ruled against the plaintiff.
13. In 2015 a transgender man in Guizhou Province was fired only a few days after he took the job because the employer thought he looked "abnormal".<sup>xx</sup> Eventually, he brought his case to court in 2016, after exhausting remedies at a labor arbitration committee which ruled against him. Eventually, the plaintiff did get legal redress, yet the court only ruled in his favor on the ground that the employer/defendant terminated the contract without a legitimate reason.<sup>xxi</sup> The court did not acknowledge that the plaintiff was discriminated against based on his gender identity and expression. Such a partial redress failed to account for discrimination on the grounds of SOGIE and offer actual protection and redress for LGBT persons.
14. As a State party to the *International Covenant on Economic, Social and Cultural Rights*, China recognizes "the right of everyone to the enjoyment of just and favorable conditions of work" and has accepted responsibility to guarantee safe and healthy working conditions. However, the lack of applicable laws, regulations and measures prohibiting discrimination on the basis of SOGIE in China seriously hinders LGBT persons from access to equality and non-discrimination in employment. To address these challenges, we propose the recommendations to the Chinese government as follows:

### **Recommendations:**

- 1) *Implement the recommendations (186.89, 186.90) accepted at it's second cycle of UPR, adopting the proposed Employment Anti-Discrimination Law inclusive of SOGIE through the National People's Congress of the People's Republic of China and its Standing Committee, and ensure that LGBT persons fully enjoy equal and non-discriminatory treatment in the workplace, and with regards to employment issues (including recruitment) in general.*
- 2) *Revise the Labor Law, the Law on the Promotion of Employment, and the Law on the Protection of Rights and Interests of Women of the People's Republic of China through the National People's Congress of the People's Republic of China and its Standing Committee, by extending the scope of anti-discrimination provisions to include the grounds of sexual orientation, gender identity and expression in line with international law, in order to ensure equal protection for LGBT individuals against employment discrimination.*
- 3) *Instruct the Ministry of Human Resources and Social Security to issue regulations and/or guidelines that explicitly prohibit employment discrimination based on SOGIE, and take concrete measures to prevent and combat discrimination in the workplace on the basis of SOGIE.*
- 4) *Issue judicial interpretation or Guidance Cases of the Labor Law, the Law on the Promotion of Employment, and the Law on the Protection of Rights and Interests of Women of the People's Republic of China through the Supreme People's Court to explicitly include LGBT individuals in the scope of protection of the laws.*

### **School Violence**

15. During the last UPR cycle, the government of China accepted Ireland's recommendation to establish anti-discrimination laws and regulations to ensure that LGBT persons enjoy equal treatment at school.<sup>xxii</sup>
16. While several administrative regulations have been adopted by the Chinese government since China's second UPR cycle, which specifically prevent the prevalence of bullying and violence in schools,<sup>xxiii</sup> there is no mention of prevention of and protection against SOGIE-based discrimination, bullying, and abuse.
17. Various reports indicate that LGBT students nationwide are facing bullying, exclusion, discrimination, physical and psychological abuse at school. A 2016 survey report released by UNDP reveals that among the 18,088 LGBT

---

respondents, 39.6% were subjected to different levels of discriminatory treatments in the school settings because of their SOGIE<sup>xxiv</sup>. According to a survey report published by a Chinese NGO, 40.64% of the 3452 LGBT students surveyed reported suffering from various forms of school bullying due to their SOGIE<sup>xxv</sup>. A 2015 survey showed that after suffering from gender-based bullying, more than 46.1% of students felt they had no ability to fight back, and as a result, 10.1% students skipped class or dropped out of school. SOGIE-based bullying also greatly increased suicide among youth.<sup>xxvi</sup> A 2017 report focused on Chinese transgender persons indicates that 70.8% of the 2060 respondents reported suffering from verbal abuse and other forms of violence in school, causing different levels of depression among the victims.<sup>xxvii</sup>

18. The severity of individual cases also speaks to the harm caused by SOGIE-based school violence. In March 2016, a lesbian high school student was dosed with philter and threatened with white arsenic by her classmates.<sup>xxviii</sup> Before the incident, this girl had been bullied and assaulted by the same group of students, who went unpunished by the school.<sup>xxix</sup>
19. Despite these challenges faced by LGBT students in terms of school bullying, the measures for resolving SOGIE-based discrimination, school bullying and abuse are absent in school regulations. A 2016 NGO report reveals that among 3452 student respondents, only 2.46% reported that their schools had regulations regarding the measures on SOGIE-based discrimination or school bullying<sup>xxx</sup>.
20. Furthermore, there is lack of adequate and accurate information regarding SOGIE in school curricula and educational materials. A 2014 report released by a local NGO indicates that 40% of 90 university textbooks published after 2011 still categorized *homosexuality* as a mental illness and/or as sexual perversion, and 50% of the textbooks included conversion therapy.<sup>xxxi</sup> A 2016 UNDP report reveals that only 10.1% of respondents had received sex education inclusive of SOGIE in high school<sup>xxxii</sup>.
21. As a State party to the UN Convention on the Rights of the Child (CRC), China has enacted the Law on Protection of Minors<sup>xxxiii</sup> specifying the protection of minors including minor students. However, there is no explicit mention of SOGIE in the law, nor has there been any official or judicial interpretation including SOGIE as a protected ground.
22. The National Program of Action for Child Development in China (2011-2020)<sup>xxxiv</sup> includes specific mention of most-disadvantaged children. Yet it does not explicitly mention LGBT children, nor does it address child rights issues related to SOGIE.

