

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

CHINA



Population: 1.37 billion people



Stonewall Global Diversity Champions: 68



THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

China is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries sexual acts between people of the same sex are illegal.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The Constitution guarantees rights to **freedom of expression, association and assembly** under Article 35.

LGBT assemblies and associations are subject to the **same laws and regulations governing all** other assemblies and civil society organisations.

Under **copyright rules** passed in 2017, **online content will be edited or even banned** if it concerns "abnormal sexual behaviours" which is meant to **include same-sex relationships**.

FAMILY AND SAME-SEX RELATIONSHIPS

Sexual acts between people of the same sex are **legal** and were decriminalised in 1997.

In 2001, the Chinese Ministry of Health **removed homosexuality** from its **list of mental illnesses** in the third edition of the Chinese Standards for Classification and Diagnosis of Mental Disorders.

There is an **equal age of consent** of 14 years for sexual acts regardless of gender under Article 237 of the Criminal Law.

Same-sex marriage is **not legal** because the Marriage Law defines marriage as a union between one man and one woman.

Same-sex relationships are **not otherwise recognised** by law.

Same-sex couples have **no legal right to adopt** children. Although no law expressly prohibits same-sex couples from adopting, this is generally not allowed in practice.

EQUALITY AND EMPLOYMENT

Article 35 of the Constitution states **everyone is equal before the law**, but there is **no explicit reference to sexual orientation and gender identity**.

Employment discrimination based on **certain grounds** is **prohibited** under Article 12 of the Labour Law. **Sexual orientation and gender identity are not included** in the list of grounds.

GENDER IDENTITY

Trans people can change their **legal gender** from **female to male** or vice versa on **identity cards** and for **Household Registration (Hukou)** under Guidelines published by the Ministry of Public Security dated 23 October 2008.

Legal gender change is **subject to sex reassignment surgery, a medical certificate** and a certificate from the **notary/judicial appraisal authority**.

Trans people can change their legal **name** on **identity cards** and for **Household Registration (Hukou)** under Article 18 of Regulation on Household Registration. The legal **name on passports can also be changed** after relevant changes have been made to identity cards and Household Registration.

Legal name change is **subject to local administrative rules**.

IMMIGRATION

There are **no legal provisions** that specifically **support immigration of same-sex partners**.



A VIEW FROM CHINA

Jacob Huang is the corporate programmes director at Aibai Culture and Education Centre, based in Beijing. Aibai was established in 1999 and has three key strategies: strengthening community alliances, public advocacy and providing medical services and care to people living with HIV. Its work also involves cooperating with national and multinational corporations to promote workplace diversity.



How are LGBT people treated by society in China?

LGBT people are largely invisible and neglected in society, mainly because of the serious lack of education and awareness about sexual orientation and gender identity in schools, workplaces and other public spheres. This leads to many LGBT people being closeted their whole lives. However, for younger generations the social mobility and access to information provided by the internet is changing the conversation quickly. Theoretically, LGBT people in China enjoy the rights to freedom of expression, association and assembly but in reality, these rights are often violated. However, the reasons for this can be very complex and require deeper study of China's cultural and political background.

What specific issues do lesbians, bi women and trans people face?

Lesbians and bi women face not only homophobic and biphobic discrimination, but also sexism. This is especially prevalent in the workplace. There is also a lack of any prominent lesbian role models in Chinese society. In addition, within the LGBT community the voices of bi women often go unheard.

The trans community faces multiple challenges and mostly has to remain invisible in order for trans people to survive. There are now some young trans leaders and younger generations are starting to raise their voices. But compared with lesbian and gay communities, trans communities are still far more vulnerable with little representation.

How are LGBT people portrayed in the media?

The official newspapers and news controlled by the government will not carry any positive LGBT messages and will often reject any discussion of LGBT rights. Social media and independent media sources quite frequently address LGBT issues but can be damaging because they paint a narrow perspective of LGBT lives.

Since the central government passed a new law on internet safety and regulation in 2017, same-sex relationships have become more of a taboo and the media (including online media platforms such as Wechat or Weibo) cannot address them. Several LGBT-related words, such as 'homosexuality' are listed as both sensitive and negative, meaning they should not be seen on public screens. This increased control and restriction of freedom of speech makes it even more challenging than before to advocate for LGBT rights in China.

What is the workplace like for LGBT people?

From a survey we conducted of 2,000 LGB employees, only 6 per cent were open about their sexual orientation in the workplace. The low figure is mainly because participants feared coming out would harm their career progression. The low figure is also contributed to by Chinese cultural norms, which inhibit people being proud of their difference and treat work life and personal life as very separate.

Gender equality is often seen as the diversity priority for workplaces in China - sadly this only refers to equal rights for women, and not the broadened spectrum of all genders, for example non-binary people. Even here, stigma and stereotypes remain given the deep-rooted mindset from the older generations, who, growing up, were taught that men and women have different roles in society. This is still the dominant belief especially in the rural areas of China.