23. The inclusion of LGBT rights issues within abovementioned legal and policy frameworks is essential in fostering a safe and accepting environment for LGBT students and minors. The absence of inclusive laws and regulations that provide safeguards for LGBT persons in schools (and in particular minor LGBT students), combined with the lack of awareness on LGBT rights issues evident in government working agenda related to school bullying, leaves LGBT students vulnerable and unprotected from harassment, bullying and abuse from their peers or teachers. This ultimately impairs their right to education.
24. As a State party to the *International Covenant on Economic, Social and Cultural Rights*, China recognizes that “education shall be directed to the full development of the human personality and the sense of its dignity.<sup>xxxv</sup>” In order to enable LGBT students to fulfill their right to education with respect and dignity, we would like to propose the following recommendations:

**Recommendations:**

- 5) *Adopt Anti-School Bullying Law inclusive of SOGIE through the National People’s Congress of the People’s Republic of China and its Standing Committee explicitly prevent the practice of school bullying or violence against minors and students based on their SOGIE in accordance to China’s obligations under United Nation Convention on the Rights of the Child, with a reference to para 34 & 35 articulated in General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence.*
- 6) *Revise the Law on Protection of Minors of the People’s Republic of China through the National People’s Congress of the People’s Republic of China and its Standing Committee, by extending the scope of anti-discrimination provisions to explicitly include the grounds of SOGIE in line with international law, in order to ensure equal protection for LGBT individuals against all forms of physical and psychological violence at school and in other settings (including at home).*
- 7) *Instruct the Ministry of Education and other relevant government agencies to issue regulations, guidelines and/or notices that explicitly include the prevention of the practice of school bullying or violence against minors and students based on their SOGIE, and implement the existing regulations and/or policies on the prevention of school bullying, simultaneously take concrete measures to protect LGBT students from all forms of abusive acts of bullying and violence in the school environment.*

- 8) *Enact effective policies and strengthen measures through the Ministry of Education to guarantee the implementation of non-discriminatory gender and sex education inclusive of SOGIE throughout the education system and at all levels, including in primary and middle schools, including by introducing SOGIE in gender and sex education textbooks and curricula in line with up-to-date scientific information and knowledge.*
- 9) *Instruct administrative departments of education at all levels and schools to provide training and capacity-building to raise awareness and knowledge on SOGIE and LGBT issues for the school educators and administrators, and strengthen their capacities in addressing the incidents of SOGIE-based discrimination and abuses at school and ensure such issues are tackled in a sensitive manner.*

### **Domestic violence**

25. During its second UPR cycle, China accepted a recommendation made by the Republic of Moldova regarding adoption of a comprehensive law for combatting domestic violence<sup>xxxvi</sup>. In 2015, the first Anti-Domestic Violence Law of the People's Republic of China<sup>xxxvii</sup> was passed by Standing Committee of the National People's Congress, and later came into effect in 2016.
26. We commend China for the enactment of its first Anti-Domestic Violence Law. The enactment of the law provides legal tools for combating widespread domestic violence in the Chinese society, and also brings the issue of domestic violence to the attention of the general public.
27. Despite this improvement, there is no explicit mention of persons with diverse SOGIE in the scope of protection provided by the Anti-Domestic Violence Law. While the law covers cohabitation of people are not related but live together, it does not specify the nature of cohabitation or the gender of cohabitants<sup>xxxviii</sup>.
28. Evidence shows that domestic violence exists extensively within same-sex partner relationships, and that people living in these relationships are in need of legal protection and equal treatment. A 2015 report released by a Chinese NGO indicates that 42.64% out of 401 lesbian and female bisexual respondents had been violently treated or abused by their same-sex partners<sup>xxxix</sup> usually in the forms of psychological abuse, physical violence, sexual violence, and restriction of personal freedom<sup>xl</sup>.
29. In addition, there is prevalent domestic violence targeting LGBT family members.



This also needs specific attention, and calls for specific measures to be taken by China's law enforcement officers and judicial personnel. According to a report released by UNDP in 2016, among 18,088 LGBT persons, over half of the respondents reported that they had been unfairly treated or discriminated against by their family members on the basis of SOGIE.<sup>xli</sup> A 2017 report on Chinese transgender people reveals that only 6 people among 1640 respondents had not experienced domestic violence after they came out to their parents or guardians<sup>xlii</sup>.

30. The Anti-Domestic Violence Law provides protection for all children, including LGBT children, youth and adults, against domestic violence from their parents or other family members. Yet the effectiveness of the enforcement of the law and its mechanisms when related to domestic violence involving LGBT people remains unclear. There is a lack of official statistics regarding the issue. A recent report released by a Chinese NGO suggests that law enforcement officials and judicial personnel in general lack knowledge on SOGIE, and also capacity to properly address domestic violence complaints involving parental abuses of LGBT children and same-sex relationships.<sup>xliii</sup> And that may lead to re-traumatization of the survivors, and discourage them from seeking help from law enforcement officials or officers from other relevant agencies.
31. In order to foster a safe and accepting family environment for LGBT persons, it is important to include LGBT-specific protection measures in existing domestic violence laws, implementation measures, guiding documents, and human rights trainings.

### **Recommendations**

- 10) *Issue judicial interpretation of the Anti-Domestic Violence Law of the People's Republic of China through the Supreme People's Court to explicitly protect cohabiting same-sex partners - including by defining "people living together other than family members", articulated in article 37 of the law, as including same-sex partners – in order to ensure that individuals in same-sex relationships receive the same legal protections against domestic violence as people living in opposite-sex relationships.*
- 11) *Issue detailed rules for the implementation of the Anti-Domestic Violence Law of the People's Republic of China through government departments at all levels to explicitly protect cohabiting same-sex partners - including by defining "people living together other than family members", articulated in article 37 of the law, as including same-sex partners.*

- 12) *Revise the Law on Protection of Minors of the People's Republic of China through the National People's Congress of the People's Republic of China and its Standing Committee, by extending the scope of anti-discrimination provisions to explicitly include the grounds of SOGIE in line with international law, in order to ensure equal protection for LGBT individuals against all forms of physical and psychological violence at home and in other settings (including at school).*
- 13) *Instruct the Ministry of Public Security and Ministry of Justice to provide training and capacity-building to raise awareness on SOGIE and LGBT issues for law enforcement officials and judicial personnel at all levels, and in consultation with domestic civil society organizations in China, to ensure effective protection for the victims of domestic violence with diverse SOGIE.*
- 14) *Instruct the Ministry of Civil Affairs and the civil affairs departments at all levels to provide policy and financial support to the Chinese civil society organizations working on the issues of domestic violence related to SOGIE, and to ensure that they can register as civil society organizations and carry out their programs to effectively support the survivors of domestic violence.*

### **“Conversion Therapy”**

32. We acknowledge the positive measures the Chinese government has taken towards improving the human rights of LGBT persons by decriminalizing and de-stigmatizing LGBT population in China.<sup>xliv</sup> In April 2001, the Chinese Society of Psychiatry revised the Chinese Classification of Mental Disorders (also known as CCMD-3) and removed homosexuality and bisexuality from the list of mental disorders<sup>xlv</sup>.
33. However, the practice of so-called conversion therapy<sup>xlvi</sup> still exists in China, a prevailing human rights abuse affecting lesbian, gay, bisexual and transgender persons in Chinese society and harming their physical and psychological health and integrity. According to a 2015 study released by a Chinese local NGO, among 996 psychiatrist and psychologist respondents, 35.3% of them considered homosexuality a mental illness<sup>xlvii</sup>. And out of 532 respondents who had provided service to LGBT clients, 14% admitted that they had conducted conversion therapy. Moreover, 7 people reported that they had used electroshocks as a form of treatment<sup>xlviii</sup>.
34. Transgender individuals are especially vulnerable to “conversion therapy”. Transgender identity is still on the list of mental illness in the 2001 edition of

---

Chinese Classification of Mental Disorders<sup>xlix</sup>. Based on that classification, the current regulations regarding gender affirmation surgery require psychiatric or psychological treatment for at least one year in order to apply for SRS<sup>l</sup>, resulting in unwanted “conversion therapy” being imposed on transgender people. A 2017 survey report released by a Chinese NGO on transgender people reveals that 11.9% out of 1640 respondents had been coerced to receive “conversion therapy” by their parents or guardians<sup>li</sup>.

35. Two recent court cases indicate that current Chinese judicial system may not prevent victims of conversion therapy from bringing their legitimate cases to court, showing how existing legislation could provide partial release for victims. In 2014, a gay man who had undergone conversion therapy in a private clinic brought the clinic to court. The court stated that “homosexuality is not a mental illness”, and ruled against the clinic for illegitimate ineffective treatment<sup>liii</sup> in accordance to the Mental Health Law of the People’s Republic of China.
36. In 2016, another gay man filed a lawsuit against a public hospital after being forcibly admitted to receive conversion therapy.<sup>liiii</sup> The court ruled that, since the man didn’t pose any threats to others, the hospital couldn’t admit him against his will. Both verdicts referred to the Mental Health Law, which sets forth several provisions that protect basic rights of individuals when they undergo mental disorder diagnosis and treatment,<sup>liv</sup> and regulate the practice qualification and code of conduct for psychiatrists and psychological consultants.<sup>lv</sup> In addition, the law prohibits the diagnosis of a mental disorder and any medical procedure performed against an individual’s will.<sup>lvi</sup>
37. Despite the positive development from these court verdicts and the protective legislation supporting them, conversion therapy remains prevalent throughout China. Although there are general rules regulating the conduct of licensed therapists and doctors when dealing with patients, these laws and regulations are not well implemented, leaving the spreading of harmful practices such as conversion therapy largely unchecked.
38. In addition, no effective measures have been taken by the Chinese government to tackle the issue of the practice of “conversion therapy” targeting LGBT persons. *The National Mental Health Action Plans (2015-2020)*,<sup>lvii</sup> the official guidelines on mental health and development in China, does not have plans to resolve the issue of conversion therapy, particularly coerced treatment.
39. The absence of protective legislation and measures explicitly prohibiting the practice of conversion therapy continues to leave LGBT persons vulnerable to the mental and physical abuses involved in the treatment. In this regard, we would

like to propose the following recommendations:

**Recommendations:**

- 15) *Issue regulations, guidelines and/or notices through the National Health Commission to revise and normalize the existing psychiatric standards and norms regarding the classification and diagnosis of mental illness, and that clearly declassify transgender identity as well as ego-dystonic homosexuality and bisexuality as mental disorders, in compliance with international psychiatric standards and norms.*
- 16) *Instruct the National Health Commission the health administrative departments to issue regulations that clearly prohibit public hospitals and private psychiatric and psychological clinics from conducting conversion therapy that aims at changing one's sexual orientation and gender identity against one's will.*
- 17) *Instruct the National Health Commission and the health administrative departments at all levels to strengthen the regulation, inspection, and supervision over public hospitals as well as private clinics and practitioners, including by reinforcing the existing monitoring and reporting system and introducing an effective individual complaint mechanism, thus to prevent public hospitals and private psychiatric and psychological clinics from conducting conversion therapy that aims at changing one's sexual orientation and gender identity.*
- 18) *Instruct the health administrative departments at or above the county level and/or the administrative agencies for industry and commerce to investigate and hold accountable those who are conducting conversion therapy, including by issuing warnings, suspending professional practicing activities, and revoking licenses of repeat offenders in accordance to the Chinese domestic laws.*
- 19) *Instruct the National Health Commission to develop a set of standards and norms for psychiatric and mental health services that comply with international standards and norms, and reflect international best practices in addressing the mental health needs of LGBT persons.*
- 20) *Instruct the Ministry of Education to develop mental health education textbooks and curricula inclusive of knowledge of SOGIE in line with up-to-date scientific information and knowledge, and provide trainings on SOGIE and LGBT issues to mental health professionals, ensuring that LGBT people are provided with support for their mental health.*