Do international or Chinese organisations publicly support LGBT equality?

Aibai has held five workplace conferences on LGBT equality in Beijing. A few Asian multinationals participated but the majority of multinationals supporting the event were from America and Europe, including IBM as a main sponsor. Efforts by organisations to improve workplace environments are low key and focused on internal practices such as equal benefits and workshops to improve awareness. Public support for LGBT rights is extremely rare.

LGBT INCLUSION IN THE WORKPLACE

THE FOUNDATIONS

There are several steps that employers can take to start creating a supportive workplace environment for their LGBT employees in China:

- ✓ **Consult local LGBT organisations to understand the local context for LGBT people**
- ✓ **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
- ✓ **Train HR staff and promote inclusive policies**
- ✓ **Carry out LGBT-inclusive diversity training**
- ✓ **Encourage senior managers to promote their commitment to LGBT inclusion and equality**

NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- ✓ **Audit and extend partner benefits to same-sex partners**
- ✓ **Establish employee engagement mechanisms like LGBT networks and allies programmes**
- ✓ **Carry out LGBT awareness-raising events**
- ✓ **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
- ✓ **Work with suppliers and partners to advance LGBT workplace equality**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. www.stonewall.org.uk/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

IBM

IBM has used a number of avenues to build an LGBT-inclusive culture for employees in China. IBM's global diversity strategy encouraged employees in China to set up an LGBT employee network called EAGLE, as well as a wider EAGLE and friends group open to all employees. The latter enables the protection of LGBT employees' privacy and was seen as especially important in the context of Chinese culture. Senior leadership supports EAGLE through an executive sponsor. IBM also runs ally training as well as a reverse-mentoring programme, in which LGBT employees are mentors and line managers are mentees. In 2011, IBM China extended benefits to same-sex partners. To demonstrate the status of the same-sex partnership, employees sign an IBM affidavit form confirming their relationship with their partner. Each June is LGBT Pride month, during which awareness-raising events open to all employees are organized. IBM has also been working actively with local NGOs and other companies to advance LGBT workplace equality in China. This has included initiating and supporting the LGBT diversity in workplace forums with Aibai, and sponsoring Community Business's resource guide *Creating Inclusive Workplaces for LGBT Employees in China*.

Goldman Sachs

Goldman Sachs is committed to providing equal opportunities for all staff. It offers both instructor-led and online LGBT training to its employees in China. The instructor-led training is mandatory for executive and managing directors, and covers terminology associated with sexual orientation as well as best practice on creating LGBT-inclusive workplace environments. Outside of the workplace, in 2014 the bank partnered with the Beijing LGBT Centre and the Aibai Culture and Education Centre to provide career coaching to LGBT university students. Following the success of the event, another career workshop was hosted in Goldman Sachs' offices in 2015. The event was covered in the media and helped 25 LGBT students with their career aspirations. Asian executive director, Paul Choi, further demonstrated Goldman Sachs' commitment to LGBT equality by speaking at the Shanghai Pride parade in 2014.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

June - Shanghai Pride. www.shpride.com

September - Shanghai Queer Film Festival. www.shqff.org

Check the events websites for the most up-to-date information on dates.



FIND LGBT GROUPS AND COMMUNITIES

Aibai Culture and Education - an organisation promoting LGBT equality by engaging in employment equality work, public advocacy, the building of community alliances and service provision. www.aibai.com

Beijing LGBT Centre - a community-based LGBT organisation providing social services and organising advocacy programmes and events. The group offers different models for corporate sponsorship. www.bjlgbtcenter.org.cn

Haixi Tongxin - a community-based group focusing on raising awareness and increasing the visibility of sexual minorities in Taiwan. <https://site.douban.com/144956/>

Out China - a group and online platform raising awareness and increasing the visibility of the LGBT community by telling personal stories in English and Chinese. Also includes a map of LGBT groups across China. www.chinalgbt.org

PFLAG China - a group for parents, families and friends of LGBT people that works to support LGBT people in China. www.pflag.org.cn

Tongyu Lala - an advocacy group dedicated to community mobilisation, public awareness and legal advocacy. www.tongyulala.org



GET LOCAL LGBT UPDATES

Speak Out – a podcast on LGBT issues in Chinese. www.weibo.com/speakout2014



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 68 ORGANISATIONS OPERATING IN CHINA.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

Stonewall
192 St John Street, London
EC1V 4JY
United Kingdom

Switchboard: +44 (0) 20 7593 1850
Info Line: +44 (0) 800 050 2020
Email: info@stonewall.org.uk
Website: stonewall.org.uk

Legal Partner



Freshfields Bruckhaus Deringer