---

## **Legal Recognition of Gender Identity for Transgender People**

40. The Chinese government allows transgender people to access sex reassignment surgery<sup>lviii</sup> (SRS), and to change their gender marker after undergoing SRS on identity documents including citizenship ID cards and household registrations. In 2017, the National Health and Family Planning Commission issued a new Procedural Management Standard on Sex Reassignment Surgery<sup>lix</sup> as well as a Quality Control Index of Clinical Application of Sex Reassignment Surgery.<sup>lx</sup> It furthermore repealed the old Standards.<sup>lxi</sup> The new regulations stipulate a set of detailed criteria that medical institutions and their physicians should meet in implementing SRS, and the specific medical index of the treatment. Furthermore, following official written replies issued by the Ministry of Public Security<sup>lxii</sup> and the Bureau of Public Security,<sup>lxiii</sup> citizens have the right to change their gender marker on citizenship ID cards and household registrations under the condition of completing full SRS.
41. In its 2001 third revision, the CCMD-3<sup>lxiv</sup> still lists *transsexualism* as a mental illness or mental disorder. Transgender individuals are required to receive psychiatric or psychological treatment for at least one year in order to apply for SRS.<sup>lxv</sup> In addition, transgender persons are also required to inform their immediate family members about their decision to receive the surgery and provide evidence of such notification before SRS is permitted.<sup>lxvi</sup> In practice, such requirement is often misinterpreted by surgeons who usually require the SRS applicants to provide the consent form from their parents or guardians.
42. These provisions are discriminatory in nature because they contribute to the pathologization of gender identity, and create obstacles for transgender individuals to access SRS, thus infringing upon their rights to legal recognition of gender identity. In a November 2017 survey report on transgender populations in China, out of 2060 respondents, 80% expressed their concerns over the requirement of undergoing at least one year of psychotherapy and perceived it as unreasonable.<sup>lxvii</sup> Regarding the requirement to notify immediate family members, among 1051 respondents who strongly wanted to undergo SRS, 65.3% reported that they could not access SRS because of lack of support of their parents.<sup>lxviii</sup>
43. In addition, the current regulations pose legal barriers for transgender minors to enjoy their right to legal gender recognition because SRS, required in order to apply for a revision of their ID cards and household registrations, is available only to those who are over the age of twenty. These provisions are both discriminatory and repressive in nature. The stipulated age requirement does not comply with the definition of the age of persons with full capacity for civil conduct enshrined in *the General Principles*<sup>lxix</sup> and *the General Provisions*<sup>lxx</sup> of the Civil Law of the

*People's Republic of China*. It prevents transgender individuals aged 18 to 20 from accessing their rights to legal gender recognition protected under the laws and regulations. Furthermore, transgender people under 18 are also excluded from accessing SRS, even if they can obtain approval from their guardians/parents.<sup>lxxi</sup>

44. While current domestic laws and regulations allow transgender individuals to alter their gender marker on ID cards and household registrations, there is still great difficulties for transgender persons to change their gender marker on various other official documents, including university diplomas and other academic certificates.
45. In the abovementioned NGO report on Chinese transgender people, among 2060 transgender persons, 36% of respondents reported that they had obstacles in the process of applying for change of the name and gender marker on diplomas and educational certificates, with 12% of them further indicating that their schools had refused.<sup>lxxii</sup>
46. Currently, there are two regulations issued by the Ministry of Education specifying the procedures and requirements regarding the change of personal information registered in the school system and the national education system.<sup>lxxiii</sup> According to the provisions, gender markers can only be changed by transgender students who already have their gender marker changed on ID cards or household registrations. However, transgender persons who already obtained their academic credentials and certificates before they have had chance to have their preferred gender recognized by law are excluded from accessing the rights provided by these provisions.
47. The difficulties and challenges to obtain academic documents that match their gender identity create obstacles for transgender people in accessing employment and pursuing higher education, and also infringe on their right to privacy. To better address the issues outlined above, we would like to propose the following recommendations to the government of China:

### **Recommendations**

- 21) *Instruct the National Health Commission to repeal the provision set forth in the Sex Reassignment Surgery Procedural Management Standard (2017 Edition) that requires transgender persons to receive at least one year of psychological or psychiatric treatment, which must be proven to be ineffective in altering the desire for gender transition.*
- 22) *Instruct the National Health Commission to repeal the provision set forth in the Sex Reassignment Surgery Procedural Management Standard (2017 Edition)*

*that requires transgender people to inform their immediate family members about their decision of undergoing SRS as well as provide evidence of such notification.*

*23) Instruct the National Health Commission to revise the Sex Reassignment Surgery Procedural Management Standard (2017 Edition) in order to protect transgender people's right to access legal gender recognition guaranteed by China's domestic laws and international law: including by amending the age limit for SRS from 20 to 18; and allowing transgender minors to access SRS with parents' or guardian's consent.*

*24) Instruct the National Commission and the Ministry of Public Security to take concrete steps towards removal of the SRS requirement for persons who want to change their gender marker on official documents in order to protect Chinese citizen's rights to privacy, to bodily integrity, to physical autonomy, and to access legal gender recognition.*

*25) Issue regulations through the Ministry of Education to allow all transgender people to change their gender marker on school certificates and diplomas, including those who have already obtained school certificates and diplomas before their gender marker is changed on other official documents such as ID and/or household registration.*

## Endnotes

<sup>i</sup> The Criminal Law of the People's Republic of China <中华人民共和国刑法>.

<http://www.fmprc.gov.cn/ce/cgvienna/eng/dbtyw/jdwt/crimelaw/t209043.htm>. Accessed on November 19, 2017

UNDP, USAID (2014). Being LGBT in Asia: China Country Report. Bangkok, p.8, URL:

<http://www.asia-pacific.undp.org/content/rbap/en/home/operations/projects/overview/being-lgbt-in-asia.html> Last visited December 27, 2017.

<sup>ii</sup> The Chinese Society of Psychiatry, Chinese Classification of Mental Disorders Edition 3 (《中国精神障碍分类与诊断标准第3版》), 2001, Shandong Science and Technology Press.

<sup>iii</sup> Anti-domestic Violence Law of the People's Republic of China, Standing Committee of the National People's Congress, Document Number, Order No. 37 of the President Date issued: December 27, 2015, Article 37.

<sup>iv</sup> Sex Reassignment Surgery Procedural Management Standard (2017 Edition) <性别重置技术管理规范 (2017年版)>

<http://www.nhfdc.gov.cn/ewebeditor/uploadfile/2017/02/20170220145848193.docx>.

Accessed on November 21, 2017

Quality Control Index of Clinical Application of Sex Reassignment Surgery (2017 Edition) <性别重置技术临床应用质量控制指标>.

[www.nhfpc.gov.cn/ewebeditor/uploadfile/2017/02/20170220145903114.docx](http://www.nhfpc.gov.cn/ewebeditor/uploadfile/2017/02/20170220145903114.docx).

Accessed on November 21, 2017

<sup>v</sup> Sex affirmation surgery is called by the Chinese government as sex reassignment surgery (SRS).

In China, transgender persons are required to undergo these often unwanted sterilization surgeries as a prerequisite to enjoy legal recognition of their preferred gender.

<sup>vi</sup> China's first case on gay conversion, the plaintiff won the lawsuit (中国首例同性恋矫正案宣判 原告胜诉). December 19, 2014. <http://news.163.com/14/1219/19/ADRON5UI00014SEH.html>. Accessed on November 19, 2017

<sup>vii</sup> The Plaintiff Won the First Transgender Employment Discrimination Lawsuit (爱穿男装上班 9 天被辞退? 全国首例跨性别就业歧视案原告胜诉), July 31, 2017. [http://ydy.zhongsou.com/WebApi/custom\\_detail?mongoId=597eb010b38524cb17021bc3-11](http://ydy.zhongsou.com/WebApi/custom_detail?mongoId=597eb010b38524cb17021bc3-11). Accessed on 2017-12-30

Transgender Identity Should Be Equally Recognized-A analysis on the First Transgender Employment Discrimination Case (跨性别应是平等存在的正常性别-我国首例跨性别就业歧视案评析), August 18, 2017. <http://fj.people.com.cn/n2/2017/0816/c181466-30616511.html>. Accessed on 2018-3-16

<sup>viii</sup> See CEDAW/C/SR.1251, para.50.

<sup>ix</sup> UNDP Being LGBTI in Asia, A National Survey on Social Attitudes towards SOGIE, May 15, 2016. P.8.

[http://www.cn.undp.org/content/china/en/home/library/democratic\\_governance/being-lgbt-in-china.html](http://www.cn.undp.org/content/china/en/home/library/democratic_governance/being-lgbt-in-china.html). Accessed on November 25, 2017

<sup>x</sup> 2014, Report of the Working Group on the Universal Periodic Review, China, Addendum Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/25/5/add.1, p7

Recommendation 186.89 Establish anti-discrimination laws and regulations to ensure that lesbian, gay, bisexual and transgender persons enjoy equal treatment, including at schools and in the workplace (Ireland).

Recommendation 186.90 Include a prohibition of discrimination of any kind, including discrimination based on sexual orientation and gender identity, ethnicity, religion and infection with HIV, in labour and employment law in line with international standards (Netherlands).

China's replies: 2 recommendations accepted and already implemented.

<sup>xi</sup> China's Constitution, Law on Regional National Autonomy, Law on the Protection of Rights and Interests of Women, Law on the Protection of Rights and Interests of Elderly, Law on the Protection of Minors, Law on the Protection of Disabled Persons, all articulate provisions of non-discrimination, but SOGIE are not included in the scope of protection under these provisions.

<sup>xii</sup> In a groundbreaking ruling regarding a transgender employment discrimination case (illustrated in para.3) in 2018, the court stated that individual citizen's gender identity and expression are protected under the scope of right to personal dignity. It was the first time in history a Chinese court interpreted the term of "sex" inclusive of gender identity and expression, which illustrated that gender identity and expression can be recognized as grounds for discrimination. However, according to the legal and judicial system in China, the rulings made by a medium court cannot be considered as a case law that applies to the future cases. Thus it remains uncertain that if the existing labor and employment laws can be interpreted to have provided inclusive protections for individuals with diverse gender identities and expression from discrimination.

<sup>xiii</sup> Zhu Ningning, Too many employment discriminations, too fragmented legislations: Time for an Employment Anti-Discrimination Law (就业歧视屡禁不绝立法碎片化难成体系,是时候出台反就业歧视法了), January 26, 2016, Legal Daily [Official]

[http://www.npc.gov.cn/npc/xinwen/lfgz/lfdt/2016-01/26/content\\_1961366.htm](http://www.npc.gov.cn/npc/xinwen/lfgz/lfdt/2016-01/26/content_1961366.htm)

<sup>xiv</sup> Employment Anti-Discrimination Law (Experts' Opinions) at NPC and CPPCC, and Beyond (两会《反就业歧视法(专家意见 稿)》外的反歧视实践), March 09, 2016, NGOCN

<http://www.ngocn.net/news/2016-03-09-5d899ff1fc848588.html>

<sup>xv</sup> NPC's Standing Committee's 2016 Plan for Legislation 全国人大常委会 2016 年立法工作计划

[http://www.npc.gov.cn/npc/xinwen/lfgz/lfdt/2016-04/22/content\\_1987519.htm](http://www.npc.gov.cn/npc/xinwen/lfgz/lfdt/2016-04/22/content_1987519.htm). Accessed on 2017-05-12

NPC's Standing Committee's 2017 Plan for Legislation 全国人大常委会 2017 年立法工作计划

[http://www.npc.gov.cn/npc/xinwen/2017-05/02/content\\_2021068.htm](http://www.npc.gov.cn/npc/xinwen/2017-05/02/content_2021068.htm). Accessed on 2017-05-12

<sup>xvi</sup> The National Human Rights Action Plan of China 2016-2020 《国家人权行动计划 2016-2020 年》

[http://www.humanrights.cn/html/2016/3\\_0929/22451.html](http://www.humanrights.cn/html/2016/3_0929/22451.html). Accessed on 2017-05-12

<sup>xvii</sup> UNDP, Being LGBTI in China: A National Survey on Social Attitudes towards Sexual Orientation, Gender Identity and Gender Expression, May 16, 2016, p.22, Figure 11, p.26, Figure 17, p.27, Figure 18,

[http://www.cn.undp.org/content/china/en/home/library/democratic\\_governance/being-lgbt-in-china.html](http://www.cn.undp.org/content/china/en/home/library/democratic_governance/being-lgbt-in-china.html). Accessed on 2017-05-12

<sup>xviii</sup> Beijing LGBT Center, 2017 Chinese Transgender Population General Survey Report (2017 中国跨性别群体生存现状调查报告), P.51.

<http://chinadevelopmentbrief.cn/wp-content/uploads/2017/11/2017-Chinese-Transgender-Population-General-Survey-Report.pdf>. Accessed on 2017-12-30

<sup>xix</sup> [http://www.guancha.cn/society/2015\\_11\\_26\\_342719.shtml](http://www.guancha.cn/society/2015_11_26_342719.shtml). (中国性倾向职场歧视第一案"终审宣判 小红帽



主角之一败诉)。Nov26, 2015. Accessed on 2017-05-12

<sup>xx</sup> Chen Leizhu, Transgender Employment Discrimination case in Guiyang Pronounced: Defendant Accused of Unlawful Sack but not Discrimination (贵阳跨性别就业歧视案宣判:被告属违法辞退,但不认定是歧视), December 31, 2016, The Paper [http://www.thepaper.cn/newsDetail\\_forward\\_1590861](http://www.thepaper.cn/newsDetail_forward_1590861). Accessed on 2017-05-12

<sup>xxi</sup> The Plaintiff Won the First Transgender Employment Discrimination Lawsuit (爱穿男装上班 9 天被辞退? 全国首例跨性别就业歧视案原告胜诉), July 31, 2017.

[http://ydy.zhongsou.com/WebApi/custom\\_detail?mongoId=597eb010b38524cb17021bc3-11](http://ydy.zhongsou.com/WebApi/custom_detail?mongoId=597eb010b38524cb17021bc3-11). Accessed on 2017-12-30

Transgender Identity Should Be Equally Recognized-A analysis on the First Transgender Employment Discrimination Case (跨性别应是平等存在的正常性别-我国首例跨性别就业歧视案评析), August 18, 2017.

<http://fj.people.com.cn/n2/2017/0816/c181466-30616511.html>. Accessed on 2018-3-16

<sup>xxii</sup> 2014, Report of the Working Group on the Universal Periodic Review, China, Addendum Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/25/5/add.1, p7. Accessed on 2017-05-12

<sup>xxiii</sup> State Council Education Steering Committee Office Organize the Governance of School Bullying in Primary and Secondary School Nation-wide. (国务院教育督导委员会办公室 组织开展全国中小学校校园欺凌专项治理). May 09, 2016.

[http://www.moe.edu.cn/jyb\\_xwfb/gzdt\\_gzdt/s5987/201605/t20160509\\_242514.html](http://www.moe.edu.cn/jyb_xwfb/gzdt_gzdt/s5987/201605/t20160509_242514.html). Accessed on 2017-12-30

Comprehensive Measures for Strengthening the Governance of Bullying in Primary and Secondary Schools 加强中小学生欺凌综合治理方案 [http://www.moe.edu.cn/srcsite/A11/moe\\_1789/201712/t20171226\\_322701.html](http://www.moe.edu.cn/srcsite/A11/moe_1789/201712/t20171226_322701.html). Accessed on 2017-12-30

Guiding Opinions on the Prevention of Bullying and Violence in Primary and Secondary Schools 关于防治中小学生欺凌和暴力的指导意见 [http://www.moe.edu.cn/srcsite/A06/s3325/201611/t20161111\\_288490.html](http://www.moe.edu.cn/srcsite/A06/s3325/201611/t20161111_288490.html). Accessed on 2017-12-30

Report of the Supreme People's Court on School Violence Cases. (最高人民法院关于校园暴力案件的调研报告), June 20, 2016. <http://www.court.gov.cn/zixun-xiangqing-21681.html>. Accessed on 2017-12-30

<sup>xxiv</sup> UNDP, Being LGBTI in China: A National Survey on Social Attitudes towards Sexual Orientation, Gender Identity and Gender Expression, May 16, 2016, p.26, Figure 17

[http://www.cn.undp.org/content/china/en/home/library/democratic\\_governance/being-lgbt-in-china.html](http://www.cn.undp.org/content/china/en/home/library/democratic_governance/being-lgbt-in-china.html). Accessed on 2017-05-12

<sup>xxv</sup> Common Language, LGBTI+ Students' School Environment Research Report 《性与性别少数学生校园环境调查报告》, 2016, p.86. Accessed on 2018-03-16

<sup>xxvi</sup> 魏重政, 刘文利:《性少数学生心理健康与遭受校园欺凌之间关系研究》,《中国临床心理学杂志》, 2015 年, 第 23 卷, 第 4 期, 第 703 至第 704 页。

<sup>xxvii</sup> Beijing LGBT Center, 2017 Chinese Transgender Population General Survey Report (2017 中国跨性别群体生存现状调查报告),

<http://chinadevelopmentbrief.cn/wp-content/uploads/2017/11/2017-Chinese-Transgender-Population-General-Survey-Report.pdf>. Accessed on 2017-12-30

<sup>xxviii</sup> Three Male Students Dosed Their Lesbian Classmate Aphrodisiacs and Threatened to Dose White Arsenic (3 男生给同性恋女同学下 春药 败露后欲再下砒霜), March 07, 2016, QQ News

<http://news.qq.com/a/20160307/026667.htm>. Accessed on 2017-05-12

<sup>xxix</sup> Ibid.

<sup>xxx</sup> Common Language, LGBTI+ Students' School Environment Research Report 《性与性别少数学生校园环境调查报告》, 2016, p.86. Accessed on 2018-03-16

<sup>xxxi</sup> Over 40% of the Textbooks Classifying Homosexuality as a Mental Illness (超四成教材认定病态 同性恋群体叫板恐同教材). November 26, 2014. <http://sc.sina.com.cn/news/z/2014-11-26/detail-icczmvun0427077.shtml>. Accessed on 2017-12-30

<sup>xxxii</sup> UNDP Being LGBTI in Asia, A National Survey on Social Attitudes towards SOGIE, May 15, 2016. p.22, Figure 10, [http://www.cn.undp.org/content/china/en/home/library/democratic\\_governance/being-lgbt-in-china.html](http://www.cn.undp.org/content/china/en/home/library/democratic_governance/being-lgbt-in-china.html). Accessed on November 25, 2017

<sup>xxxiii</sup> The Law on Protection of Minors stipulates various kinds of protection provided for minors, including protection by family and school, social protection and judicial protection.

Law of the People's Republic of China on the Protection of Minors 《中华人民共和国未成年人保护法》

[http://www.npc.gov.cn/wxzl/gongbao/2013-02/25/content\\_1790872.htm](http://www.npc.gov.cn/wxzl/gongbao/2013-02/25/content_1790872.htm). Accessed on 2017-12-30

<sup>xxxiv</sup> National Program of Action for Child Development in China (2011-2020) 《中国儿童发展纲要(2011—2020 年)》. [http://www.gov.cn/zwz/gk/2011-08/08/content\\_1920457.htm](http://www.gov.cn/zwz/gk/2011-08/08/content_1920457.htm). Accessed on 2017-12-30

It is considered the Chinese government's comprehensive policy framework for implementing the CRC and improving the enjoyment of rights of all children in Chinese society.

<sup>xxxv</sup> See ICESCR, Article. 13.

<sup>xxxvi</sup> See A/HRC/25/5, 186. 95, A/HRC/25/5.Add.1, 186.95.

<sup>xxxvii</sup> Anti-Domestic Violence Law of the People's Republic of China, 中华人民共和国反家庭暴力法,

- [http://www.gov.cn/zhengce/2015-12/28/content\\_5029898.htm](http://www.gov.cn/zhengce/2015-12/28/content_5029898.htm). Accessed on November 25, 2017
- <sup>xxxviii</sup> Anti-domestic Violence Law of the People's Republic of China, Standing Committee of the National People's Congress, Document Number, Order No. 37 of the President Date issued: December 27, 2015, Article 37.
- <sup>xxxix</sup> Common Language, China LBT Domestic Violence Report 中国性少数群体家庭暴力研究。2015. P.32-34. <http://www.tongyulala.org/downloadshow.php?cid=8&id=47>. Accessed on November 25, 2017
- <sup>xl</sup> *ibid*
- <sup>xli</sup> UNDP Being LGBTI in Asia, A National Survey on Social Attitudes towards SOGIE, May 15, 2016. [http://www.cn.undp.org/content/china/en/home/library/democratic\\_governance/being-lgbt-in-china.html](http://www.cn.undp.org/content/china/en/home/library/democratic_governance/being-lgbt-in-china.html). Accessed on November 25, 2017
- The report also details the forms of discrimination and violence taking place in the family, which includes verbal attacks, physical violence. The report further suggests that the practice of coerced conversion therapy imposed by the family members is one of the most severe forms of domestic violence confronting LGBT people.
- <sup>xlii</sup> Beijing LGBT Center, 2017 Chinese Transgender Population General Survey Report (2017 中国跨性别群体生存现状调查报告), p.30. <http://chinadevelopmentbrief.cn/wp-content/uploads/2017/11/2017-Chinese-Transgender-Population-General-Survey-Report.pdf>. Accessed on 2017-12-30
- <sup>xliii</sup> Common Language, 《中国多元性别群体家庭暴力干预行动研究》. 2017. <http://www.chinadevelopmentbrief.org.cn/news-21023.html>. Accessed on 2017-12-30
- <sup>xliiv</sup> The 1997 revision of the Criminal Law of the People's Republic of China removed the crime of "hooliganism", an ambiguous term of offence used to criminalize consensual male same-sex behaviors. Since then, Chinese citizens have the right to enjoy the freedom to engage in same-sex activities without arbitrary intervention. In April 2001, the Chinese Society of Psychiatry revised its Chinese Classification of Mental Disorders (also known as CCMD-3) and removed homosexuality from the list of mental disorders. The Criminal Law of the People's Republic of China <中华人民共和国刑法>. <http://www.fmprc.gov.cn/ce/cgvienna/eng/dbtyw/jdwt/crimelaw/t209043.htm>. Accessed on November 19, 2017
- <sup>xliiv</sup> The Chinese Society of Psychiatry, Chinese Classification of Mental Disorders Edition 3 (《中国精神障碍分类与诊断标准第3版》), 2001, Shandong Science and Technology Press.
- <sup>xlivi</sup> The so-called conversion therapy is a purportedly psychiatric or psychological intervention that aims to change one's sexual orientation and eliminate the sexual and emotional attraction between members of the same sex, or change one's transgender identity, based on the false assumption that homosexuality, bisexuality and transgender identity are mental illnesses or disorders and needs to be altered. The discriminatory practice of conversion therapy, particularly the forms of coerced treatment, have imposed threats to the LGBT persons which undermine their right to personal liberty, right to health, right to privacy, right to be protected from torture and ill-treatment, and also violate the principle of non-discrimination protected under Chinese domestic laws and international human rights instruments.
- The Committee Against Torture's concluding observations on the fifth periodic report of China specifically expressed concern over the practice of conversion therapy, and noted its regret of China's failure to comply with its obligations as the duty-bearer under the article 10, 12, 14 and 16 of the Convention. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsIEE2YuVt8GA5WKG3GEX%2BZEXqjnsVnWP%2BkQ6f9cmzWcEPJYdFWEXvIFmDTE3WtKbIKZXAKr5OVTwnh86Q4GNZXSmrqMf55xyaMPPMcFusW3o2>. Accessed on 2017-12-30
- <sup>xliivii</sup> Beijing LGBT Center, Awareness and Attitudes Towards Gender/Sexual Minority among Psychiatrists and Psychologists (精神卫生与心理咨询从业人员对性少数群体态度调研报告), 2015. P15, p22, p27. <http://uncovermap.org/Uploads/editor/file/20160516/1463407407909247.pdf>. Accessed on November 19, 2017
- <sup>xliiii</sup> *ibid*
- <sup>xlix</sup> The Chinese Society of Psychiatry, Chinese Classification of Mental Disorders Edition 3 (《中国精神障碍分类与诊断标准第3版》), 2001, Shandong Science and Technology Press.
- <sup>l</sup> Sex Reassignment Surgery Procedural Management Standard (2017 Edition) <性别重置技术管理规范(2017年版)> <http://www.nhfpc.gov.cn/ewebeditor/uploadfile/2017/02/20170220145848193.docx>. Accessed on November 21, 2017
- <sup>li</sup> Beijing LGBT Center, 2017 Chinese Transgender Population General Survey Report (2017 中国跨性别群体生存现状调查报告), p.10. <http://chinadevelopmentbrief.cn/wp-content/uploads/2017/11/2017-Chinese-Transgender-Population-General-Survey-Report.pdf>. Accessed on 2017-12-30
- <sup>lii</sup> China's first case on gay conversion, the plaintiff won the lawsuit (中国首例同性恋矫正案宣判 原告胜诉). December 19, 2014. <http://news.163.com/14/1219/19/ADRON5UI00014SEH.html>. Accessed on November 19, 2017
- <sup>liii</sup> A gay man had been forcedly admitted to a psychiatric hospital for 19 days He brought the case to the court after his escape (同性恋男子被关精神病院治疗 19天 脱身后提起诉讼). June 13, 2016. [http://news.xinhuanet.com/local/2016-06/13/c\\_129058235.htm](http://news.xinhuanet.com/local/2016-06/13/c_129058235.htm). Accessed on November 19, 2017
- <sup>liv</sup> See article 26 of Mental Health Law of People's Republic of China <中华人民共和国精神卫生法>. <http://www.moh.gov.cn/zwgkzt/pfl/201301/20969fd44934b86a0729fb4de33e1ff.shtml>. Accessed on November

19, 2017

<sup>lv</sup> See article 23 and article 41 of Mental Health Law of People's Republic of China <中华人民共和国精神卫生法>. <http://www.moh.gov.cn/zwgkzt/pfl/201301/20969fdf44934b86a0729fb4de33e1ff.shtml>. Accessed on November 19, 2017

<sup>lvi</sup> See article 27 and article 30 of Mental Health Law of People's Republic of China <中华人民共和国精神卫生法>. <http://www.moh.gov.cn/zwgkzt/pfl/201301/20969fdf44934b86a0729fb4de33e1ff.shtml>. Accessed on November 19, 2017

<sup>lvii</sup> National Mental Health Action Plans (2015-2020) 全国精神卫生工作规划 (2015—2020 年) . [http://www.gov.cn/zhengce/content/2015-06/18/content\\_9860.htm](http://www.gov.cn/zhengce/content/2015-06/18/content_9860.htm). Accessed on November 15, 2017

<sup>lviii</sup> Sex affirmation surgery is called by the Chinese government as sex reassignment surgery (SRS).

In China, transgender persons are required to undergo these often unwanted sterilization surgeries as a prerequisite to enjoy legal recognition of their preferred gender.

<sup>lix</sup> Sex Reassignment Surgery Procedural Management Standard (2017 Edition) <性别重置技术管理规范 (2017 年版)>

<http://www.nhfpc.gov.cn/ewebeditor/uploadfile/2017/02/20170220145848193.docx>.

Accessed on November 21, 2017

<sup>lx</sup> Quality Control Index of Clinical Application of Sex Reassignment Surgery (2017 Edition) <性别重置技术临床应用质量控制指标>.

[www.nhfpc.gov.cn/ewebeditor/uploadfile/2017/02/20170220145903114.docx](http://www.nhfpc.gov.cn/ewebeditor/uploadfile/2017/02/20170220145903114.docx).

Accessed on November 21, 2017

<sup>lxi</sup> Sex Change Operations and Procedural Management Standard. Health Office of Medical Affairs No. [2009]185. <变性手术技术管理规范 (试行)>.卫办医政发 (2009) 185 号

<http://www.nhfpc.gov.cn/zyygj/s3585u/200911/85734440426e4031ba9daf5bbdf517ec.shtml>. Accessed on

November 21, 2017

<sup>lxii</sup> Reply of the Ministry of Public Security to the Relevant Issues Concerning the Change of Citizens' Sex-related Marker on Household Registration after Sex Change 《公安部关于公民实施变性手术后变更户口登记性别项目有关问题的批复》(公治 (2002) 131 号) <http://www.henanga.gov.cn/zwzx/zwzx1/zagl/2015-01-28/76.html>.

Accessed on November 21, 2017

<sup>lxiii</sup> Reply of the Bureau of Public Security to the Relevant Issues Concerning the Change of Citizens' Sex-related Marker on Household Registration after Sex Change 《公安部治安管理局关于公民手术变性后变更户口登记性别项目有关问题的批复》(公治[2008]478 号)

<http://www.szxc.gov.cn/szxc/zwgkinfo/showinfo.aspx?infoid=8e5cc6e1-da11-4cfa-a12b-6472ed263577&categoryNum=002003003>. Accessed on November 21, 2017

<sup>lxiv</sup> CCMD-3 refers to the Chinese Society of Psychiatry revised its Chinese Classification of Mental Disorders

<sup>lxv</sup> Sex Reassignment Surgery Procedural Management Standard (2017 Edition) <性别重置技术管理规范 (2017 年版)>

<http://www.nhfpc.gov.cn/ewebeditor/uploadfile/2017/02/20170220145848193.docx>.

Accessed on November 21, 2017

<sup>lxvi</sup> Ibid.

<sup>lxvii</sup> Beijing LGBT Center, 2017 Chinese Transgender Population General Survey Report (2017 中国跨性别群体生存现状调查报告),

<http://chinadevelopmentbrief.cn/wp-content/uploads/2017/11/2017-Chinese-Transgender-Population-General-Survey-Report.pdf>. Accessed on 2017-12-30

<sup>lxviii</sup> Ibid.

<sup>lxix</sup> General Principles of the Civil Law of the People's Republic of China 中华人民共和国民法通则.

[http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content\\_1383941.htm](http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383941.htm). Accessed on November 21, 2017

<sup>lxx</sup> General Provisions of the Civil Law of the People's Republic of China 中华人民共和国民法总则

[http://www.npc.gov.cn/npc/xinwen/2017-03/15/content\\_2018907.htm](http://www.npc.gov.cn/npc/xinwen/2017-03/15/content_2018907.htm). Accessed on 2018-01-23

<sup>lxxi</sup> According to the Beijing LGBT Center's report on the Chinese transgender population, 631 respondents longing to undergo SRS expressed their concern over the age limit for the treatment. Around 83.5% of the total 2060 respondents reported that the first time they realized their gender assigned at birth did not match their true gender identity was primarily between the age of 4 to 17.

<sup>lxxii</sup> Beijing LGBT Center, 2017 Chinese Transgender Population General Survey Report (2017 中国跨性别群体生存现状调查报告),

<http://chinadevelopmentbrief.cn/wp-content/uploads/2017/11/2017-Chinese-Transgender-Population-General-Survey-Report.pdf>. Accessed on 2017-12-30

<sup>lxxiii</sup> Regulation on Online Registration of School Roll and Documentation of Academic Credentials for College and University Students (Ministry of Education [2014] No.11)高等学校学生学籍学历电子注册办法 (教学 [2014]11 号), <http://www.chsi.com.cn/jyxx/201408/20140829/1245955796.html>. Accessed on November 21, 2017  
Regulation on Student Management in College and University (Ministry of Education, No.41) 普通高等学校学生管理规定 (中华人民共和国教育部令第 41 号).

---

[http://www.moe.gov.cn/srcsite/A02/s5911/moe\\_621/201702/t20170216\\_296385.html](http://www.moe.gov.cn/srcsite/A02/s5911/moe_621/201702/t20170216_296385.html). Accessed on November 21, 2017